

**In The Matter Of:**

***BROOKLINE ZONING BOARD OF APPEALS HEARING***

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***APPEALS HEARING - Vol. 16***  
***November 12, 2014***

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Brookline Zoning Board of Appeals Hearing

Case Number 20130094

40B Application by Chestnut Hill Realty

The Residences of South Brookline

November 12, 2014 at 7:00 p.m.

Office of Town Counsel

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1 Stanley Spiegel, Coolidge Corner

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4 William Varrell, 45 Asheville Road

5 Jim Batchelor, Brookline Preservation Commission Chair

6 and Neighborhood Conservation District member

7 Robin Koocher, 285 Beverly Road

8 Jay Talerman, Esquire, Blatman, Bobrowski & Mead, LLC

9 Patsy Mittleman, 217 South Street

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1 PROCEEDINGS

2 7:05 p.m.

3 MR. JESSE GELLER: Good evening, everyone.

4 This is our continued hearing on the Residences of  
5 Chestnut Hill. My name is Jesse Geller. To my left is  
6 Chris Hussey, Jonathan Book, Mark Zuroff, and Avi Lis.

7 Tonight's hearing will follow the following  
8 priorities: First, we will hear the applicant's  
9 revised presentation.

10 Second, we will hear from the applicant's  
11 blasting expert, we'll hear from the town's blasting  
12 expert, and we will also hear from the town's fire  
13 chief.

14 Third, we will have an opportunity to hear  
15 from the chief with respect to other public safety  
16 issues.

17 Fourth, will be allotted a period of time for  
18 the public to offer its testimony.

19 And then last, the board will continue and  
20 hopefully complete its deliberations.

21 I would caution everyone that that is a fairly  
22 lengthy schedule. And while we are committed to get  
23 through the schedule, we do have to keep an eye on the  
24 clock. So what I am proposing to do this evening is

1 that we are looking to accomplish the applicant's  
2 presentation, the presentation about blasting, and the  
3 presentation about public safety within the hours of  
4 7:00 to 8:00 p.m.; from 8:00 p.m. to 9:00, we are  
5 scheduled to hear testimony from the public; and then  
6 from 9:00 until the cows come home, the board will  
7 deliberate.

8 Given that schedule, it is exceedingly careful  
9 that people try to be concise and give us the most  
10 essential information that you have for us.

11 So I'd like to call on CHR.

12 MR. LEVIN: Good evening, Chairman Geller,  
13 board members, planning staff. I'm Marc Levin,  
14 Chestnut Hill Realty.

15 Here we have our revised site plan. As you  
16 can see, barely see, we've returned the eight-unit  
17 building back to a four-unit building, as requested by  
18 the board. But we did not replace the parking that had  
19 been previously removed when we increased the size of  
20 the building. At 19 units per acre, the project  
21 reflects a reasonable density for a multifamily 40B  
22 project, especially in light of the much lower density  
23 in the S7.

24 One advantage of the duration of these

1 meetings is that it has given us the opportunity to  
2 advance the building design, particularly for the  
3 apartment building. We've been able to arrive at a  
4 design that aids our program requirements and minimizes  
5 the apparent scale, especially as viewed from  
6 Asheville. As you can see, the building facade now  
7 demonstrates attractive articulation, it varies roof  
8 treatments, and uses a more creative set of materials.  
9 Please note how the two stories of brick mimic the  
10 two-story townhouses as well as the two-story infill  
11 buildings.

12 I've got some close-ups for you. So here's  
13 the new building in the winter months. This is at the  
14 intersection of Asheville and Russett Road. And here  
15 is the seven months of the year when the leaves are on  
16 the trees, same view. Up close you can better see the  
17 articulation of the building and the varying roof lines  
18 and the creative use of materials. What you see here  
19 is what we've added. It's a sloped roof that gives it  
20 more of a residential feel and ties it to the units on  
21 the fourth floor adjacent to it.

22 Again, here is the -- this is from the  
23 property line at Asheville Road. This is the winter  
24 months and this is with foliage.

1           The concept for the three-story building over  
2 one level of parking has been suggested in some  
3 discussions. There are a number of factors which  
4 render this idea infeasible.

5           Firstly, there would be no way to enter the  
6 building, or we would need to push the building back  
7 toward the road in order to enter from the north side.  
8 And by that, I mean over here we have reduced -- we  
9 pushed this building back to preserve this outcropping  
10 and set it back from the road to preserve this area in  
11 front of the building. This allows for fire access but  
12 not for an entrance for a building. We would have to  
13 set this -- move the building back to its original  
14 position where we had an entrance previously.

15           The second problem is that the community space  
16 on the south side of the building would need to go  
17 entirely into the garage with no feasible access on the  
18 south side of the building. Because that is at a  
19 higher grade, what that community space does, the  
20 two-story community space allows for a drop-off,  
21 pick-up as well as entrance to that upper level  
22 garage.

23           By taking off the third floor, you'd be left  
24 with 87 units and less than 70 parking spaces in the

1 one level of garage, thus the parking ratio falls  
2 significantly below one to one, and that's  
3 unacceptable.

4 We're currently working on garage layouts for  
5 the two levels of garage, but because of its complexity  
6 involving geotechnical, structural, as well as egress  
7 considerations, it's going to take us about another  
8 week to finalize those.

9 Here's a revised fourth-floor plan. Please  
10 note that we have added back three units to that -- to  
11 the fourth floor, but we've done it in a location that  
12 is not visible from Asheville Road because of the way  
13 we set it back.

14 Just as a note -- we talked about it a little  
15 bit last time -- the stairwell configurations have  
16 changed, and we've been able to eliminate two of the  
17 internal stairwells, but these stairwells at the ends  
18 are fixed because of the distance requirement from a  
19 dead-end corridor.

20 Here's a revised summary of the revised Option  
21 C as it compares to the original application in the  
22 right-hand column. I'd like to point out a few  
23 things.

24 One is, once again we've eliminated 27,000

1 square feet of building area over here, the total  
2 building area. We've eliminated 27 units, 64 bedrooms,  
3 and have now over three acres of functional, useable  
4 open space. And again, we have 331 parking spaces,  
5 which is the same number that would be required by  
6 zoning.

7 If you have any questions, I'd be glad to  
8 answer them.

9 MR. HUSSEY: Marc, how many parking spaces do  
10 you have in the apartment building now and in the open  
11 space that's related to the apartment building?

12 MR. LEVIN: Well, we have 107 spaces in the  
13 garage. The 224 that's on the site, I believe that  
14 there's approximately -- we have 52.

15 MR. HUSSEY: Which is what you had before, I  
16 believe.

17 MR. LEVIN: Correct.

18 MR. HUSSEY: Okay.

19 MR. JESSE GELLER: Mr. Levin, there was a  
20 discussion at the last hearing about peeling back the  
21 fourth floor further back so that it was not visible  
22 from Asheville Road. Was anything done with that?

23 MR. LEVIN: Well, we initially started to look  
24 at that, but what we discovered was that no matter

1 where you peeled it off to, you would always see the  
2 fourth floor. So you could take these units off, which  
3 is probably more than a couple, right, but then you  
4 would see the facade of the fourth floor the same way.  
5 It would be set back, but you would see that fourth  
6 floor. So it seemed like, you know, an exercise that  
7 really didn't achieve the goal that you were looking  
8 for and at the same time just compromising program.

9 So what we did instead was create a roof line  
10 that actually makes the building feel both more  
11 residential and, in a way, smaller. And, in fact, as  
12 you look down the -- it makes these look even smaller.  
13 You're going from three stories down to three stories  
14 here.

15 MR. BOOK: The addition of this -- for lack of  
16 a better term -- faux roof on the wing closest to us,  
17 that -- the idea of -- that masks the units that are  
18 behind it?

19 MR. LEVIN: Well, it does, in fact, but if you  
20 recall from the last visuals that the stair -- I would  
21 say that it masks one of the units. The only unit that  
22 it masks is this one here, this one bedroom unit,  
23 because this stair tower here wasn't visible, and these  
24 units are on the same plane or behind, because the view

1 is from here and you could not see the stair tower.

2 MR. BOOK: You don't happen to have the  
3 rendering from last week? No?

4 Oh, thank you.

5 Let me ask you another question. So in part  
6 of your presentation a moment ago, you indicated that  
7 removal of the -- that there was -- to peel back -- and  
8 correct me if I'm misstating anything that you said --  
9 peeling back any more of the fourth floor would require  
10 the -- it was almost an elimination -- or maybe it was  
11 an elimination of the fourth floor. And you had  
12 mentioned 87 units would be left. That would then  
13 necessitate the loss of a floor of parking? Is that --  
14 you had mentioned 70 -- you'd mentioned one level of  
15 parking at 70 spaces. I'm just trying to understand  
16 the consequence of ...

17 MR. LEVIN: Well, the point that I was making  
18 is that eliminating the third floor -- the fourth floor  
19 will not eliminate the need for the second tray of  
20 parking.

21 MR. BOOK: Okay.

22 MR. LEVIN: There are some practical  
23 considerations which make the design not work, that is  
24 being the entrance. But the parking ratio would fall

1 well below what would be accepted.

2 MR. BOOK: Okay. And then would you mind just  
3 elaborating on the -- just so I understand -- you  
4 presented a lot of information in a short amount of  
5 time.

6 You had mentioned that also a consequence of  
7 eliminating the fourth floor would require the building  
8 to move from its current location because you wouldn't  
9 be able to enter?

10 MR. LEVIN: No. Eliminating the lower tray of  
11 parking would necessitate you moving the building back  
12 towards the road so that you could create an entrance,  
13 an at-grade entrance on the north side of the building.

14 In other words, right now, this grade is above  
15 this grade. And right now, at this grade you enter the  
16 garage and you enter the entrance, that entrance,  
17 lobby, drop-off, and community space. If you were to  
18 eliminate that level of parking, the lower level of  
19 parking, you wouldn't be able to access over there.

20 MR. BOOK: Understood.

21 MR. LEVIN: So you'd have to access on the  
22 north side. In order to access on the north side, you  
23 have to shift the building back.

24 MR. BOOK: I see. It was my

1 misunderstanding. I thought -- the issue of the lower  
2 level of parking, that's independent of the existence  
3 or nonexistence of a fourth floor. You were just  
4 presenting -- you were addressing two concerns that  
5 have been advanced in prior hearings. They weren't  
6 linked.

7 MR. LEVIN: No. They were when they were  
8 discussed. The notion -- I was trying to address the  
9 notion that by eliminating the fourth floor, you could  
10 eliminate the tray of parking.

11 MR. BOOK: I see. All right. Thank you.

12 MR. JESSE GELLER: Mr. Hussey, do you have  
13 anything further?

14 MR. HUSSEY: No. Not at this time.

15 MR. JESSE GELLER: Keep in mind, we may  
16 have -- at a point at which we get later into the  
17 hearing, we may have further questions, particularly as  
18 we're discussing this.

19 MR. ZUROFF: I have one now. I may not count  
20 very well, but I now see 12 buildings on the plan.  
21 Four to the left --

22 MR. LEVIN. We four, five, six, seven, eight,  
23 nine, ten, eleven.

24 MR. ZUROFF: Twelve.

1 MR. LEVIN: That's correct. Eleven infill.  
2 That's correct.

3 MR. HUSSEY: Including the apartment building.

4 MR. LEVIN: Twelve including the apartment  
5 building. That is the same as last time.

6 MR. ZUROFF: I just wanted to clarify.

7 MR. JESSE GELLER: Anything else?

8 (No audible response.)

9 MR. JESSE GELLER: Okay. Thank you.

10 MR. LEVIN: Our blasting consultant seems to  
11 have gotten lost. I will call him, but can we do the  
12 blasting out of sequence?

13 MR. JESSE GELLER: We could. So we will alter  
14 the order. Lets have Mr. McKown.

15 Again, I just would note, we've got a fairly  
16 limited period of time and I want to make sure we  
17 accomplish everything we can, so let's be aware of  
18 that.

19 MR. MCKOWN: Good evening, ladies and  
20 gentlemen.

21 MR. FORD: I just -- Paul Ford, the fire  
22 chief. I just want to make mention, as we're being  
23 taken out of turn here, that the gentleman has been  
24 retained by the town to speak on our behalf and to

1 guide us in the proper procedures that we want to see  
2 in place for the safety of our citizens. So that's why  
3 he's here today and helping us, assisting with us.  
4 Okay?

5 MR. JESSE GELLER: Thank you.

6 MR. MCKOWN: Thank you, Chief.

7 So I'm hear on behalf of the town. I was  
8 hired as a blasting consultant to take a look at the  
9 proposed development and come up with some  
10 recommendations for steps to take to minimize impacts  
11 on the neighbors in particular.

12 My qualifications, I have a bachelor's of  
13 science degree in civil engineering from Tufts  
14 University, a master's from MIT, both in geotechnical  
15 engineering. I have about 20 years of experience in  
16 the drilling/blasting field, I have a professional  
17 engineering license in Massachusetts, authored over 20  
18 papers, and have consulted for over 35 years in  
19 blasting and rock engineering.

20 I'm going to give a short presentation. I'm  
21 going to make it a lot shorter given the time  
22 restrictions. So I have a lot of slides. I'm going to  
23 run through a lot of them very quickly to get to the  
24 recommendations at the end. But I'll talk very

1 briefly, give you an idea about what multiple hole  
2 delay blasting is all about, talk a little bit about  
3 some of the impacts, important issues, and then I'll  
4 present my recommendations.

5           So by way of blasting primer, this is just an  
6 example of how you might go about drilling and blasting  
7 to remove rock. You have a section of rock that's 12  
8 feet deep, 15 by 10 feet, 67 cubic yards to require  
9 that you drill a vertical -- generally vertical drill  
10 holes. I show nine drill holes. Each one is loaded  
11 with explosives with stemming on the top, explosives in  
12 the bottom of the hole stemming to contain the  
13 explosives in the blast hole. And then there's a  
14 blasting cap with a timer on it so that all the  
15 explosives don't go off at the same time.

16           Here are nine holes. In this case, there are  
17 nine separate delays. If you look to the right, firing  
18 time is 25 milliseconds between the holes, so the nine  
19 holes will go off in less than a quarter of a second.  
20 So here's hole 1 going off, hole 2, hole 3, 4, and so  
21 on until you have the rock that's fractured and  
22 removed.

23           So what are some of the impacts? When you  
24 detonate explosives in the ground, there's energy

1 that's released and you want that energy to go into  
2 breakage and fragmenting and moving rock in a  
3 controlled manner. There is a little bit of energy  
4 that escapes to the air called "airblast  
5 overpressure." That's sort of like a sonic boom. And  
6 there is some vibration that's created, these pressure  
7 waves in the ground that create ground vibration that  
8 people can feel. So there are elastic ground  
9 vibrations, airblast overpressure.

10 Immediately around the blast area, there also  
11 can be some permanent non-elastic ground deformations  
12 that I'll go over briefly.

13 And the most important thing to prevent in  
14 blasting, in my opinion, is flyrock. That really can  
15 do serious damage and injure people.

16 So here's something about vibrations that --  
17 they're similar to throwing a rock in a pond. You have  
18 vibrations, waves that travel out. If you have a boat  
19 in the pond, it moves up and down. It's very small in  
20 the case of blasting, but it's a similar kind of  
21 thing.

22 You could measure peak particle velocity,  
23 that's the speed at which the ground moves up and down;  
24 you could measure the acceleration, how much the ground

1 moves up and down; you could measure that frequency,  
2 that's how many waves travel by.

3 And the -- sort of the guide for how much  
4 vibration residential type structures can withstand  
5 without damage is this chart from the U.S. Bureau of  
6 Mines. On the bottom is frequency. That's how many  
7 waves travel by. And on the left axis is peak particle  
8 velocity. That's the speed that the ground moves up  
9 and down as these waves travel by. You can see that --  
10 if you look at that line from the plaster to the two  
11 inch per second, it's got a constant displacement of  
12 .008 inches. So if you take a piece of paper and hold  
13 it between your hands, that's the amount the ground  
14 moves up and down. Very, very small amounts.

15 So safe limits are to prevent cosmetic damage  
16 to residential type structures. That is plaster  
17 cracks, not structural damage. It's not a safe limit  
18 for more massive things. It isn't a safe limit for  
19 massive underground structures, and it's not a safe  
20 limit for pipelines. For instance, there are gas  
21 pipelines and sewer pipelines. Those can withstand a  
22 lot more vibration. They can't move more in the  
23 ground, and they're much stronger materials.

24 Here's a chart that shows that same plot, and

1 you can see that way down at .02 inches per second, 100  
2 times less than where damage might be caused, people  
3 can feel vibrations. And if you go up to about .2  
4 inches per second, 10 times less than where you expect  
5 damage, it can become distinctly perceptible to  
6 humans. So this blasting will be felt by people in  
7 their homes.

8 This is just a short chart about air blasting  
9 overpressure. If you look at that axis to the left,  
10 it's basically to minimize a noise to people from  
11 rattling windows, and again, it's well below a limit  
12 that might cause breakage to windows.

13 Here's a couple of slides about ground  
14 deformation. Basically within about the depth of the  
15 blast hole you can get some permanent rupture of the  
16 ground surface. That causes real displacement, in the  
17 inches instead of hundreds of inches, and that's  
18 something that needs to be prevented at any blasting  
19 project.

20 This is just a representative of if you  
21 drilled a single blast hole and blasted it, you get  
22 this crater rupture. The rupture, it might be the  
23 width away from the blast hole equivalent to the blast  
24 hole depth. And when you have joints in the rock, you

1 can get explosive gases into the joints and you can get  
2 some ground movement even beyond that rupture zone.

3 So what do you need to do? You need to  
4 provide good relief, you need to look at the geology,  
5 watch for and monitor ground heave, have relatively  
6 close hole spacing and good perimeter control blasting,  
7 and that is lighter charges, closely spaced holes at  
8 the limits of excavation. And that would be important  
9 at the apartment building.

10 One of the more important things to prevent is  
11 flyrock. That's the undesirable throw of rock  
12 fragments from a blast round or throw of blasted rock  
13 beyond the safe zone designated by the blaster. This  
14 can cause real damage and has definite injury  
15 potential.

16 This is just a couple of reasons why flyrock  
17 can occur. You can have open joints and seams, you can  
18 have overloaded holes, you can have insufficient  
19 stemming so the energy escapes out through the blast  
20 holes, inadequate burden and spacing of the holes, and  
21 lack of blasting mats. Blasting mats will be important  
22 and will be utilized on this project.

23 So how you prevent it -- use blasting mats,  
24 observe the geology, the requirement to videotape all

1 the blast rounds so you can see little problems before  
2 they become big, closer hole spacing, and there will be  
3 no use of ammonium nitrate/fuel oil. That's a poured  
4 explosive. It produces a lot of gasses and, in my  
5 opinion, isn't consistent with the kind of safety  
6 that's going to be required here.

7 Just some brief case history: This was at  
8 Cornell Library where blasting was done right up into  
9 an existing classroom building. This is just a couple  
10 of shots of the 30-foot-high rock cuts that were done  
11 actually inside the building. There's the finished  
12 building below grade.

13 This was a project at the Maine State House  
14 where blasting was required, again, up to and into an  
15 existing State House. And blasting, you can see, was  
16 done right up to and inside for an elevator and a  
17 stairway.

18 And finally, Charles River Park was done right  
19 by the Mass General Hospital, 30-foot rock cuts 80 feet  
20 away from the Mass General Hospital. And there was  
21 spinal surgery on the second floor, very sensitive  
22 equipment throughout. Blasting was completed without  
23 impacts to the hospital.

24 How do you protect against issues? The key

1 elements are preblast information meetings, the kind of  
2 things we're having today; preblast condition surveys  
3 of adjacent structures; periodic progress meetings with  
4 the neighbors are always useful.

5           Controlled blasting specifications, the kind  
6 of stuff that we'll need here: Preblast condition  
7 surveys, again, locating existing defects in homes  
8 prior to the blasting. It alerts the homeowners of  
9 existing cracks and provides information to alleviate  
10 fears and concerns.

11           Setting reasonable blast vibration limits for  
12 the project; we used the U.S. Bureau of Mines safe  
13 limits for this project.

14           And qualifications of the blasting  
15 contractor -- there will be a requirement for a minimum  
16 of five years' experience, experience with closed-in  
17 blasting, and at least \$5 million of liability  
18 insurance for blasting.

19           The blasting plan needs to be well thought  
20 out. There needs to be a rock face developed and good  
21 perimeter controlled blasting is important.

22           There will be vibration monitoring. That will  
23 be important in the project, and files will have to be  
24 kept with all the monitoring. There probably will be

1 some crackage monitoring on existing nearby structures  
2 to show that cracks aren't opening and closing.

3 In summary, ground vibrations and airblast can  
4 be a concern. U.S. Bureau of Mines are what's required  
5 to prevent that concern. Flyrock is the biggest single  
6 threat for blasting, and although there can be ground  
7 heave, it can be prevented.

8 So the special conditions that I am  
9 recommending: First of all, that there be a consultant  
10 to review the quals of the blasting contractor, review  
11 the blasting plan, check seismograph placement and  
12 calibration, do ongoing review of the blast vibration  
13 data, and consult with the fire department.

14 There will be preblast surveys. In this case,  
15 I'm recommending that they be done within 300 feet from  
16 the blasting, and around the building 10, the apartment  
17 building, to a distance of 400 feet. The state only  
18 requests 250 feet.

19 Also, there will be detailed blast plan review  
20 by myself. There will be blast vibration monitoring at  
21 five locations around the blast area.

22 Hours of drilling: Blasting will be limited  
23 to 9:00 a.m. to 4:00 p.m. to minimize impacts on people  
24 living and working in the area, and there will be

1 warning horns for residents prior to each blast.

2 Flyrock protection: There will be blasting  
3 mats. Driller's logs will be kept and reviewed. There  
4 won't be any use of ammonium nitrate/fuel oil, and each  
5 blasting will be videotaped.

6 There will be requirements for reducing  
7 noise. Mufflers will be required on all the drills,  
8 there will be maximum noise levels, and noise level  
9 measurements will be taken periodically around the  
10 site.

11 As far as dust, there will be no rock crushers  
12 allowed on the site. Rock crushers produce a lot of  
13 noise, a lot of dust. There will be dust collectors on  
14 all drill rigs, there will be a requirement to wet down  
15 the blast muck, put covers on trucks, and there will be  
16 also dust level meters around the site to measure dust  
17 levels at approximately five locations.

18 And finally, stability of rock cuts at the  
19 parking garage: There will be a requirement to use  
20 what I call perimeter control blasting procedures;  
21 again, lightly loaded, closely spaced holes to minimize  
22 the overbreak and damage to the rock that remains.

23 And I am available for questions.

24 MR. JESSE GELLER: Thank you very much. Let

1 me jump in and ask a few questions.

2 First of all, this particular site, is it  
3 unique such that, in your opinion, there is no safe way  
4 to conduct blasting here?

5 MR. MCKOWN: No. I believe there is a safe  
6 way to conduct blasting on this site.

7 MR. JESSE GELLER: And the degree of blasting,  
8 is it unusual from what you've seen? Based on your  
9 recommendations and your photographs, it appears to me  
10 like some of these projects have had fairly significant  
11 amounts of blasting. This, it seems to me, is fairly  
12 significant too, but these other projects don't seem to  
13 be that much, you know --

14 MR. MCKOWN: I believe this project is  
15 significant from the standpoint that there are so many  
16 buildings so close. The most significant, obviously,  
17 is the apartment building because it's going down  
18 30-odd feet into bedrock and there are facilities  
19 nearby. So that's the key element of the project.

20 MR. JESSE GELLER: And do you -- are there any  
21 safety concerns with respect to existing pipes,  
22 conduits? And I understand you're making  
23 recommendations that I assume, if they are adhered to,  
24 would prevent breakage, damage, safety risks, things

1 like that.

2 MR. MCKOWN: Yes. I think it's important to  
3 understand that we're protecting homes with plaster on  
4 lath construction. These walls are much more  
5 susceptible to damage than are high-strength steel  
6 pipelines, for instance, the gas pipelines in the  
7 area. And I understand some of them may be  
8 deteriorated, but they're still a lot stronger than the  
9 plastic walls of a house.

10 So we have these residences that are very  
11 close by. There are gas pipelines that are hidden  
12 close by. It's going to be important to ensure that  
13 there aren't any ground heave issues underneath the  
14 pipelines. But I believe that as long as we keep the  
15 vibrations safe at the residences, we're not going to  
16 have issues with the gas pipelines or sewer pipelines.

17 MR. JESSE GELLER: The recommendations that  
18 you make, are they mandated by existing regulations or  
19 are these over and above what typically exist for  
20 regulations?

21 MR. MCKOWN: Most of these are well over and  
22 above the existing regulations.

23 MR. JESSE GELLER: Good. Okay.

24 Mr. Hussey?

1 MR. HUSSEY: So does their project have to be  
2 an absolutely riskless project?

3 MR. MCKOWN: There is no such thing in the  
4 world of blasting to have zero risk.

5 MR. HUSSEY: Thank you.

6 And there's been some concern by the neighbors  
7 on disturbing rat nests in the immediate area. Are you  
8 familiar with that phenomenon?

9 MR. MCKOWN: Well, there -- on any open site  
10 that gets developed, there may be rodents present. And  
11 those rodents, when they're clearing and grubbing and  
12 excavation work starts, have to go somewhere. So yeah,  
13 I'm familiar with rodent issues on clearing and  
14 grubbing and excavating on large sites.

15 MR. HUSSEY: And the last question: This, as  
16 we understand it, is all puddingstone. Are there  
17 different factors on the reaction of the rock and the  
18 transmission of vibration and what have you between  
19 various types of rock, between granite and sandstone  
20 and puddingstone? Are there variables there that  
21 affect this one way or the other to make it more risky  
22 or safer?

23 MR. MCKOWN: There are variables in all  
24 different rock types. You know, when you have massive

1 granitic bedrocks with very few joints, that actually  
2 can be more prone to some of the most important safety  
3 risks, such as flyrock, because if the rock doesn't  
4 break, that energy goes somewhere else.

5 But I don't see this particular puddingstone  
6 as being -- it has joints, like all rocks do, and I  
7 don't see it as particularly more troublesome than  
8 other rocks.

9 MR. HUSSEY: As I recall, there are different  
10 kinds of puddingstone too. I mean, I've heard stories  
11 in the past of puddingstones you can practically break  
12 apart with a backhoe. That's not the case here,  
13 clearly, but do you know whether this is a particular  
14 type of puddingstone that's going to be more vulnerable  
15 than others, or ...

16 MR. MCKOWN: I don't believe it will be more  
17 vulnerable to issues. I think that what you're  
18 referring to is that near the top of rock, oftentimes  
19 the rock is weathered and it is easier to excavate.  
20 Sometimes it can be excavated with a large excavator.  
21 And some of this rock -- there is some, based on the  
22 boring logs I looked at, that is weathered and will be  
23 able to be excavated. But I believe that most of the  
24 rock that needs to be excavated, particularly to a

1 depth more than a few feet, will require blasting.

2 MR. HUSSEY: Thank you.

3 MR. MCKOWN: You're welcome.

4 MR. BOOK: Just to clarify, when you commented  
5 on the safety with respect to the pipes and -- the  
6 sewer pipes and gas pipes in the area, were you taking  
7 into consideration that those pipes, some of them are  
8 very old? I mean, might be 100 years old. But I  
9 suppose they're -- I would suspect that those are more  
10 vulnerable than a newly laid pipe? Or is -- was that  
11 part of the consideration in that statement you made?

12 MR. MCKOWN: Well, 100-year-old pipes  
13 oftentimes are more vulnerable than brand-new pipes.  
14 And I guess my comment was that even an older pipe is  
15 much more resistant to vibration-related damage than,  
16 say, the plaster walls of a house for two reasons.

17 One, it can't move any more than the ground  
18 moves, and those are very, very, very small movements.  
19 I pointed out, you know, less than a hundredth of an  
20 inch of displacement. And that's elastic  
21 displacement. The ground moves up and down and goes  
22 back right where it was.

23 And so I -- and the material is much  
24 stronger. Even if it's somewhat deteriorated, it's a

1 lot stronger than the plaster walls of a home, which is  
2 what these limits, the blasting limits are set for.

3 So yeah, it's my opinion that if we protect  
4 the homes, and that's the intent of the regulations and  
5 the recommendations that I have put fourth, we will  
6 also be protecting the utilities under the streets

7 MR. BOOK: Thank you. In one of your --  
8 another question -- one of your slides, your  
9 recommendations, I think you had indicated a noise  
10 limit of 86 decibels; is that --

11 MR. MCKOWN: That's correct.

12 MR. BOOK: Can you just -- for my edification,  
13 how much noise is that?

14 MR. MCKOWN: That's a good question. You  
15 know, it's something that at nighttime would probably  
16 be disturbing to someone's sleep. During the daytime,  
17 given the cars going by and buses, whatever going by,  
18 it's something people will hear but it's intended not  
19 to be overly disturbing to people.

20 MR. BOOK: Thank you.

21 MR. ZUROFF: Couple questions for you: You  
22 said you would be recommending monitoring of the  
23 houses, I guess plaster within the houses. Are there  
24 going to be actual monitors in nearby houses, some way

1 of testing whether the plaster is being displaced?

2 MR. MCKOWN: Well, the first thing that's  
3 going to happen is that there will be what's called  
4 "preblast surveys" of all the structures. That is,  
5 somebody goes in and actually takes pictures and notes  
6 on all defects within the homes. So that'll be done  
7 prior to any drilling and blasting to document the  
8 existing condition.

9 What I mentioned was, depending on the nature  
10 of existing cracks within the structure, there are  
11 what's called "crack gauges" that can be put on  
12 existing cracks. It's not something that you want to  
13 put on someone's living room, because it does get  
14 attached to the wall, but there may be locations within  
15 some of the structures where that might be a good idea  
16 in order to show people that there aren't existing  
17 cracks opening, closing, or extending.

18 MR. ZUROFF: So if a particular homeowner  
19 who's adjacent to the project has concerns about a  
20 particular wall in his house and is amenable to having  
21 a crack monitor, would you be recommending that those  
22 be installed?

23 MR. MCKOWN: I think that would be a good idea  
24 to allay concerns.

1           MR. ZUROFF: Will you be recommending the same  
2 kind of monitors for gas pipes, water pipes? I know  
3 that you understand the damages that can occur from the  
4 blast, but is there any way for you to precheck certain  
5 gas lines or pipe lines to see if they are sound enough  
6 to withstand the blast?

7           MR. MCKOWN: There are ways of getting into  
8 pipelines and doing photographs. That's not something  
9 that would typically be done for projects like this.  
10 The gas companies sometimes will do their own surveys  
11 and assess the condition of their pipelines in the area  
12 and participate in the project in their own ways.

13           MR. ZUROFF: Well, we've heard members of the  
14 public state that there have been gas leaks in the area  
15 previous to this. Would it be recommended that the gas  
16 company go in and do that kind of survey for their  
17 pipelines?

18           MR. MCKOWN: I think it would be a good idea  
19 to contact the gas company and ask them about the gas  
20 pipelines in that area and what concerns they might  
21 have.

22           MR. ZUROFF: Is it typical for the gas  
23 companies to come in before a blasting project and  
24 review their --

1 MR. MCKOWN: I don't think it's -- I wouldn't  
2 call it typical, no.

3 MR. ZUROFF: Okay. And you said that you will  
4 be doing a pre-survey of the homes adjacent to see what  
5 damages there are. Who decides -- if and when there  
6 are damages, who decides whether the blast caused it or  
7 whether it didn't cause it?

8 MR. MCKOWN: Well, the firm that does the  
9 preblast condition survey, if there was a claim of  
10 damage, the first step would be that they would go back  
11 in and make an assessment of whether that crack was  
12 preexisting or not. Then they would look at the blast  
13 vibration documentation for that area and look to see  
14 whether the vibration levels were such that it would  
15 have been expected to cause those sorts of cracks.

16 MR. ZUROFF: So, in your opinion, is it fairly  
17 cut and dry that if somebody complains about damage,  
18 that you can determine whether the damage was  
19 exacerbated or caused by blasting?

20 MR. MCKOWN: Particularly if the preblast  
21 condition surveys are done, yes.

22 MR. LISS: I just have two follow-ups to the  
23 preblast survey.

24 The access -- obviously, the access and

1 inventory isn't mandatory by the homeowners; correct?

2 MR. MCKOWN: That's correct.

3 MR. LISS: It's just encouraged? It's  
4 encouraged, I presume, to --

5 MR. MCKOWN: I believe it's -- yes. It's  
6 encouraged because it helps protect them.

7 MR. LISS: Hypothetically, a homeowner says,  
8 no, I don't want you to come in. Is there a per se,  
9 you know, feeling that after the work has been done  
10 that, you know, we have no way of proving, or is  
11 that -- how does that hypothetical situation get  
12 resolved?

13 MR. MCKOWN: It's a difficult one. The  
14 preblast condition survey is helpful in assessing  
15 whether or not -- the existing condition. My  
16 experience is that a lot of blast claims are the result  
17 of people who feel the vibrations from blasting, look  
18 around, and maybe there's some cracks in the walls that  
19 have been there. If we all go home and look at our  
20 homes, there are cracks in our walls around different  
21 areas within the house. It's not something we go  
22 looking for until we feel our houses shaking, and when  
23 we do, we usually find some. And that's what's useful  
24 about the condition survey, that as the person doing

1 the survey goes around, the homeowner looks as well.

2 MR. LISS: And the last question is: What's  
3 the typical perimeter for a project like this, or what  
4 would the recommended perimeter be or which houses or  
5 which homes are part of that survey? And who decides  
6 where the cutoff is and whose home is subject and whose  
7 is not subject?

8 MR. MCKOWN: Well, the state requirement is  
9 that within 250 feet of any blasting area, that  
10 preblast condition surveys should be done. I have  
11 recommended that that be extended, particularly around  
12 the limits of the apartment building to -- I believe it  
13 was 400 feet.

14 MR. LISS: Thank you.

15 MS. MURPHY: I just wanted to -- my  
16 understanding is is that the preblasting surveys are  
17 done by a consultant hired by the applicant, by the  
18 developer. Is that the case?

19 MR. MCKOWN: Generally, it's done by the  
20 developer, by the applicant.

21 MS. NETTER: You said "generally." Might  
22 there be certain situations, perhaps this project,  
23 where it might be helpful to the town and the neighbors  
24 to have the town's consultant also participate in that

1 survey?

2 MR. MCKOWN: I guess that certainly is an  
3 option available to the town.

4 MS. NETTER: You said "generally." That's why  
5 I'm asking you.

6 MR. MCKOWN: Generally, it's done. The --  
7 generally, the blasting company hires somebody to do  
8 the preblast surveys.

9 MS. NETTER: So always, really. You're  
10 saying, really, always that's how it's done?

11 MR. MCKOWN: In most cases, that's how it's  
12 done. Not always.

13 MS. NETTER: Okay. Is that your  
14 recommendation for this project?

15 MR. MCKOWN: I've asked that I be consulted on  
16 who does the blasting as well as who does the preblast  
17 condition survey.

18 MS. NETTER: Got it.

19 MR. JESSE GELLER: Thank you very much. That  
20 was very informative.

21 MR. MCKOWN: You're welcome.

22 MR. LEVIN: In the interest of time, having  
23 seen our blaster's presentation, I will offer to commit  
24 to the protocols that Mr. McKown would recommend as the

1 consultant for the town. He's very well respected in  
2 the industry, and we would be prepared to conform to  
3 his protocols. So if that suffices or if you have any  
4 other concerns, we have our presentation which shows  
5 many examples like the Mass General situation that  
6 shows how blasting can be done in all types of  
7 circumstances. But we can dispense with the  
8 presentation if you'd like.

9 MR. JESSE GELLER: Thank you very much. Yes,  
10 that certainly is helpful.

11 Does anybody have any questions?

12 MR. ZUROFF: Just one.

13 Mr. McKown, are you familiar with the blasting  
14 contractor that's being retained by the applicant?

15 MR. MCKOWN: I don't believe that there has  
16 been a blasting contractor retained by the applicant,  
17 but they have a representative of Maine Drilling and  
18 Blasting here this evening, and so that may be the  
19 contractor. I don't know.

20 MR. LEVIN: Likely.

21 MR. ZUROFF: Likely, okay. Are you familiar  
22 with --

23 MR. MCKOWN: I am familiar with Maine Drilling  
24 and Blasting. I believe they would be a very good

1 choice for this project.

2 MR. ZUROFF: That answers my question. Thank  
3 you.

4 MR. JESSE GELLER: Thank you very much.  
5 I'd like to call upon the fire chief.

6 MR. FORD: Good evening. After speaking  
7 with Mr. McKown and hearing the presentation, I have a  
8 list of his requirements that I would have for the  
9 ZBA. I would ask that those be included -- considered  
10 in the -- if you move forward and grant this project.

11 There are just a couple other things that I  
12 would like to cover with it, our own internal -- some  
13 of our internal policies that are very common but I  
14 want to make sure that they are understood and agreed  
15 upon.

16 We always require a fire detail at any blast  
17 site, and if there would be more than one blast site  
18 going on at the same time, it would require one  
19 firefighter detail at each one. As is our standard, we  
20 have a detail rate that would have to be reimbursed to  
21 the community.

22 All the blasting materials, we require them to  
23 be brought in that day and completely removed from  
24 town. We don't want them hanging around. We want the

1 trucks to come in with them, go to the site, and leave,  
2 not be stopping in town and having dinner with a truck  
3 with explosives in it.

4 The other main part, as far as Mr. McKown's  
5 consulting, we'd like to maintain him throughout this  
6 project, and I would ask that the petitioners be  
7 responsible for those expenses that the town will incur  
8 with his consultation. With that, I'm confident with  
9 Mr. McKown's recommendations in speaking with him that  
10 the project -- that the blasting portion of the project  
11 will be as safe as possible.

12 MR. JESSE GELLER: Thank you very much.

13 Questions?

14 (No audible response.)

15 MR. JESSE GELLER: Nothing yet, but we're  
16 going to call on you again in a minute.

17 MR. FORD: Good.

18 MR. JESSE GELLER: Okay. I'd like to bring  
19 the chief forward again to shift gears and speak to us  
20 about other public safety issues that are raised. In  
21 particular, I understand you'll be speaking about  
22 mutual aid as well as response time.

23 MR. FORD: Yes, I will. I'd like to speak to  
24 a couple of issue. I have spoken in the past and made

1 my opinion right from the beginning of this project.  
2 And it is my understanding that at subsequent meetings  
3 different things were discussed that I wasn't present  
4 for, so I would like to clear up some of misinformation  
5 that I understand was brought up.

6 I have always been concerned with the location  
7 of this project, with the addition of more lives, more  
8 property to protect. It is at the outskirts of our  
9 community. It is at the farthest reaches of my  
10 response, the response of my men and apparatus. I have  
11 stated that right from day one.

12 I've heard that, well, we already have  
13 projects out there, we already have residents out  
14 there. That is true, but times change. As I've said  
15 before, we used to use horses. We don't do that  
16 anymore. If you go down highway systems in this state  
17 and you go down Route 24 down to Taunton, you'll find  
18 exit ramps that are extremely sharp, tight radius.  
19 That's how we built them then. We don't allow that  
20 anymore. So these project were built, and they were  
21 years ago.

22 They were also built when the community had  
23 Ladder 3 on Boylston Street, which no longer exists and  
24 would have been the closest ladder to the project, and

1 Engine 2 down in the Village, which would have been the  
2 third new engine from this project. So the initial  
3 poles built in that area years ago, the initial Hancock  
4 Village, it was built in a different time and the NFPA  
5 standards may not have been in place then like they are  
6 now.

7 So distance and travel time has always been a  
8 concern with me. The ISO, Insurance Service Office,  
9 which does ratings of fire departments for the  
10 communities -- and in many cases insurance companies  
11 may utilize their rating. We enjoy a very good rating  
12 in this community. We are number 2. There are only 2  
13 number 1's in the entire State of Massachusetts and  
14 only 12, 2's. Brookline is a 2. That's a pretty high  
15 rating.

16 They say we should have ladder truck -- the  
17 radius of the ladder truck is two miles. That should  
18 be the response area.

19 Well, the closest ladder truck is outside the  
20 two-mile radius as the crow flies. It's more like 3.69  
21 miles, the driving distance. Those are a concern to  
22 me, and it always has been.

23 The NFPA says I have to -- I should have --  
24 their requirement is that I have a full first alarm

1 assignment on the scene in eight minutes.

2 Well, I only have two out of the five full  
3 alarm assignment apparatus that can arrive in that time  
4 frame. Three out of five apparatus take longer than  
5 eight minutes.

6 And, again, I know people say we already have  
7 homes in that area, we already have this as a problem.  
8 This is true, but do we want to add to the problem?

9 I understand mention was made of mutual aid  
10 and that we could rely on Boston to send their closer  
11 ladder truck to augment our services.

12 That's not how it works. We use mutual aid if  
13 we have a fire of such size or emergency that our  
14 apparatus are all being used, they're all tied up. We  
15 have mutual aid pacts with all the area departments, in  
16 fact, all of metro Boston. We go out to Somerville and  
17 Cambridge and Boston and Newton, but we don't do it on  
18 a regular basis. We don't do it every time a certain  
19 alarm comes in. Mutual aid is there to be used when  
20 you need it, when there's a fire.

21 This type of aid that was mentioned is turned  
22 automatically, and it's not really utilized in this  
23 area. If you have a very small community, one  
24 community only had one engine, another small community

1 had one engine, another small community had one engine,  
2 they might have an automatic aid pact. They say, let's  
3 all get together and respond together.

4 That's not how we do it in Brookline or Boston  
5 or Cambridge or Newton. We want to have our own fire  
6 department take care of our own citizens, so we're not  
7 going to rely on Boston, and I would not want the plan  
8 going forward where someone said, well, we'll just rely  
9 on Boston. That's unfair to the citizens of Boston to  
10 pay for their fire apparatus to come here, and it's  
11 unfair to us. We have to protect our own citizens, and  
12 my department will do that. This does add an extra  
13 degree of difficulty; more citizens, more structures  
14 in the very outskirts of our reach.

15 Access and egress to the project: In the  
16 beginning, this was a great concern for me. Many of  
17 the development's areas had basically what I would call  
18 "dead ends," which means when my apparatus show up and  
19 there's a fire and it's five companies showing up -- or  
20 maybe it's just something small like food on the  
21 stove. We don't know that -- five apparatus would  
22 drive down this area. It'd be like a dead end.

23 Now the incident commander releases some of  
24 those pieces, but they can't get out, or they have to

1 back out. They have to back up into areas of parking  
2 or, as was deemed -- or termed, "hammerhead  
3 turn-arounds." That takes time, it's dangerous.  
4 There's a lot of kids in this area. There will be a  
5 lot of children. Children are drawn to the flashing  
6 red lights and the big red trucks, and now they have to  
7 back up. It's a very dangerous situation.

8 It also requires more time for my apparatus to  
9 get back in service. That incident commander may  
10 release those companies, they're free to go back to  
11 quarters, and you have an emergency at your house but  
12 they're spending time backing up, trying to get back in  
13 service, trying to turn around.

14 The developer did work with me on some of  
15 these areas and created a turn-around in one area where  
16 it had this hammerhead turn. They reduced some garages  
17 along one area, which reduced my fire load, so they  
18 have worked with me in some areas, but there are still  
19 areas that require backing up.

20 The latest plan that I've seen called for two  
21 buildings to be built on Grassmere. That road  
22 currently has curbing across is which will stop me,  
23 effectively, from driving in, so I'd have to go around  
24 to the main project. So that is a concern. I don't

1 think it's a huge deal to fix, but that's something  
2 that I would want to see corrected so we have a better  
3 access.

4 And one of those buildings actually ties in to  
5 a dead end area from the Independence Drive part of the  
6 project. So if the driveway or parking area were  
7 extended up to Grassmere, my apparatus would now have a  
8 way to drive straight out and not have to turn  
9 around --

10 MR. LISS: Can I interrupt you real quickly?  
11 Just for our perspective, where is Grassmere on the  
12 map, just so we have a perspective on it.

13 MR. FORD: Right here.

14 MR. LISS: That's blocked off right there?

15 MR. FORD: Yeah, that's blocked off.

16 If you have a -- the picture, if they're  
17 numbered, buildings 5 and 6 coming in from Independence  
18 Drive, that's one of these dead ends that I'm talking  
19 about. But now one of the new buildings that's  
20 proposed further up -- now, I just saw this today for  
21 the first time, this new design -- I'd like to see that  
22 driveway from Independence to buildings 5 and 6 have an  
23 egress for my guys to get out and going straight up by  
24 the new building. Again, I'd like to do everything

1 possible to avoid backing up and turning around. It  
2 creates a dangerous situation.

3 The rear of building 10 -- access originally  
4 to the rear of building 10 was pretty much  
5 nonexistent. The developer did agree, in talks with  
6 me, to provide access for fire apparatus; basically a  
7 restricted-use driveway into the back that would  
8 conform to the necessary width for our apparatus and  
9 the weight and proper signage so we could identify it.  
10 It's a type of material that grass can actually grow  
11 through so it can look like a lawn, but it's for the  
12 apparatus. But it would have to be identified.  
13 They've told me and agreed in speaking that this could  
14 be done. I'd like to make sure that it's stipulated  
15 that it is done.

16 MS. NETTER: Excuse me. Some of your  
17 recommendations, can you put in writing? Like, the  
18 specifics that you're talking about --

19 MR. FORD: Absolutely.

20 MS. NETTER: -- I don't think the board has.

21 MR. FORD: Okay.

22 The developer, again, has made some  
23 concessions for me. A legitimate turn-around near that  
24 building number 1 was done. They also said that they

1 would actively seek to gain emergency egress from  
2 building 9, I believe it is, out into Veteran's  
3 Memorial Parkway, again, so when my apparatus drive  
4 down to respond to that building, they don't have to  
5 back up, turn around to get back out. They can go  
6 right out onto the parkway. In talks they've agreed to  
7 this. I want to make sure that these stipulations are  
8 in place.

9           Lastly, I'd like to talk about sprinkler  
10 systems. We have this problem. My response is going  
11 to be delayed. We're going to take quite a while to  
12 get there. So my main concern is people's lives,  
13 people are able to get out of the buildings; and  
14 secondly, the lives of my firefighters. The longer I  
15 take to get to a fire, especially unchecked, the larger  
16 the fire, the more damage to the building, the weaker  
17 the building. My guys are going to get more rescue  
18 attempts, and larger fire growth means more problems  
19 for them.

20           The buildings -- as I look at it, I haven't  
21 seen hard and fast plans. This is just in the design  
22 stage -- but the buildings should be required all to  
23 have certain sprinkler systems. The smaller buildings,  
24 other than a few -- if I can say this -- a few -- the

1 larger -- largest of the smaller buildings and the main  
2 building should be -- come under NFPA 13 for sprinkler  
3 systems. The smaller buildings, I believe, will come  
4 under 13R, residential sprinkler systems. The  
5 difference being, a residential sprinkler system is  
6 designed for life safety. It's designed to buy a  
7 little time for you to get out, and then whatever  
8 happens to the building happens.

9 I would like to see stipulated in the plan  
10 that all the buildings conform to 13. I want the  
11 buildings protected also because I want those buildings  
12 as safe as possible when my guys have to drive quite a  
13 distance from that fire. I don't want that fire to  
14 advance. There are -- 13 covers areas like the attic,  
15 things of that nature, a better system. So I would  
16 like to see a stipulation that all the buildings are  
17 sprinklered according to NFPA 13.

18 And whether or not the plan would require  
19 it -- again, I don't have plans in front of me to  
20 review -- but the main building, the large building  
21 must have some sort of standpipe systems, part of a  
22 water delivery system in the building. It's a large  
23 building. It's 500 feet in length. We can't be going  
24 up one staircase and having to pull the hose all the

1 way down the building, so I'd like to see that whatever  
2 the requirement -- whether it's required or not under  
3 the law -- that there are standpipes installed for fire  
4 fighting purposes.

5 And lastly, the notification system: Again,  
6 depending on the size of this building and the code --  
7 and the code is changing, a vast change coming up  
8 January 1st -- but the alarm systems, I would like to  
9 insist that the alarm systems are all tied in directly  
10 to the fire department through a master box rather than  
11 a third-party central station. That way -- the reason  
12 for that is that alarm goes directly to my fire alarm.  
13 We get it right away. No delay. We're on the road as  
14 quick as we can to get down to that part of the town.

15 MR. HUSSEY: So this means all the buildings,  
16 all the small buildings as well as the apartment  
17 building?

18 MR. FORD: All the new structures should be  
19 tied in directly to us, again, just so that we get the  
20 quickest notification. Rather than it going through a  
21 third party, they call us. I want to get my people on  
22 the road as quick as possible.

23 MS. NETTER: And the -- what you were just  
24 talking about, the notification system, you also

1 mentioned that there's new requirements coming into  
2 place. Is some of this part of the new requirements?

3 MR. FORD: I don't have the answer to that.  
4 I've yet to hear or learn all the new requirements that  
5 are coming out. They've gone through years and melded  
6 all our codes into -- we're going to be following NFPA  
7 except for specific Massachusetts regulations. They're  
8 all coming out. It just so happens I'm going to  
9 training next week.

10 MS. NETTER: But this is good practice, is  
11 what you're suggesting?

12 MR. FORD: I'm sorry. What --

13 MS. NETTER: The notification system, the  
14 standpipe system, requiring the NFPA 13 for all the  
15 buildings, just not -- for all the buildings, this is  
16 good practice from your point of view?

17 MR. FORD: Correct. And it is over and above  
18 the norm. Right now the smaller buildings, in all  
19 likelihood, would be 13R. In all likelihood, they  
20 would not require direct fire department notification.  
21 Again, with the distance out, with the fire load, I  
22 would like to see these buildings better protected.

23 You have to remember, it's not all about  
24 getting people out. The compromise of the building

1 affects my men and women. And also, if we allow these  
2 buildings to become fully involved, they become  
3 exposure problems. The greenbelt, as it's called,  
4 those buildings that are going in the greenbelt for the  
5 most part are not far off the property lines of the  
6 adjoining neighbors. Those neighbors don't have huge  
7 backyards. If those buildings are allowed to be fully  
8 involved, the radiant heat presents exposure problems,  
9 the number one method of fire transfer to an exposed  
10 building. So I would rather have these buildings fully  
11 protected with an adequate sprinkler system to help  
12 avoid that situation.

13 That's all I have for you, if you have some  
14 questions.

15 MR. LISS: Quick comment on Grassmere. I see  
16 how it connects Thornton. An obvious concern if you  
17 connect that is that then people from Chestnut Hill  
18 Realty will then pass through that street and vice  
19 versa. But what if it was designated specifically -- I  
20 don't know if this is a town issue or a CHR issue --  
21 but, you know, just accessible by fire or police or  
22 emergency vehicles? Is that something that would be  
23 amenable to you as the chief, or are you looking for  
24 general access or at least restricted access accessible

1 only by police and safety?

2 MR. FORD: Well, I don't want to seem selfish,  
3 but my access concerns don't involve the public and  
4 people driving around there. I'm concerned with my  
5 apparatus, getting there quickly. I'm fine with it if  
6 there's some sort of restriction that I'm not going to  
7 be delayed with there. I don't want my guys to have to  
8 stop and get out of the engine and unlock the gate.  
9 That's -- again, it's all time, and time is fire  
10 extension, time is medical issues, deteriorating  
11 people, deteriorating -- trying to avoid anything that  
12 causes us time.

13 MR. LISS: Thank you.

14 MR. JESSE GELLER: Other questions?

15 MR. ZUROFF: I do have a question, and I don't  
16 know who to address it to, but it's not to you, Chief  
17 Ford. Thank you.

18 But with regard to the access that we're  
19 discussing, potentially to have access to VFW  
20 Parkway -- and I don't know who makes the decision on  
21 this or whether it's possible -- but if the developer  
22 were to lay a driveway to the parkway but not  
23 connected, just pave a roadway up to the parkway -- but  
24 the parkway still has curbstone, whatever -- in

1 anticipation of possible connecting at some point,  
2 would that allow fire truck access in the event of an  
3 emergency? I'm sure that the authorities of VFW  
4 Parkway would not stop that, but I'm just curious as to  
5 how that could work potentially.

6 MR. FORD: Well, I'm not looking for access  
7 for the VFW, I'm looking for egress. I'm looking for a  
8 way out.

9 MR. ZUROFF: I understand.

10 MR. FORD: I don't want to rely on driving  
11 over curbs. Depending on the curb height -- our  
12 apparatus have piping underneath, water underneath,  
13 very expensive items like differentials in  
14 transmissions. While in all likelihood we can probably  
15 drive over the curb, we don't like to make that a  
16 habit.

17 MR. ZUROFF: Has there ever been a situation  
18 like that?

19 MR. FORD: Not that I'm aware of.

20 MR. JESSE GELLER: Anything else?

21 (No audible response.)

22 MR. JESSE GELLER: Thank you. That's been  
23 very helpful. I appreciate it.

24 We're now going to invite --

1 MR. LEVIN: Can we respond?

2 MR. JESSE GELLER: If you can briefly.

3 MR. MICHAUD: Good evening. Robert Michaud,  
4 MDM Transportation Consultants, Marlborough,  
5 Massachusetts.

6 Just a couple of points related to VFW access  
7 or egress. That is something that this applicant  
8 intends to pursue in collaboration with the town.  
9 We've said that in prior testimony. I think everyone  
10 would desire that outcome, but we don't guarantee it.  
11 It's not our decision. It's ultimately the decision of  
12 the Department of Conservation and Recreation, DCR.

13 And while there may be some things that the  
14 applicant has control over on their site in terms of  
15 designing it -- as one member had mentioned, a road up  
16 to the property line of the parkway -- I think what  
17 you're hearing from the chief is a concern that -- what  
18 happens when you get to that point? He doesn't want to  
19 be in a position to climb curbs, and rightly so.

20 So we will certainly engage in that discussion  
21 with DCR in collaboration with the town and the chief.  
22 And I think ideally what that would mean is a physical  
23 at-grade connection to the parkway, and that could, in  
24 fact, at a minimum, be gated for emergency egress. So

1 I think we're clearly on the record as wanting to  
2 pursue that. And possibly even having full access  
3 there would allow for general movement to and from the  
4 development. So I think we're in agreement on that  
5 point. It's certainly no guarantee.

6 As it relates to the Grassmere connection,  
7 certainly there may be some design features that could  
8 be incorporated that allow for the passage of the  
9 chief's apparatus directly to Thornton in those  
10 circumstances, and we could certainly work out what  
11 those features are, what the chief is comfortable with  
12 and what the town's comfortable with. So I think  
13 that's a possibility as well.

14 I'll reiterate that the plan has been modified  
15 through substantial input from the chief specifically  
16 to include widening of the internal roadway systems to  
17 a standard of, I believe, 24 feet. The various aspects  
18 of where the cul-de-sac elements or hammerheads have  
19 been specifically modified with input from the chief  
20 have been shown through analysis to provide adequate  
21 maneuverability for purposes of getting to and from the  
22 development. And we're confident on the basis of peer  
23 review and similar locations within Brookline that  
24 those are appropriately designed for those purposes.

1           We also reiterate that the sprinkler systems,  
2           as the chief had mentioned, are an important component  
3           of this development and will be designed to a high  
4           standard and level to ensure that the chief is  
5           comfortable and the buildings are adequately protected  
6           to the extent that they can be using that form of  
7           technology.

8           And finally, you know, we understand the  
9           notion of the mutual aid as the chief had laid it out.  
10          We also point out that the proximity of Hancock  
11          Village, the Baker School, and other locations that do,  
12          from time to time, require a response, you know, are,  
13          in fact, located in a way that's equidistant and  
14          proximate to other stations that can provide a response  
15          to the extent the chief deems it necessary in certain  
16          circumstances. And one of those stations is the Boston  
17          fire station on Center Street which is located well  
18          within a one-and-a-half-mile radius and five-minute  
19          response time.

20          And so we're not dismissing the fact or the  
21          concern that the chief had pointed out that only two of  
22          the five stations fall within the eight minute or less  
23          response time, but we are also aware that there are  
24          mitigating circumstances that do exist to the extent we

1 need it at the discretion of the chief in those  
2 circumstances.

3           So I think that pretty much -- oh, yes. And  
4 finally -- and this is a point we made very early on in  
5 the planning of this property -- we were cognizant that  
6 certain access roadways that are being proposed,  
7 specifically from Independence Drive on the west side,  
8 will enhance the ability for response to a number of  
9 units within the existing Hancock Village property. It  
10 becomes evident when you do look at a plan, which you  
11 have, that the roadway in that location would provide  
12 accessibility to four of the existing Hancock Village  
13 property buildings that you simply can't get to under  
14 existing conditions. So we stress that there is  
15 another mitigating circumstance here that actually  
16 enhances response time to a number of existing units in  
17 that area.

18           MR. HUSSEY: Mr. Michaud, I've got one  
19 question. Is there sufficient water pressure in the  
20 streets for the sprinkler systems

21           MR. MICHAUD: I'm not qualified to answer that  
22 question. That's a civil engineering question that is  
23 beyond my knowledge and expertise.

24           MR. JOE GELLER: Joe Geller, Stantec

1 Consulting. I think that was discussed earlier on, and  
2 there would be flow tests done to make sure that we  
3 have adequate pressure, and there would be booster  
4 pumps if we didn't have the adequate pressure.

5 One thing that Bob did mention was -- and the  
6 chief mentioned -- was NFPA 13R and 13, and we would  
7 actually do all of the buildings as 13, no 13R  
8 buildings. And we also -- he mentioned the standpipe,  
9 which is something we would certainly do, and access to  
10 the direct alarm system is something we would certainly  
11 do. So all of that would be done as part of the final  
12 design.

13 MR. BOOK: I have a follow-up question for  
14 Fire Chief Ford. It's in your discretion if a call  
15 comes in to call another community if they're closer or  
16 it requires a faster response time. Do you do that? I  
17 mean --

18 MR. FORD: No. It is in my discretion and  
19 plans have already been laid out throughout all of  
20 Metro Boston, should we have a fire in Hancock Village  
21 tonight when all my apparatus are utilized at that fire  
22 and I say I need another ladder truck, they're going to  
23 send a ladder truck from Boston. But for the initial  
24 alarm, we are not relying on other communities.

1           Now, there is a rare occasion where we have  
2    what we call "line boxes." As an example, when you go  
3    down Harvard Street and you get very close to the  
4    Boston line, there's going to be a box, the fire alarm  
5    boxes in the street every so many feet down Harvard.  
6    When you get to the -- maybe the very last one in  
7    Brookline, if that box gets transmitted, the response  
8    to that is a full Brookline response and a Boston  
9    engine. Now, when you cross into Boston and you get to  
10   the next box, that box gets a full Boston response and  
11   a Brookline engine.

12           And I believe the theory from years ago --  
13   this was set up by chiefs before me -- it's so close to  
14   the line, maybe there was a passerby that you could see  
15   a fire and it was really on the Boston side but he  
16   pulled the Brookline box or vice versa, it'd get us  
17   both there because it's so close. That's the only case  
18   that I am aware of that we ever send another community  
19   without there being a fire and we need additional help  
20   and then the other communities are called.

21           MR. BOOK: So, for example, if there is a call  
22   at the Baker School -- and I'm sure over the years  
23   there must have been calls from the Baker School --  
24   Brookline always responds. A Boston engine doesn't

1 show up for that?

2 MR. FORD: Correct. Only if that fire is so  
3 large that we had all of our companies committed or  
4 there was something else going on. There might have  
5 been a call at the Devotion School at the same time and  
6 everybody was tied up there or the ladders were tied up  
7 there. And now our fire alarm would know, wait a  
8 minute. There's no ladder available. They go by a run  
9 card. In that case they would call Boston because we  
10 were tied up. We don't call Boston when we're not tied  
11 up.

12 MR. BOOK: Thank you.

13 MR. JESSE GELLER: Thank you.

14 Anything else? Any questions? Safety?

15 (No audible response.)

16 MR. JESSE GELLER: Okay. I'm going to take a  
17 shot at this. We have a finite amount of time, and I  
18 know people like cheering, but it does not help us with  
19 the clock. So if you're going to applaud and cheer  
20 after every person speaks, then some of you are just  
21 not going to have time to speak. So you make the  
22 choice.

23 MS. WACHOWSKI: Hello, ladies and gentlemen.

24 My name is Mary Wachowski, and I live at 226 Grove and

1 Bonad Streets. That's also Independence. I moved to  
2 Brookline two years ago. I have two children. I'm  
3 also a public school teacher. My youngest child needed  
4 a good public school system with an excellent special  
5 needs program. I moved from Dorchester where I lived  
6 for 25 years with my husband and family so that my son  
7 could attend the Baker K through 8 School with high  
8 recommendations from both parents and educational  
9 consultants.

10 I can assure you that by approving these  
11 market-rate, not affordable, subsidized, or Section 8  
12 apartments, which I lived amongst in Dorchester for 25  
13 years, you are essentially turning a residential South  
14 Brookline neighborhood into a mini city that will  
15 require more police, more fire presence, and it's own  
16 new K through 8 school immediately.

17 Baker School is enormously overcrowded. It's  
18 at very, very dangerous capacity for its children. And  
19 thank you for the fire chief for being the only person  
20 here so far to mention the word "children."

21 Coming from 20 years in Dorchester, I can tell  
22 you that Boston residents -- I can vouch for this --  
23 struggle daily to constantly reclaim the green space  
24 that Brookline residents, all of us, now take for

1 granted.

2 I would like to know whether these lawyers and  
3 the owners of Chestnut Hill Realty and the board here  
4 would like this happening in their own neighborhood.  
5 And clearly, some of you don't know where some of the  
6 streets are that we're talking about and don't even  
7 know that West Roxbury is in Boston. I would wager  
8 that you like going home to a quiet home during the  
9 day, and in the evening like quiet evenings there and  
10 enjoy that your children go to school in a quiet  
11 environment in a beautiful setting. Well, guess what,  
12 we do too.

13 The open space of Hancock Village is truly a  
14 gift. It was a legal agreement and an historical  
15 precedence set years ago for air, sky, and gorgeous old  
16 trees for the children then and the families then when  
17 it was built and would benefit the children and  
18 families who live there now and its neighbors, us.

19 But, ladies and gentlemen of Hancock Village  
20 and this committee, you can come to my house -- that's  
21 226 Grove Street at the corner of Bonad and Grove --  
22 for coffee any morning starting at 6:30. I will  
23 welcome you. And you can watch from 6:30 a.m. to  
24 8:30 a.m., now, while parents, children, teenagers, and

1 our own two crossing guards from the town risk their  
2 lives daily trying to get across Grove Street,  
3 Independence Street, from Russett and Bonad and Beverly  
4 to get to the Baker School and to other bus stops at  
5 other locations where they attend school along that  
6 neighborhood stretch. It is at already capacity  
7 traffic now.

8 I have seen our own crossing guards almost be  
9 killed in front of my eyes numerous times. I have  
10 watched small children, mothers with strollers, elderly  
11 grandparents escorting their children almost be  
12 killed. I've seen my own child in just the last 72  
13 hours almost run over in these crosswalks, which, by  
14 the way, the town doesn't even have legally marked  
15 crosswalks now. I welcome you to come and visit me and  
16 have coffee with me and see how dangerous this  
17 situation is now.

18 So I ask all the lawyers here and owners of  
19 Hancock Village and the committee how all this  
20 construction, all these construction vehicles add to  
21 the danger -- and I ask that to the fire chief too --  
22 and to the danger -- already currently dangerous  
23 streets. Will the Hancock Village owners pay for  
24 additional police detail, a new school, and more fire

1 department and EMT presence when these accidents and  
2 dangerous situations increase?

3 How will blasting affect the life of the  
4 children in Hancock Village and the neighborhood and  
5 the already desperately overcrowded Baker School, its  
6 teachers and administrators during the learning day,  
7 which was pointed out 9:00 to 4:00 when this blasting  
8 is allowed. How will the entire quality of the life  
9 and the value of our homes be affected? I'm sure you  
10 would not want this going on in your own neighborhood.

11 In fact, would you mind if we all come to your  
12 neighborhood and have you experience some of this? I  
13 would wager you'll say no.

14 By the way, I recently -- I have friends who  
15 live in Hancock Village. Chief, there are already  
16 streets blocked off with barriers that they put out  
17 there, so there's not access now. They're endangering  
18 their current residents now with non access to side  
19 streets for your fire trucks. There's trash spread all  
20 over their receptacle areas, so there are already skunk  
21 and rat problems currently. And by the way, the  
22 Baker -- the area where they want to build dead ends  
23 into the Baker, so I don't know how a fire truck -- if  
24 we ever had to evacuate the Baker if it caught on fire

1 from one of the buildings, all those children are in a  
2 very, very precarious situation.

3 I thank you very much, and I urge you to think  
4 of your own children and grandchildren and the quality  
5 of life in your neighborhoods in Brookline when you  
6 make this decision tonight. Thank you for your time.

7 MR. JESSE GELLER: Thank you.

8 MS. RECHES: I live at 26 Asheville Road.

9 MR. JESSE GELLER: You've got to tell us who  
10 you are.

11 MS. RECHES: Debbie Reches. So I just wanted  
12 to say that I've been at several of these meetings and,  
13 you know, it seems pretty clear that from the  
14 perspective of people living on Asheville and our  
15 neighbors that this, you know, building is pretty much  
16 an unmitigated disaster in terms of the character of  
17 the neighborhood.

18 You know, even if they build another school,  
19 the fact that, you know, having a rental neighborhood  
20 is very different than a residential neighborhood. I  
21 don't have problems with affordable housing, but when  
22 you talk about transient populations and a large influx  
23 of a transient population, that changes things.

24 So, you know, I guess that, you know, the

1 developer can make a lot of money and, you know, that's  
2 great for him but, you know, I mean, I would understand  
3 if there was at least some benefit to the town, but the  
4 fact is that this is closer to the Boston area. The  
5 residents are going to be patrons of Boston stores, not  
6 Brookline. It's not really close to the commercial  
7 area of Brookline. They probably won't be going to  
8 jobs in Brookline. So there's really, like, no upside  
9 for Brookline either.

10 And I'm just, like, totally perplexed as to  
11 how Brookline can often manage to delay or postpone  
12 or -- you know, projects that might actually increase  
13 their revenue and they're, like, powerless to do  
14 anything for a plan that's going to be pretty -- have  
15 pretty bad financial consequences for the town. That's  
16 all.

17 MR. JESSE GELLER: Thank you.

18 MR. CHIUMENTI: My name is Steve Chiumentti,  
19 Town Meeting member from Precinct 16, and really  
20 talking on behalf of a number of neighbors as well.

21 We have urged you to deny or significantly  
22 reduce the scope of the proposed project or projects.  
23 I'm not sure how many are in play now. But in the six  
24 months I've attended and participated in your hearings,

1 you have listened to a great deal of testimony  
2 regarding an inconceivable relevant issue and some not  
3 necessarily relevant. We've heard representations  
4 about what may be considered, what may not be  
5 considered, and so on.

6 This evening we will review local concerns  
7 that have been raised, and particularly in the specific  
8 context of the current 2008 regulations. We  
9 particularly follow precisely the regulations the way  
10 they apply to this board and the Housing Appeals  
11 Committee as far as reviewing the decision of this  
12 board. On the basis of local concerns identified in  
13 this process, we have -- we continue to urge you to  
14 deny the project, and for the same reasons, very  
15 substantially reduce the project.

16 Fundamentally, this is what your mission is  
17 essentially: to deny -- to approve or deny or to  
18 approve with conditions the project reflecting local  
19 concerns. Your approval or your denial or your  
20 conditions must be consistent with local need. That's  
21 done in two ways. Alternatively, A -- and the reason  
22 I've crossed it out is, that's basically the  
23 requirement that you have 10 percent of the affordable  
24 housing, the SHI housing, and we don't, so that doesn't

1 apply.

2 We're under B. B basically has three parts.

3 It says your denial or your approval with conditions  
4 needs to be consistent with, essentially, the local  
5 requirements and regulations imposed on the project.  
6 The local concerns -- it has to be reasonable in light  
7 of local concerns -- which is primarily what we're  
8 discussing this evening -- and the local requirements  
9 and regulations are applied as equally as possible for  
10 both subsidized and unsubsidized housing, and the  
11 regional need for low and moderate income housing  
12 considered with the number of low income persons in the  
13 affected municipalities. So that's to be considered as  
14 well, the need for housing.

15 And basically I'll just briefly touch on the  
16 last two. As I said, we're mostly going to concentrate  
17 on local concerns. Basically, it's unarguable that  
18 you -- even if you denied this project, you would be  
19 treating this equally as to subsidized or unsubsidized  
20 housing because for 60 years no one's allowed anything  
21 to be built in the areas where they're proposing to  
22 build, not even a parking lot. They're certainly not  
23 disadvantaged because this is potentially subsidized  
24 housing. Nothing would be considered on an

1 unsubsidized basis, nor has it ever been. So there's  
2 no discrimination issue on that basis.

3 The third point I'll just touch on briefly is  
4 an interesting point, and I only want to mention that  
5 because that's not a reference to the availability of  
6 subsidized housing. That's a reference to people, the  
7 number of low income persons, not available housing.  
8 This is not like A above where it refers to the SHI  
9 housing, the index.

10 And basically it says -- well, these are  
11 defined terms, actually. Basically, low and moderate  
12 income housing is essentially what is subsidized, but  
13 it's basically available for low income persons, and  
14 "low income persons" is defined in the regulations as  
15 well. It's basically people who live in households who  
16 have income not more -- or less than 80 percent,  
17 rather, of the area median income.

18 What's interesting about this is that it says,  
19 "Considered with the number of lower income persons in  
20 the affected municipality." I take that as a reference  
21 to Brookline. Essentially, the regional need -- I  
22 looked it up and the number of household -- the  
23 proportion of households in the Boston metro area that  
24 have income 80 percent or lower than the actual -- the

1 median income, the area median is 45 percent. In  
2 Brookline that number is 30 percent, so we have a lower  
3 need.

4 Now, the regulation says that when you take  
5 these matters into consideration, if there's a greater  
6 need, they're supposed to actually have a higher  
7 threshold for meeting of local concerns. Basically, if  
8 it were the other way around, I'm sure that they would  
9 say, well, if Brookline had a 45 percent proportion and  
10 the metro region was 30 percent, that Brookline would  
11 have a higher need and therefore should meet a higher  
12 threshold of local concerns. All I'm suggesting here  
13 is that basically we have a lower threshold for local  
14 concerns here because we have a lower need.

15 Now, there are plenty of cases that discuss  
16 how you calculate SHI. For example, if you have plenty  
17 of affordable housing that's not subsidized, you don't  
18 get to count it. That's about housing and how you  
19 count housing. I found no cases that address how you  
20 measure the need for low and moderate income housing.  
21 So I'm just reading the regulation and telling you what  
22 the facts are, that Brookline's proportion is 30  
23 percent, the regional number is 40 percent.

24 Basically, our presentation of the local

1 concerns is based primarily on what the testimony of  
2 the hearing, really from the town boards of Brookline,  
3 the various boards. Now, the statute -- the regulation  
4 basically consolidates all of the permitting authority  
5 to you. That's to basically give you the comprehensive  
6 permit so the applicant doesn't have to go looking for  
7 permits to all of these boards.

8 But the boards have a role. Basically, the  
9 regulation stipulates that the boards will consider the  
10 input of the town's boards at arriving at its decision.  
11 Essentially, it defines local boards in a defined term,  
12 and it basically is any local board or official  
13 including but not limited to any board of survey, board  
14 of health, planning board, conservation commission,  
15 historical commission, water, sewer, or other  
16 commission or district, fire, police, traffic, or other  
17 department, building inspector, or similar official  
18 board or Board of Selectmen.

19 And these boards and groups have all pretty  
20 much had an opportunity to testify over the six months  
21 we've been doing this, and, as I said, the local  
22 concerns that we expressed are going to be pretty much  
23 taken from that. And, as I said, the regulation  
24 expects you to take that into account.

1 All right. So the scope of the board hearing  
2 on local concerns basically follows exactly the --  
3 well, what the regulation basically says is you, the  
4 board, should make yourselves aware of the detailed  
5 provisions of the burden of proof that have been set  
6 forth. Basically, in the provision where it talks  
7 about how the Housing Appeals Committee would review  
8 your decisions, that's the basis on which you're  
9 supposed to be reviewing this material as well.

10 And so what we've done is set out the burden  
11 of proof with respect to the local concerns in the  
12 order that it's provided in the procedural requirements  
13 by the Housing Appeals Committee. First health,  
14 safety, and environment, site and building design, and  
15 then open space. I'll mention the financial  
16 feasibility issue at the end, but I want to mention one  
17 point here is that health, safety, and environment is  
18 one of the three categories. The other two are not  
19 involved with health and safety. Health and safety is  
20 its own requirement. You don't need to prove that the  
21 open space, if it's lost, will result in a safety  
22 threat. That's its own criterion for -- people allege  
23 otherwise. That's why we put it in there.

24 And Bill, basically, is going to go through,

1 now, the local concerns in the context of those three  
2 categories of the regulations of the Housing Appeals  
3 Committee in case you should review the project.

4 MR. PU: Thank you. I'm Bill Pu from 249  
5 Beverly Road. I'm a Town Meeting member.

6 So, again, our goal here is to just set out  
7 the local concerns in the context of the regulations  
8 themselves to better understand how they should be  
9 interpreted.

10 So here's the first category: health, safety,  
11 and the environment. And we're citing the specific  
12 relevant paragraph, so this paragraph 3: Adequacy of  
13 water and drainage arrangement. As you know, we have  
14 serious questions about water drainage on the site. We  
15 don't feel that they've been adequately addressed. We  
16 feel the quality of the peer review was low. Over 459  
17 Brookline residents petitioned to have another peer  
18 review, but do not think that's been taken up.

19 The proposed drainage system requires ongoing  
20 maintenance. I think that's been agreed upon. But we  
21 want to know, what's the enforcement of that  
22 maintenance? And I think the issue of trash has been  
23 raised, which this is a picture of the trash taken from  
24 less than a month ago. This is a common occurrence.

1 And, you know, this is trash but we're worried about  
2 other things that are harder to measure such as  
3 maintenance of the drainage system.

4 The next, I think, has been dealt with by the  
5 fire chief, adequacy of fire protection. I just wanted  
6 to add one thing to what the fire chief said, is that  
7 we're also worried about Russett Road itself. It's  
8 very narrow. And I don't see how a large emergency  
9 vehicle could pass when it's narrowed by snow and  
10 parked vehicles. This is a regular car, and I'm not  
11 sure how an emergency vehicle would fit.

12 This was covered. I think the fire chief did  
13 a great job with this, so I'll skip that.

14 So paragraph 5 has to do with adequacy of the  
15 applicant's proposed arrangements for dealing with  
16 traffic circulation, feasibility of arrangements which  
17 could be made by a municipality for dealing with  
18 traffic generated by the project on adjacent streets.

19 And as the first speaker eloquently said, we  
20 think that there's already quite a bit of traffic and  
21 this is concerning to us. This proposal will more than  
22 double the number of dwelling units served by Russett  
23 Road. The proposed traffic circulation analysis made  
24 no specific analysis of the very high traffic that

1 occurs on school day mornings. This traffic makes  
2 entry and exit from homes to those roads very difficult  
3 under current conditions, and doubling the number of  
4 dwelling units served by that road will only make it  
5 worse.

6 We think that, at a minimum, this project  
7 should be conditioned on securing direct vehicle access  
8 to VFW -- not a promise of securing it, actually  
9 securing it -- and permitting emergency-vehicle-only  
10 access to the apartment building via Asheville and  
11 Russett.

12 We also think the proposal of reducing  
13 Independence Drive from four lanes to two lanes is a  
14 disaster waiting to happen. The traffic is already  
15 congested, and this will reduce the flow by 50  
16 percent. It also will cause a bottleneck when it goes  
17 out to Boston and then it's four lanes again.

18 So now onto the next section of local  
19 concerns, which is site and building design. So  
20 paragraph 1 deals with height, bulk, placement of the  
21 proposed project. The site of the proposed project is  
22 poor, located on a portion of Hancock Village with the  
23 greatest impact on the abutting property owners and on  
24 the historic design of the exiting development. There

1 are other places that this project could have been put  
2 with less disruptive impact.

3 We've heard about the apartment building. The  
4 height and bulk is completely out of character for the  
5 surrounding neighborhoods, including the revised plan  
6 we saw today. It's nearly two football fields long.  
7 It's the equivalent of 85-plus residential homes. The  
8 placement at the highest point of the property just  
9 magnifies its anomalous bulk. This is one of the  
10 reasons MassDevelopment initially rejected the  
11 proposal, specifically citing this poor design  
12 feature. So even MassDevelopment felt that this was a  
13 poor design feature.

14 The infill buildings are located on a critical  
15 strip of green space integral as part of the garden  
16 village design of Hancock Village providing public  
17 space and natural surrounding for many of the Hancock  
18 Village units. The green space was purposely set aside  
19 as a boundary between the denser multifamily  
20 development and the single-family homes.

21 The project will destroy the integrity of the  
22 design that made a successful Hancock Village and led  
23 to it being designated as eligible for the national  
24 register of historic places. And because of the damage

1 that would be done by this project, it was identified  
2 by Preservation Massachusetts as one of the  
3 Commonwealth's ten most endangered historic resources.

4 The placement on puddingstone will require  
5 extensive blasting, as we've heard, which is dangerous  
6 and will disrupt quality of life. It also will raise  
7 the cost of the project, and that's relevant because  
8 that gets to the issue of what scale a project is  
9 needed for economic feasibility.

10 Paragraph 3 deals with height, bulk, and  
11 placement of surrounding structures and improvement,  
12 which we take to mean the parking. So the extensive  
13 roads and parking will destroy nearly all the usable  
14 green space. The number and placement of parking units  
15 appears to be intended for use of existing non-40B  
16 units.

17 Chapter 4 has to do with physical  
18 characteristics of the surrounding land. So the  
19 surrounding land has poorly draining soil and extensive  
20 rock ledge, so, as we've mentioned, there's a drainage  
21 problem. And this will be worse because we're  
22 replacing the green space with buildings and impervious  
23 surfaces. Also, as Tom Brady of the Conservation  
24 Department noted, the puddingstone outcropping will not

1 support tree growth, so any idea of hiding this  
2 apartment building by trees is not feasible.

3 Paragraph 5, adequacy of parking  
4 arrangements. The parking is more than adequate, but  
5 it's poorly placed and it appears that it will serve  
6 the non-40B units.

7 Adequacy of open areas -- this is  
8 paragraph 6 -- including outdoor recreational areas  
9 proposed within the project site. There is little  
10 useable open area within the project. Instead it will  
11 destroy the open space.

12 And we're on the last category, which is  
13 specifically open space as a characteristic by itself.  
14 So the first paragraph is availability of existing open  
15 spaces. The nearest recreational open space is  
16 Boston. There is none in Precinct 16, other than  
17 what's available at the Baker School. In its  
18 application, the developer cited a golf course, a  
19 cemetery, and the Baker School.

20 In paragraph 2, it says, "current and  
21 projected utilization of open spaces and consequent  
22 needs including occupants of the proposed housing."  
23 I've heard the board say that the developer could do  
24 what he wants because of his rental property, but this

1 specifically says that we should include the occupants  
2 of proposed housing. The project makes no provision  
3 for open space. This regulatory paragraph makes clear  
4 that the impact on renters of Hancock Village should be  
5 taken into account.

6 This paragraph 3 says that the relationship of  
7 the proposed site to any municipal open space or  
8 outdoor recreation plan officially adopted by the  
9 Planning Board and any official action to preserve open  
10 spaces taken with respect to the proposed site by the  
11 Town Meeting or City Council prior to the application.  
12 Inclusion of the proposed site in such an open space  
13 shall create a presumption that the site is needed to  
14 preserve open spaces. In 1946, the Planning Board and  
15 Town Meeting set aside the green space as a buffer,  
16 which was approved 192 to 3. This green space was  
17 incorporated into the design of Hancock Village.

18 In a second official action, Town Meeting, in  
19 November 2011, voted 200 to 24 to form a neighborhood  
20 conservation district at Hancock Village. This  
21 preserved the green space that will be destroyed by  
22 this project.

23 Furthermore, the open space was specifically  
24 referenced in the 2010 Brookline Open Space Plan as a

1 large and significant parcel. It should have priority  
2 for open space protection. The 2005 to 2015  
3 comprehensive plan set a goal of no net loss of open  
4 space, so these regulations that I just mentioned  
5 stipulate that these official actions create a  
6 presumption that the site is needed to preserve open  
7 space.

8 Paragraph 5, current use of the proposed site  
9 and the land adjacent to the proposed site. The site  
10 provides open space for the direct benefit of the  
11 current residents of Hancock Village as well as  
12 mitigation of the impact on the adjacent  
13 neighborhoods. The green space that will be destroyed  
14 is a communal space in a natural setting, and these  
15 were focal points of the garden village style.

16 So given this listing of local concerns, we  
17 advocate that the board deny this project or, at a  
18 minimum, consider the following conditions:

19 At the beginning of this hearing, the  
20 proponent mentioned designating the affordable housing  
21 as affordable in perpetuity, but I haven't heard that  
22 recently. I would like to make sure that that's  
23 included as a condition.

24 A deed restriction should be placed to prevent

1 further development on this parcel.

2 Access to the apartment building should come  
3 from VFW Parkway and Asheville should be an emergency  
4 only entrance.

5 This should be conditioned by approval of the  
6 project by the Mass Historical Society, and the pending  
7 lawsuit -- it should also be conditioned on resolution  
8 of the pending lawsuit over the project eligibility  
9 letter in the 1946 contract in favor of the applicant.

10 It should require a traffic demand management  
11 plan with objective performance metrics and a resulting  
12 reduction in the number of parking spaces.

13 And the scale and massing of the project,  
14 including the apartment and the green space development  
15 should be minimized.

16 MR. CHIUMENTI: There are just two other  
17 regulations we wanted to draw your attention to. One  
18 of them is financial feasibility. We've covered the  
19 burden of proof of the board's denial or approval of  
20 conditions without mentioning conditions regarding the  
21 project's burden on the town's services.

22 It's been stated repeatedly that no such  
23 conditions or considerations are allowed. That's not  
24 exactly what the regulation states. In particular,

1 essentially -- the particular regulation was 5607 and  
2 the germane part says, "in the case of either denial or  
3 approval with conditions, if the denial or conditions  
4 are based upon the inadequacy of existing municipal  
5 services or infrastructure, the board shall have the  
6 burden of proving that the installation of services  
7 adequate to meet local needs is not technically or  
8 financially feasible. Financial feasibility may be  
9 considered only where there is evidence of unusual  
10 topographical, environmental, or other physical  
11 circumstances which make the installation of the needed  
12 service prohibitively costly.

13 Here are the facts of cost of services:  
14 Basically, right now we are already at a point where  
15 we're considering overrides to deal with the problem of  
16 providing services, education, and so on, and that's  
17 even without considering what this project would do to  
18 the town.

19 Now, that may not be germane under this in  
20 particular, but what is germane is where are you going  
21 to put a fire station or another school? That,  
22 essentially, is the geographical limitation that's  
23 referred to here. Brookline is built out. We're  
24 already at a point -- if you know where we can be

1 building schools, you should tell Superintendent Lupini  
2 because he's already out of options and he's got to  
3 deal with our present population as it is.

4 The problem with this regulation and the  
5 reason it belongs here is that, in effect, there's just  
6 not the physical place in a town like Brookline built  
7 out, in Precinct 16 in particular, for us to actually  
8 practically do the kind of -- provide the kind of  
9 support that would otherwise be necessary.

10 All right. The other thing that's come up on  
11 occasion, essentially, is if a project is approved with  
12 conditions, they should address all local concerns.  
13 Contrary to some representations in these hearings that  
14 the project may not be conditioned on state agencies  
15 regarding traffic changes, for example, the regulation  
16 provides that essentially the board may make a  
17 comprehensive permit subject to any of the following  
18 conditions and requirements: The securing of the  
19 approval of any state or federal agency with respect to  
20 the project which the applicant must obtain before  
21 building.

22 And I think that last part is what people will  
23 focus on when they're trying to tell you you can't do  
24 this. "Provided, however, that the board shall not

1 delay or deny an application on the grounds that any  
2 state or federal approval has not been obtained." So  
3 you can't deny the project or delay the action on the  
4 application waiting for a state or federal approval but  
5 you can condition, essentially, them going forward  
6 before they build anything that they obtain a state  
7 approval that you feel is a necessary condition for  
8 this project.

9           The last thing I would point out when you're  
10 looking at all of this stuff is that the regulations  
11 were rewritten in 2008. Oftentimes when you're looking  
12 at case law, it was decided before 2008. Now, the  
13 regulation doesn't change everything. It is important  
14 to understand that basically they changed some stuff in  
15 2008, and a perfect example is our own case of  
16 Brookline versus MassDevelopment and CHR. Basically,  
17 in the new 2008 regulations, it says that the issuance  
18 of a preliminary eligibility letter is not appealable  
19 within the Housing Appeals Court or that process, which  
20 means that when the preliminary eligibility letter was  
21 granted, there was no administrative remedy for us  
22 within the agency, which meant it was time, basically,  
23 to go to court. The regulation says that in 2008.

24           In 2007, the Marion case was decided.

1 Marion -- basically, in that case, the judge dismissed  
2 an action because the appeal -- the matter was still  
3 pending before Housing Appeals Committee. He basically  
4 dismissed it on the grounds that the administrative  
5 remedy had not been exhausted.

6 As I said, in 2008 the regulation was changed  
7 to eliminate our right to get an administrative remedy,  
8 and that's why we were in court. Basically, the judge  
9 didn't seem to care about that either, and that's why  
10 it's on appeal. But my point here is that essentially  
11 you need to pay attention in looking at cases to  
12 understand if they were or were not affected by the  
13 2008 regulation.

14 By the way, the way this case is positioned  
15 right now, the judge -- as far as he's concerned, you  
16 have the right to review the PEL and we suggest that  
17 you do so and reject this project. And just like the  
18 MassDevelopment's own letters that we've given you,  
19 they rejected the project substantially like this -- in  
20 effect, that first project -- and basically explained  
21 it was too big, it was in the wrong place, it  
22 eliminated the green space and so on, and they rejected  
23 it. We suggest you basically cite their letter and  
24 their internal memo, which we've provided to you, and

1 say that if it were your decision to decide that the  
2 PEL was invalid, you'd decide it's invalid.

3 We can actually provide this to you in writing  
4 and with a little more thought to the conditions that  
5 we would recommend. Thank you.

6 MR. JESSE GELLER: Thank you.

7 MR. SPIEGEL: I'm Stanley Spiegel. I'm a  
8 resident of Coolidge Corner but very interested in this  
9 project because it impacts the whole town.

10 And I just wanted to call attention to one  
11 point that relates to what Chief Ford brought up  
12 regarding the safety issue of the argument that he  
13 mentioned, that there are already houses living  
14 there -- people living there in preexisting -- before  
15 this proposed project.

16 I just want to call your attention, if that's  
17 necessary, to the actual wording in 40B which alludes  
18 to the safety of the residents of the proposed  
19 housing. It doesn't matter whether the people who are  
20 living there before are safe or not safe. We'd like  
21 them to be safe, but the 40B specifically cautions  
22 about creating an unsafe condition for the people  
23 moving in. That means, if that is indeed a problem,  
24 the fact that there may be other people who've been

1 living there for a long time under unsafe conditions,  
2 while regrettable, is not a reason to say that this  
3 condition for the people moving in is irrelevant. It's  
4 quite relevant. That's explicit language of 40B.

5 I just want to make sure that that point is  
6 noted. You're inviting new people to move into the new  
7 housing. And if it's the case that that situation is  
8 deemed unsafe, that other people may be living there  
9 previously is irrelevant. The new people need to be  
10 moving into safe quarters. And from what Chief Ford  
11 said, it sounds like it's problematic to me. Thank you  
12 very much.

13 MR. Wishinsky: Neil Wishinsky. I'm on the  
14 Board of Selectmen, and I'm speaking for myself.

15 As you've been deliberating, you've been  
16 appropriately pushing back on the size -- the mass and  
17 the scale. And you've run into assertions of changes  
18 not being financially viable. And those assertions  
19 have, to date, not yet been tested and I would  
20 encourage you to do what's necessary to invoke the  
21 pro forma review that the law allows you to do.

22 And I kind of look at it as -- I go to a bank  
23 and I say to them, loan me a million dollars. And I  
24 say to them, I can pay it back. I know I can pay it

1 back. I make enough money. And they say to me, okay.  
2 I'll write the check. That's not the way it works.  
3 They way it works is they do a background check, they  
4 review my income, et cetera. They do due diligence.  
5 And I would encourage you to do the same kinds of due  
6 diligence that a bank would do and that the law allows  
7 for you to ask for. Thank you.

8 MS. DEWITT: My name is Betsy DeWitt, and I'm  
9 a member of the Board of Selectmen. And part of what I  
10 would like to do is to reiterate what the Board of  
11 Selectmen has said previously in communicating with the  
12 ZBA. This development project had not materially  
13 changed since we submitted our initial comments on  
14 January 27, 2014. We continue to vigorously and  
15 unanimously assert that the proposed development at  
16 Hancock Village is poorly conceived and undermines the  
17 characteristics and underlying philosophy that  
18 established Hancock Village initially as a well planned  
19 community.

20 Hancock Village is historically significant.  
21 It has been named one of the 10 most endangered  
22 historic resources in Massachusetts by Preservation  
23 Massachusetts. And while it may have been implied that  
24 local historic and cultural values have no bearing on

1 the application for a comprehensive permit under 40B  
2 regulations, the ZBA, in fact, stands in place of all  
3 the municipal entities selected or appointed that  
4 would, under non-40B conditions, have authority to  
5 require compliance with local, fair standards.

6 In fact, many of these entities have raised  
7 serious concerns and objections to this proposed  
8 development. In its letter to the ZBA in October of  
9 this year, the Planning Board objected to the site  
10 design, to the amount of parking, to the location, size  
11 and scale of the multi-unit apartment building and to  
12 the risk of damage to nearby properties from blasting  
13 the outcropping.

14 The Preservation Commission, a certified local  
15 government, has also objected to the overall adverse  
16 impact of this development on historic property and to  
17 the construction of roadways and buildings in the  
18 greenbelt and also to the size and location of the  
19 multistory apartment building.

20 Hancock Village has been determined by the  
21 Massachusetts Historical Commission to be eligible for  
22 the National Register of Historic Places and,  
23 therefore, is subject to impact reviews under the  
24 Massachusetts Environmental Policy Act. State

1 regulations require notification of the Massachusetts  
2 Historical Commission by a state body -- that would be  
3 MassDevelopment -- or a private proponent, Chestnut  
4 Hill Realty, to determine whether a project will be  
5 adversely -- whether a national registered property  
6 will be adversely affected.

7 Under the Mass code regulations, I'm quoting,  
8 "Any new construction project or renovations to  
9 existing buildings that require funding, licenses, or  
10 permits from any state or federal government agency  
11 must be reviewed by the Massachusetts Historical  
12 Commission for impacts to historic and archeological  
13 properties." At this time, no such notice or review  
14 has been submitted.

15 I'd also like to call attention to the lack of  
16 significant change in the current plan. There's still  
17 construction of both roadways and buildings in the  
18 greenbelt. There's been no reduction to the tall  
19 apartment building and, as you've heard this evening,  
20 we understand that there may be damage caused by  
21 blasting not just to abutting homeowners but also the  
22 nearby Baker School. The fire chief has outlined the  
23 safety concerns about being able to get apparatus into  
24 and out of the site safely in case of a major fire.

1           If the purpose of 40B also is to increase  
2 affordable housing, this project does not meet the  
3 standard affordability in other Brookline projects.  
4 There will only be 20 percent affordable units. In  
5 contrast, Saint Aidans in Brookline's friendly 40B  
6 project with the Catholic Archdiocese Planning Office  
7 for Urban Affairs, 61 percent of the unit are  
8 permanently affordable.

9           And I'd like to call attention to a letter  
10 written by Chestnut Hill Realty in response to the  
11 Housing Advisory Board's recommendation that this  
12 project could increase the minimum inclusion of 20  
13 percent affordability. The letter states that the  
14 affordability requirements are under the exclusive  
15 jurisdiction of MassDevelopment, the subsidizing  
16 agency.

17           In fact, at any time Chestnut Hill Realty can  
18 independently seek subsidy for additional affordable  
19 units. It can do so in partnership for either Housing  
20 Authority or federal project-based vouchers with the  
21 Housing Advisory Board or funding from the housing  
22 trust or other sources.

23           And I offer you in contrast, the town is  
24 currently working closely with the Winn Company who, in

1 the 1970s, developed a flagship affordable community,  
2 the Village at Brookline, creating 300 units of  
3 100 percent affordable housing. These units had  
4 expiring leases meaning they would revert to market  
5 rate at the expiration of the subsidy. However, Winn  
6 is currently refinancing and extending the  
7 affordability time frame for 200 units in cooperation  
8 with the Brookline Housing Authority, MassHousing, and  
9 the State Department of Housing and Community  
10 Development. The remaining 100 units or 33 percent  
11 will be permanently deed restricted affordable.

12 And finally, I'd like to call attention to a  
13 statement in the same letter. "Applicant has no  
14 objection to a requirement that the affordable units be  
15 maintained as such so long as the property that is the  
16 subject of the application is used for multifamily  
17 housing using the zoning relief obtained via the 40B  
18 process."

19 This sentence is in direct contradiction to a  
20 statement made by Mr. Schwartz speaking as a  
21 representative of Chestnut Hill Realty and recorded in  
22 the minutes of the ZBA meeting on January 16, 2014.

23 "The affordable units will be affordable even though  
24 MassDevelopment requires them to be affordable only for

1 the period of its bond financing, which is 30 years."  
2 And it goes on to say, "The proponent here is committed  
3 to maintaining these units as affordable in  
4 perpetuity." And therefore, I ask that the ZBA require  
5 all affordable units be permanently deed restricted  
6 affordable in perpetuity.

7 It appears that this development proposal  
8 overrides local community values and health, safety,  
9 environmental, open space design, and planning  
10 regulations, and especially legitimate local concerns.  
11 It will destroy an historically significant planned  
12 garden community created in partnership with the John  
13 Hancock Insurance Company to provide welcoming,  
14 affordable housing to World War II veterans coming  
15 home -- and I say this on the day after Veteran's  
16 Day -- all in order to add parking in roadways and  
17 luxury housing units for a profitable real estate  
18 company.

19 The town surely deserves better, and I ask the  
20 Board of Appeals to demand better by imposing  
21 sufficient conditions that either this project will be  
22 required to provide a financial pro forma -- I think  
23 that's a requirement -- and that the ZBA should be very  
24 diligent in making sure that we've received one. And I

1 hope that you will also do everything within your power  
2 to protect this historic garden community. Thank you.

3 MR. VARRELL: Good evening. My name is  
4 William Varrell. I live at 45 Asheville Road. I'm  
5 also a structural engineer registered with the State of  
6 Massachusetts.

7 So I just want to address something about the  
8 blasting presentation. I agree, the gentleman that did  
9 the presentation has excellent credentials for  
10 blasting. I'm sure he has a lot of experience. I just  
11 thought it would be relevant to share some experience I  
12 have as a structural engineer.

13 We did a bridge down in Woods Hole,  
14 Massachusetts where we had a very concerned citizens  
15 group. We had Woods Hole Oceanographic Institute and a  
16 community historical center right adjacent to the  
17 project. The chief technical engineer came in and  
18 ensured those citizens -- it wasn't blasting. It was  
19 actually sheets being driven for the construction --  
20 that this was not a big issue. We put seismographs in  
21 the basement of the historic building in the Woods Hole  
22 Oceanographic Institute. They set the standards for  
23 those seismographs to be set at a rating that was  
24 consistent with working next to ancient ruins,

1 actually. It's the lowest standard available. A very  
2 high level standard. And if those standards were ever  
3 exceeded, an alarm would go off and a structural  
4 engineer would immediately go to the site.

5 The first two weeks, the project went fine.  
6 The third week of the project, the Historical Society  
7 started complaining about the cracks in their windows.  
8 Initially, they were saying that the building was 120  
9 years old, you're seeing things. But after the third  
10 week when the foundation rotated about 45 degrees, they  
11 had no ability to say that they were seeing things  
12 anymore.

13 I was immediately brought in to design a steel  
14 skeleton to hold up this two-and-a-half-story building  
15 during the whole length of construction. When one  
16 bridge was put into place, they had people come in --  
17 structural engineers come in and rebuild that  
18 building.

19 So, you know, I'm sure you've had plenty of  
20 successes, but there's also failures. That's why they  
21 carry insurance.

22 Secondly, he made the point that steel pipes  
23 are strong in the ground. The gas lines may be steel,  
24 but the sanitary sewer lines possibly could be clay or

1 some other material that, being 70 years old, could be  
2 very fragile. And if you broke a sewer line and not  
3 know it, then that sewage could get into the  
4 groundwater and it could be very, very bad.

5 There are utilities that go right through the  
6 parking lot that are clearly shown on the survey and  
7 the designer has ignored his own survey. He hasn't  
8 addressed it at all. It doesn't show up in the profile  
9 or anything. So there will be blasting, according to  
10 the plans, right on top of the utility lines. All you  
11 have to do is look at the plan.

12 Second, I just want to address -- you know, as  
13 the board knows, I've made a lot of concerns about this  
14 project. I think I've pointed out many discrepancies  
15 in the design and real issues that need to be  
16 addressed. Instead of addressing those, the designer  
17 has attacked my credibility and said that I don't know  
18 how to read a plan or a graph or whatever.

19 But I'd just like to read a memo. It's a  
20 little old, but it's hanging in my office, and it's how  
21 I do my job, and it's something I look at every day.  
22 And I won't read the whole thing, but I think it's  
23 relevant. The heading on the memo is "MTI assessment  
24 of temperature concerns, SRM 25," and this was a

1 technical issue related to temperature. And there are  
2 basically 10 very technical engineering points that I  
3 won't read, but the final recommendation of the memo  
4 is, "MTI recommends STS 51-L launch proceed on the 28th  
5 of January 1982. SRM 25 will not be significantly  
6 different from SRM 15." It was signed by Joe  
7 Kilmister, Vice President Space Booster Program.

8           You may have guessed by now that that's the  
9 evening before the space shuttle Challenger went up and  
10 killed seven astronauts, a school teacher, and left  
11 many people orphaned that day. So just because the  
12 engineers have signed a memo and the peer reviewers  
13 have signed a memo -- and I want to point out that  
14 Mr. Ho, when he signed his memo he did not put "PE"  
15 after it, so I don't know if he's not signing as a  
16 professional engineer or if he is. But there are many  
17 issues in the design that have to be resolved, in my  
18 opinion, and have not at this time. Thank you.

19           MR. BATCHELOR: My name is Jim Batchelor, and  
20 I'm the chair of the Brookline Preservation  
21 Commission. I'm also a member of the NCD, Neighborhood  
22 Conservation District for Hancock Village. And I think  
23 most people are familiar with the comments that we've  
24 presented in the past, and I'll try to briefly

1 summarize some of those points.

2 I think there are two basic things I would  
3 like to get across. One is that this site is truly  
4 historic.

5 The second is that it is hard to understand  
6 the logic for how we ended up with these particular  
7 parts of the parcel being developed. There may, in  
8 fact, be logic for something to happen on this site,  
9 but how these particular parcels were chosen defies any  
10 kind of scenario that I can see except that there's an  
11 intention to build much more here, because you have a  
12 proposal to build on the most vulnerable parts of the  
13 site when there are other parts of the site which were  
14 part of earlier proposals which have simply been set on  
15 the other side of the limit of the work. So for some  
16 reason, this is the way its gone forward, but we are  
17 looking now at building on some of the most vulnerable  
18 parts of the site.

19 Okay. We'll do the best we can without the  
20 visuals.

21 I think that what I would like to say is,  
22 first, this is an extremely important historic place  
23 both to the buildings and the configuration and layout  
24 of the roads and buildings, but also for the layout of

1 the open space. The ideas that were behind this have  
2 been recognized throughout architectural and landscape  
3 architectural and urban design as some of the most  
4 important ideas to have been developed in the 20th  
5 Century, and they are really well embodied in this  
6 design.

7 This is truly a significant place. It has  
8 sister places similar to it around the country that  
9 have also been recognized as historical, but this is  
10 rare in this area and should be treated as such.

11 Both Brookline and Boston -- because part of  
12 this is in Boston -- the appropriate governmental  
13 authority, which, in the case of Brookline, is the  
14 Preservation Commission, have recommended that this be  
15 national register eligible. This makes it a place that  
16 the state has asked be considered as historic, and  
17 there is a process involving Mass Historical  
18 Commission, which it is only logical that this end up  
19 before Mass Historical Commission. That process needs  
20 to be followed through, and we recommend that the board  
21 do everything that it can to ensure that that process  
22 is followed through.

23 The layout of the buildings and the open space  
24 is also carefully planned around the roadway, and the

1 roadways were thought out in terms of where is the  
2 traffic coming from and how do you have the larger  
3 roads in the center, like Independence, feed off to the  
4 various residential buildings? There is a logic to  
5 that: larger roads feed smaller roads feed front  
6 doors.

7 This current plan is turning that inside out.  
8 That principle is being ignored. And instead of  
9 feeding the way it was historically understood to be  
10 correct, in which that has continued to be the correct  
11 way of doing it ever since then, that's no longer being  
12 followed. Things are being fed in from the back  
13 through small roads. There is no planning logic to  
14 that.

15 It's not just that it's historic, it's that  
16 it's right. And I think that it's very important that  
17 both the historic quality of the place and the basic  
18 good planning principles that went into this be  
19 followed. And we urge you to do everything you can to  
20 protect it both for its historic quality and for the  
21 logic of the planning that has gone into it. Thank  
22 you.

23 MR. JESSE GELLER: Thank you.

24 MS. KOOCHER: Hi. I'm Robin Koocher, 285

1 Beverly Road. I will be brief, Mr. Chair. Actually, I  
2 will start with a question, as I know you like that to  
3 happen.

4 When you begin the 40 days of deliberations,  
5 does that mean that you and the members of the Planning  
6 Department cease any communications with Chestnut Hill  
7 Realty?

8 MS. MURPHY: No. There will be probably  
9 ongoing communications.

10 MS. KOOCHEER: So does that mean working  
11 sessions, as you've stated, has happened throughout the  
12 process?

13 MS. MURPHY: Well, in a way. I think that  
14 there will be -- depending on what the board decides  
15 and whether or not they approve this project with  
16 conditions, there will be drafts of a decision that  
17 will go around and it will go -- I'm assuming it will  
18 go to Mr. Talerman as well as to Mr. Schwartz as well  
19 as to the board and the staff of the town. That's my  
20 understanding.

21 MS. KOOCHEER: Well, following up on that, just  
22 listening to Chief Ford today -- very enlightening in  
23 terms of his comments, strong comments. And so my  
24 question is: How do you go into deliberations when

1 there are so many outstanding issues that need to be  
2 brought to the forefront? Today we've heard from the  
3 chief. What I've heard, you know, I've been hearing  
4 for most of the meetings is that, you know, should the  
5 permit be granted, then there's a whole nother session  
6 with the building commissioner and, you know, all these  
7 things which seem to be, to me, described as, you know,  
8 negligible -- important, but we'll talk about it  
9 afterwards. That worries me because all of this that  
10 we've been hearing is very important.

11 I mean, for example, one of the issues that  
12 someone raised was the issue of the blasting and the  
13 nests of rats being disturbed. And I was glad to hear  
14 that the individual speaking said, yes, that will  
15 happen. Well, following that, then what? You know, we  
16 put out welcome signs in front of our house? You know,  
17 what will happen? How will we be protected? I've  
18 never ever had a rat in my house, and I've lived here  
19 since 1976, nor do I look forward to greeting the  
20 visitors that I haven't invited in.

21 But that's important. All these little things  
22 add up to big issues, and I'm just concerned that  
23 they'll get lost if this permit is allowed. And then  
24 we're left with, you know, perhaps what the building

1 commissioner will discuss and we won't have adequate  
2 information or coverage in all of that. So I wanted to  
3 say that.

4 I also wanted to say that I hope -- last week  
5 was very interesting for me to listen to all of you  
6 discussing the height of buildings, the number of  
7 stories, et cetera. And, you know, I would hope that  
8 going into your deliberations that you would continue  
9 the conversation that I heard.

10 I heard Mr. Hussey talk about, you know, three  
11 stories looks good. I heard you mention two stories.  
12 I've heard other people, you know, in the conversation  
13 talk about basically the broader aspects globally of  
14 what this means. I mean, what I've heard from you is  
15 this is an urban project in a suburban area. And I  
16 think that's really important to keep in mind. I know  
17 you've walked the property. I'm sure you've seen how  
18 narrow Russett is, the Asheville is. You know all of  
19 that. But I hope you all, you know, consider that just  
20 because Chestnut Hill Realty states that this is what  
21 they want, in the best interest of not only my  
22 neighborhood, but the town, that maybe you should be  
23 considering some changes in addition.

24 I also want to mention, Mr. Hussey, that

1 several meetings ago you mentioned the 2005  
2 comprehensive plan as something that has influenced  
3 your thoughts about the appropriateness of adding  
4 affordable housing in Hancock Village. And I'd just  
5 like to draw your attention to two documents just for  
6 enlightenment.

7 One is the Brookline comprehensive plan I have  
8 here for 2005 to 2015. It's the last page where it  
9 credits who worked on the committee. And the  
10 comprehensive plan committee, Mr. Joseph Geller was the  
11 co-chair as a selectman.

12 In that same year, in an article, the New  
13 England Real Estate Journal, July 15, 2005, it states,  
14 and I quote, In 2083 (sic) Joe Geller founded Geller  
15 Associates, Inc. with one client, Chestnut Hill Realty,  
16 which remains to this day, and that he continues to do  
17 as of now.

18 None of us -- I want to make very clear,  
19 please -- none of us in this room -- anybody else  
20 that's ever attempted -- come to this meeting are  
21 against affordable housing. I've lived here since 1976  
22 when it was all affordable. We lived in harmony. And  
23 it's important to note that nobody in this neighborhood  
24 would have rejected to what Chestnut Hill Realty is

1 purporting, that they feel that there is a need for  
2 more affordable housing. That, right now, I believe is  
3 37 units. There's no one in this room that today --  
4 anybody from these rows stood up and said we want to  
5 build 35 to 40 units of affordable housing, I do not  
6 believe that you will hear one person say, oh, no, no,  
7 no. We would welcome that. Thank you.

8 MS. DALY: Hi. Nancy Daly. I'm a member of  
9 the Board of Selectmen and also a fire commissioner,  
10 although they don't let us actually get on the trucks.

11 MR. JESSE GELLER: The chief is here. You  
12 could ask him.

13 MR. FORD: No.

14 MS. DALY: Just a couple points. I agree with  
15 much of what's been said about the S7 district, but I  
16 particularly want to say when I look at the historical  
17 garden community, the level of how tall those buildings  
18 are, and the neighborhood buildings right outside the  
19 gates of Hancock Village, I continue to believe that  
20 the apartment building is way too large.

21 And in addition, I want to just emphasize what  
22 the chief said about response time because the -- he  
23 can get a pumper truck there -- and people mentioned  
24 the Baker School and everything -- he can get a pumper

1 truck there in four minutes and a pumper truck would  
2 have people on it who are prepared to deal with medical  
3 emergencies and smaller fires. But the larger the  
4 building gets, the more floors, the more important it  
5 is to be able to get a ladder truck there. And that is  
6 nine minutes, I believe the chief said. So that really  
7 becomes a safety concern in addition to just seeming  
8 like the massing, the bulk of that building is too  
9 large. So I would urge you to think about bringing  
10 that down in particular.

11 Second, in terms of the underground parking, I  
12 mean, I'd love to see you eliminate a whole floor but  
13 after listening to Mr. Levin and he felt like something  
14 had to be there, there could be an entrance and a few  
15 parking spaces but not a whole floor on that second  
16 level. That would bring down some of the blasting that  
17 would be necessary.

18 And final -- one point -- I know that our own  
19 expert on the town side was suggesting that the  
20 blasting be limited to 9:00 to 4:00. That also is the  
21 hours that school is in session close by, so I would  
22 like to see some accommodation made to try to work  
23 around the school schedule and not have blasting in the  
24 middle of the school day. Thank you.

1 MR. JESSE GELLER: Thank you.

2 MS. JONAS: Alisa Jonas, Town Meeting member  
3 Precinct 16.

4 I have just a bunch of questions because I'm  
5 right in the vicinity of the blasting, and I'm  
6 wondering how I can -- do I ask all my questions and he  
7 would respond after that? Or how can I --

8 MR. JESSE GELLER: Let me suggest, just given  
9 our time constraints because we are out of time and  
10 I've sort of let it roll over, if it would be possible  
11 for you to submit your questions in writing to the  
12 town's expert, we can get responses. And I think we  
13 could circulate them and post them so everybody gets  
14 those answers, and thereby we would save the time to  
15 ask the questions, get the answers, and you would  
16 actually have something in writing.

17 MS. SCHARF: I'm sitting down, but I have  
18 questions as well. So answers -- we would get --

19 MR. JESSE GELLER: Well, I don't know what  
20 you're --

21 MS. SCHARF: Same type of things, the  
22 blasting -- there were just a bunch of questions.

23 MS. JONAS: I'll just list a few, the ones  
24 that -- and you don't have to respond. These are the

1 kinds of issues I have:

2 I have four leaks that have been repaired  
3 right in front of my house on Russett Road, and I've  
4 spoken to National Grid and National Grid said these  
5 pipes are so fragile that just the smallest thing is  
6 going to have them break because they're about to  
7 collapse any moment. And I'm wondering what -- how  
8 does that affect your analysis of the gas line?

9 Flyrock, never heard of flyrock before, but  
10 that's a danger. How far does the flyrock go? Does it  
11 get, like, knocked into our windows, neighborhood  
12 windows?

13 The noise, I looked up 86 DBA. That is the  
14 equivalent of a garbage disposal at three feet. That  
15 sounds pretty loud to me. And I forgot, is it the  
16 neighboring homes would hear the blasting to the same  
17 extent that we would be hearing a garage disposal  
18 within three feet? Is that what that would mean?

19 And so if so, there's a more concerning issue  
20 which is how many blasts -- for this particular project  
21 that's going on, how many blasts will there be per  
22 day? How many days will this take? Or is it weeks?  
23 Or is it months? In how many areas will blasting be  
24 done throughout that period? Will it be in the

1 greenbelt as well as in the apartment building? Three  
2 hundred feet, how far does that take us? And if  
3 there's homes that are beyond that three hundred feet,  
4 will they -- if they request preblasting inspections,  
5 would they be able to obtain those, or is there a  
6 certain amount of feet away that you can be able to  
7 request this?

8 So those are my blasting questions, and I  
9 guess we'll get the response in writing.

10 MR. JESSE GELLER: Submit those to the  
11 Planning Department, please, and I'll make sure that  
12 they get to the right party.

13 MS. JONAS: Okay. And then the other thing  
14 is, I'm just going to beseech you guys. We sit in this  
15 audience and we feel that you are so concerned about  
16 accommodating the developer who is doing one of the  
17 most absurd projects that -- I mean, I feel like I'm  
18 sitting in a theater of the absurd. The only time I  
19 felt okay was with the Planning Board.

20 You are taking a fully planned site with  
21 landscaping designed by Olmstead Associates -- when  
22 those designs are done in other parts of the country,  
23 they protect them. They think this is important. And  
24 we have Olmstead right here in Brookline and they've

1 developed something just two miles away, I think it  
2 is.

3           And we're going to take that beautiful  
4 greenbelt -- I had a bunch of pictures that I wanted to  
5 show you. I actually videotaped my walking through to  
6 give you that experience. It's not infill. The  
7 application says it's infill. You call it infill. How  
8 can it possibly be infill? It's beautiful green space,  
9 and it was intended for the tenants, and it was  
10 intended for the neighbors, and it's a breach of trust  
11 to the residents of this city -- town that you are  
12 even -- that you are willing to consider breaching this  
13 commitment that was made when people have moved in --  
14 they were told by the Planning Department that this was  
15 protected green space.

16           And I'm just asking that you think of the  
17 neighborhood that this is being put in. A small,  
18 narrow street as the main entry to a building that you  
19 consider urban, that's ridiculous. When there was a  
20 proposal about having an entrance from the VFW -- I  
21 don't know if that's ideal -- but you couldn't even  
22 bring yourself to say that that should be a condition,  
23 because, you know, maybe they wouldn't get it.

24           Why aren't you worried about us and saying,

1 yes -- I'm not looking for applause. I'm just -- I  
2 really would like you to think of us in the  
3 neighborhood.

4 And I realize you feel you're in a bind  
5 because this is 40B, but this is just a ridiculous  
6 proposal. And there's so many -- between fire  
7 safety -- safety is one of those big issues. We've got  
8 the fire safety, we've got -- it's on the 10 most  
9 endangered -- you know, the list of the 10 most  
10 endangered historic sites. We've got going into a  
11 narrow road. The size is just ridiculous for the  
12 neighborhood. It just goes on and on. And it just  
13 seems like --

14 And the one thing I would just love to  
15 propose -- and I know it won't happen -- but what I  
16 would love to propose or say, we deny this but on  
17 the -- but we already can tell you ahead of time that  
18 we would think very favorably at a development that is  
19 put in an appropriate location.

20 For example, the two garages, which are  
21 eyesores and they're actually negative to everyone  
22 around, propose that it be done there. It can be done  
23 there. Yes, they won't get their parking on the  
24 greenbelt, but we could get something that's positive

1 for everyone, but it would have to be of a medium  
2 height. Not -- obviously not a huge project, but if it  
3 was a reasonable project that matches the Neighborhood  
4 Conservation District requirements -- it's a novel  
5 approach, we have a novel situation, we have a  
6 situation where even MassDevelopment had denied it  
7 before it was approved. And we'll see how that case  
8 goes. So I'm just begging you to think of us and not  
9 just the developer and the 40B lot.

10 MR. JESSE GELLER: Let me just respond  
11 briefly. We've spent a year on this, a year of our  
12 lives, so your --

13 (Multiple parties speaking.)

14 MR. JESSE GELLER: Excuse me -- your  
15 characterization of us just sitting up here and not  
16 listening, I think, is so incredibly unfair to one,  
17 two, three, four, five people who have listened.  
18 Okay? So that's what I would say.

19 Mr. Talerman?

20 MR. TALERMAN: Thank you. I'm Jay Talerman.  
21 I represent several of the area residents. I'm going  
22 to keep my comments more in the general sense in two  
23 basic categories.

24 I'm really struck by what the chief said here

1 today. There are very few areas under Chapter 40B  
2 where towns can get traction in official process. As  
3 you know, the scales are very tilted against  
4 municipalities.

5 One area where towns have had success, though,  
6 in either ushering through conditions or in denying  
7 projects is with respect to fire/safety issues,  
8 especially access issues, and there are a few cases on  
9 record which support that notion. And I've learned to  
10 understand, more so under Chapter 40A projects than 40B  
11 projects, that I don't know how to fight a fire. You  
12 guys don't know how to fight a fire, I think. I'm not  
13 sure if there's any firemen among you. I trust the  
14 chiefs that work for the towns that I represent where  
15 they fight fires.

16 If this was a 40A project, you could deny it  
17 out of hand just because of an inability to effectively  
18 get to this site in enough time to meet the standards  
19 that chiefs want to meet. When there's a delay,  
20 there's a risk of harm or death. This is the big  
21 issue. Aesthetics are important, historical stuff is  
22 important. This is life or limb. This is important  
23 stuff.

24 I would never say that, well, it's 40A, so we

1 can deny it, but under 40B we can't. Fires don't know  
2 the difference between Chapter 40A and Chapter 40B.  
3 They're blind to that. But when I hear my fire chief  
4 or a fire chief in a town that I represent saying,  
5 yeah, I can't get there as quick as I'd like to, I  
6 can't get my ladder truck there as quickly as I'd like  
7 to, and every minute means somebody's at harm, I take  
8 notice to that and I draft decisions accordingly. And  
9 I hope you consider that.

10 The other thing I'd like to talk about -- and  
11 I'll be very brief because I know my partner, Mark,  
12 spoke about it when he was here on October 20th -- is  
13 that it seems that the board -- and I'm really enthused  
14 that the board is now taking -- I think that they have  
15 always been doing it -- is starting to get down to the  
16 nitty-gritty of saying if there's something we can  
17 approve here, what might that might be?

18 And I give Chestnut Hill Realty some credit  
19 for engaging in that process. That's what's supposed  
20 to happen under Chapter 40B. There's supposed to be  
21 some discussion of if something can be approved, what  
22 might it be? I encourage you guys, as Mark did on  
23 October 20th, to play that out. If you feel strongly  
24 about three stories or two stories versus the four

1 stories that are proposed, if you feel strongly that  
2 there's too much going on in the greenbelt, if you feel  
3 strongly that there has to be access to the VFW  
4 Parkway, fight for that, ask for that, demand it.

5 And if Chestnut Hill Realty says to you they  
6 can't do it, they can't afford it, then you have the  
7 keys to undertake a pro forma review or otherwise  
8 engage in further horse trading over that.

9 My experience has been, though, that you can't  
10 get there unless you ask for it. And I know you're  
11 getting there and I'm not presupposing that you're not  
12 going to ask for it, because I see the seeds of a lot  
13 of fruitful discussion here. But if it's important to  
14 you for there to be changes in this project, demand  
15 it. Now's the time. We're getting to the end of the  
16 hearing. This is an important area of the hearing. Do  
17 it, because you don't get a second chance at it.

18 And then if Chestnut Hill Realty, in good  
19 faith, says we can't, then that's why the regulations  
20 contemplate pro forma review. Now, with pro forma  
21 review, there's a lot of ambiguity but at least you'll  
22 have the ability to argue for what you want. So that's  
23 the bulk that I'm sure will be with you through the end  
24 of this too. Thank you.

1 MR. JESSE GELLER: Thank you.

2 MS. MITTLEMAN: Hello. I'm Patsy Mittleman  
3 from 217 South Street.

4 I'm very concerned about the mass of,  
5 especially, this huge apartment building that does not  
6 seem to fit in with the historic site and the  
7 neighborhood, et cetera, et cetera, that you've heard  
8 multiple times.

9 I'm also concerned -- they're saying 30  
10 parking spots. I encourage you to block off access to  
11 Asheville Road, protect our small streets of Russett,  
12 Bonad, South Street. Those streets are already  
13 congested at drop-off times for school. We have a lot  
14 of kids and families that walk to school. Adding  
15 another 300-plus cars on those roads will definitely  
16 create a safety issue.

17 I would say don't allow this property to be  
18 built unless they have access and egress to the VFW,  
19 which is a much larger street that, perhaps, could  
20 handle those cars. The extra cars, the extra  
21 population in this building will add more children on  
22 that property. What are the safety of -- what are they  
23 doing for safety on the property as well? Cars come  
24 out of Asheville and onto -- out of that property and

1 into that property from Asheville at very quick  
2 speeds. I don't know if you've noticed that. I walk  
3 my dog daily, and there were some close calls,  
4 especially at night where it's not very well lit.

5 So we're going to need to have more traffic  
6 calming in the area, more traffic guards, crossing  
7 guards at school time, and I'm concerned. I'm  
8 concerned for my taxes. Currently the taxes that  
9 Chestnut Hill Realty is paying does not cover the  
10 services that Brookline provides. What happens when we  
11 add more population to the property? We're already  
12 talking about overrides in the Town of Brookline. How  
13 many years am I going to have to be paying overrides on  
14 my taxes? We're trying to get affordable housing on  
15 that property, but the affordable housing around that  
16 property in the community is going to be diminished  
17 because of our raising taxes. So I encourage you to  
18 really think about the conditions for that property.  
19 Thanks so much.

20 MR. JESSE GELLER: Thank you.

21 MS. ENGELAND: Hi. I'm Emily Engeland. I'm a  
22 resident of 165 Bonad Road, which is almost on the  
23 corner of Asheville, and I'm a parent of three young  
24 children in the neighborhood. I'm also the Baker PTO

1 president. I'm speaking on my own behalf.

2 I wasn't going to get up but I just feel like  
3 I have to, like, say it because I want no regrets. And  
4 it's about -- your responsibility is huge, and I can  
5 see you all taking notes and you're being thoughtful  
6 and I really appreciate that and I appreciate that you  
7 have hired experts to look at traffic and some of these  
8 other things and you have no reason not to take them at  
9 face value. It's just so hard for me who lives on the  
10 street to just -- to hear people say that this isn't an  
11 issue and this isn't an issue when it's such an issue.

12 And I guess what I want to say, and I feel  
13 like I have to say to protect my own family, is to say  
14 that it only takes one thing to go wrong. So, you  
15 know, my kid gets hit by a car, there's a fire, we  
16 can't get somewhere, we're all going to be sitting here  
17 devastated as a community. You guys are all going to  
18 feel bad just because we're humans, not because you did  
19 anything wrong. But why? Why are we doing that? For  
20 money?

21 I'm not antidevelopment, and I'm in love with  
22 40B, but this isn't the right place to put it. And if  
23 one thing goes wrong, then we have to live with that  
24 forever. And I'm just asking you why? Why are we

1 making things worse? Why chance it? We're chancing it  
2 because we want a certain amount of affordable housing.

3 I don't know. What's the balance there?  
4 What's a life worth? What's a kid getting hit by a car  
5 or flying rocks -- I know I'm sounding dramatic but  
6 what if it's my kids, right? So I really -- I just  
7 want you to understand that I realize you have to  
8 listen to all the factual people and me standing up  
9 here and crying doesn't help, but I want you to know --  
10 I actually -- I am -- have so many -- and I actually  
11 forwarded them to you, the traffic complaints that I  
12 get as PTO president on Beverly, Russett, Bonad, and  
13 Independence. I forwarded them -- I couldn't take it  
14 anymore. I forwarded them all to Mary Brown and Linda  
15 Rodriguez-Hudson who are our administrators. I got an  
16 email from them Monday saying this is the worst year  
17 ever. We need to sit down. We need to address this.  
18 I feel all the parents' concerns and we'd like to work  
19 to help make it safer. So there is something real  
20 going on there.

21 And I also sent photos of -- I photographed a  
22 whole bunch of morning commute, in and out on Beverly  
23 Road and Russett, cars backed up 10, 20 cars on these  
24 little residential roads. I have a picture similar to

1 one you saw that I was going to show, but I won't.  
2 Same thing on Bonad. If there's two cars parked --  
3 there was a plumbing truck from my neighbor and my  
4 minivan was here and a car could not get down without  
5 me pushing in my mirrors and I happened to be out there  
6 raking leaves. It's just -- the reality is different  
7 than what you're hearing. So that's what I wanted to  
8 say. Thank you.

9 MR. JESSE GELLER: Anyone else?

10 (No audible response.)

11 MR. JESSE GELLER: Like I said, 9:00 to 10:00,  
12 the board will deliberate.

13 Okay. So this is a continuation of what has  
14 been ongoing discussions. Obviously, playing into  
15 these discussions, in particular tonight, will be the  
16 revised proposal that the applicant has come forward  
17 with, the chief's information concerning safety as well  
18 as his input on blasting, the blasting expert's  
19 comments on the recommendations concerning blasting and  
20 generally the safety of blasting, whether it's  
21 feasible, and also the comments that we've received  
22 from the community.

23 Many of the comments we received from the  
24 community are similar to things that have been raised

1 before. We've also heard a good many of new pieces of  
2 information, so certainly, if you feel like raising  
3 those things, you can.

4 I want to respond to a question that was asked  
5 by Robin Koocher, which was, there are loose ends. How  
6 will be they be addressed?

7 One, issues that are large-scope issues will  
8 be addressed here as part of our discussions. Issues  
9 that we perceive as things that need to be tied up --  
10 as you characterized as loose ends -- will find their  
11 way -- we won't simply forget them. They will find  
12 their way in the form of when we are reviewing smaller  
13 types of conditions should we approve this project.

14 What won't happen would be if there are these  
15 loose ends that are compelling to us or that we feel  
16 are appropriate, they're not simply going to be  
17 ignored. Okay?

18 MS. NETTER: Just so you know, I mean, there  
19 are people going through the transcripts, all the  
20 consultants' reports, all the community's letters, and  
21 pretty much the entire record, so hopefully nothing  
22 will be left untouched.

23 MS. MURPHY: If the board opts to approve the  
24 conditions, there is likely to be a decision written

1 that is multiple pages, I mean, multiple, multiple  
2 pages containing the conditions. And that will be put  
3 together by the staff and the board and the  
4 consultants.

5 MR. JESSE GELLER: And legal.

6 MS. MURPHY: And legal.

7 MR. JESSE GELLER: So having said that,  
8 let's -- I think it was -- let me speak briefly to the  
9 blasting. I think it was particularly helpful. The  
10 blasting expert was, in my mind, particularly  
11 articulate and clearly has significant experience and  
12 was certainly believable. I am particularly glad that  
13 he has suggested conditions over and above -- and I  
14 asked this question -- but he's offered conditions that  
15 would make this safer than what would be mandated under  
16 regulatory process.

17 I also was very specific in asking whether he  
18 believes that this is -- that this cannot be achieved  
19 because of safety questions. And I also asked whether,  
20 in his mind, this is an unusual site for whatever  
21 reason. And my sense is -- not my sense -- his  
22 response was that blasting can occur as long as they  
23 follow certain requirements, that it can be achieved  
24 safely. And I think his response was that this is not

1 an unusual site. So I was happy to hear at least a  
2 clear response that gives us some level of guidance.

3 With respect to public safety issues raised by  
4 the chief, you know, part of his commentary was that  
5 the applicant has addressed some of the concerns, in  
6 particular the ones that relate to fire emergency  
7 vehicles having to back out. He has many concerns in  
8 some cases about access, and I believe that those,  
9 again, will be picked up in further conversations.

10 One comment that he makes with respect to  
11 response time, frankly, concerns me in the sense that  
12 I'm assuming the chief is not proposing that we not  
13 build anything in South Brookline or in this part of  
14 South Brookline, because I assume the same response  
15 time applies to this entire neighborhood. So I  
16 understand there are more units here it creates greater  
17 risk but --

18 MR. FORD: I would not say that I wouldn't be  
19 amenable to certain construction and development, but  
20 we're talking adding hundreds of people in one shot.  
21 We're not talking about building one home on a piece of  
22 property. We're talking about hundreds of people.

23 And you also, with 40B, as was mentioned  
24 earlier -- I don't know all the statistics, but I'm

1 sure it may be a more transient population. Would that  
2 be correct? Someone had mentioned that earlier?

3 MR. JESSE GELLER: Somebody did mention  
4 transient.

5 MS. NETTER: It's rental.

6 MR. FORD: Rental property. Well, there is  
7 traditionally a difference, owner occupied versus  
8 rental, on fire behavior. There are. There are  
9 differences in those areas. So there's a difference  
10 between putting in 200 rental units versus one or two  
11 single-family homes. So I would not say that would --  
12 I wouldn't characterize that I'd be against other  
13 development in South Brookline, but this is a huge  
14 development project.

15 UNIDENTIFIED AUDIENCE MEMBER: Thank you for  
16 that clarification, Chief.

17 MR. JESSE GELLER: Thank you.

18 Sort of circling, then, back to what has been  
19 proposed, frankly, my sense is that it's a step back  
20 rather than a step forward. I don't think -- I  
21 understand why they did it. I understand adding a roof  
22 line and then running it continuous across so that it  
23 laps the fourth floor as it edges back. I understand  
24 the logic behind it.

1           Visually, to me, it's a step back. I don't  
2 think it's an improvement. I think it takes me back to  
3 the increase in the scale and size and mass of the  
4 building. One of the things, frankly, that I liked  
5 last week, and I commented, that what they've done with  
6 the section that is three stories and the way it was  
7 presented, it almost appeared like it was -- I used the  
8 term "head house," which was inaccurate. But it  
9 appeared almost like it was its own little structure  
10 and I thought the scale, in particular the way the  
11 massing set up and the way they showed it, was vastly  
12 improved by that scale.

13           And I think the addition -- generally, I like  
14 grooves, but I think the addition of the roof, it isn't  
15 better. Mr. Hussey may disagree with me because he's  
16 an architect who views things artfully, but --  
17 Mr. Architect?

18           MR. HUSSEY: Well, I think it was a good try,  
19 but I tend to agree with you. I think it still gives  
20 the appearance of a four-story building rather than a  
21 three-story building. I understand the logic behind  
22 what they're saying, although I tend to also agree with  
23 what Mark said at the last meeting, that two, three,  
24 five years down the pike the look is not going to make

1 that much difference. It's the density, the number of  
2 units that are going to affect things like the  
3 neighborhood from the traffic.

4 MR. JESSE GELLER: Mark Zuroff; right?

5 MR. HUSSEY: Yes.

6 So my position, I think, still is to eliminate  
7 the fourth floor as a condition. And I hear what the  
8 applicant is saying regarding the level of parking, but  
9 I think that needs to be proved that it's not possible  
10 to eliminate one of the levels of parking. To get the  
11 parking down to a ratio of approximately 1.5 parking  
12 spaces per unit I think is still a goal they should aim  
13 for.

14 I've got a question about our schedule now.  
15 We haven't had an updated schedule, and there have been  
16 some changes made to the schedule. I mean, I've got a  
17 schedule that's 24 October. Have you done an updated  
18 schedule somehow that I've missed?

19 MS. MORELLI: No. That lists the next hearing  
20 as November 24th and the close of the hearing is  
21 December 5th.

22 MR. HUSSEY: Yeah. I think I may have printed  
23 out the wrong one.

24 MR. LISS: It's emailed.

1 MR. HUSSEY: Oh, okay. So it would be helpful  
2 to get an update. Because the closing of the hearing  
3 is now what date?

4 MR. LISS: 12-5.

5 MR. HUSSEY: 12-5, okay. And the 40 days  
6 after that is sometime in January or are we getting  
7 into February?

8 MR. LISS: 1-15.

9 MR. HUSSEY: 1-15? The earlier one said 1-19,  
10 actually. I asked the question whether it was calendar  
11 days or --

12 MS. NETTER. It's calendar days.

13 MR. HUSSEY: It is calendar days, so what is  
14 the 40 days from 12-5 to --

15 MS. MORELLI: I believe it's 1-19.

16 MR. HUSSEY: Oh, okay. That's what was on an  
17 earlier schedule, actually.

18 What I hope to do now -- let's see,  
19 November 12th, possible discussion of waivers and/or  
20 potential conditions, but that's going to be at a later  
21 meeting, isn't it. We're really not going to get into  
22 it.

23 MR. JESSE GELLER: Well, that's -- we're not  
24 going to get into it tonight. I assure you of that.

1 MR. HUSSEY: That's what I'm getting at.  
2 Because the waivers are going to come from the building  
3 department once we decide on an overall massing and  
4 height and --

5 MS. NETTER: The waivers -- I think you're  
6 kind of maybe collapsing it a little bit. The  
7 waivers -- the requests --

8 MR. HUSSEY: -- come from the lawyers.

9 MS. NETTER: Right. The Building Department  
10 will give you some assistance; however, you are going  
11 to make the decision on the waivers.

12 MR. HUSSEY: Right. I understand that. And  
13 we are going to get the potential conditions. They're  
14 going to be worked up by the consultants and the staff  
15 in the Planning Department; right?

16 MS. NETTER: Let me separate. What you're  
17 saying -- and I think it's implicit in what you're  
18 saying but I want everybody to be clear at the risk  
19 of --

20 (Inaudible discussion among the board.)

21 MS. NETTER: Okay -- is that your  
22 deliberations that are going on now will ultimately be  
23 reflected in draft conditions. And we've been --  
24 in-house -- been referring to them as the "Big C"

1 conditions. But additionally, work is being done on  
2 the other conditions that will be considered after the  
3 hearing is closed.

4 MR. HUSSEY: All right. Thank you.

5 So tonight, what we really should try and  
6 decide is what the design -- the basic fundamental --  
7 of course, the aesthetic design but the basic  
8 fundamental design of what, particularly, the apartment  
9 building is going to be. Is that reasonably --

10 MS. NETTER: I think you want to do a little  
11 more than that.

12 MR. HUSSEY: But that's really the core.  
13 That's the --

14 MS. NETTER: That may be the core but you also  
15 want to be looking, as you have been, on generally  
16 whether the greenbelt area you can live with, whether  
17 generally, the design of the large apartment building  
18 you can live with. I mean, all the topics you've been  
19 discussing are relevant.

20 MR. HUSSEY: All those are planning --

21 MS. NETTER: Correct.

22 MR. HUSSEY: Well, you've heard my sense about  
23 the apartment building, what I would like to see  
24 happen. At the end of the meeting last time, my sense

1 of the rest of the board -- well, not the rest of the  
2 board, I should say, but Chairman and the permanent  
3 members of the board -- was that it hinged to a large  
4 extent on the sense of whether the new design, the one  
5 that we have here tonight, is going to satisfy you as  
6 to the apparent height of the building, the apparent  
7 mass of the building.

8 MR. JESSE GELLER: I think it's more than  
9 that. I think from -- I don't want to put words in  
10 your mouth, Mr. Book. You're sitting there in stunned  
11 silence.

12 MR. BOOK: I have my own words.

13 MR. JESSE GELLER: I'm sure you do.

14 I think Mr. Book would characterize it as the  
15 visual impact from Asheville Road. I'll let him speak  
16 to that. I think that's how --

17 MR. HUSSEY: Yeah. That's my understanding.

18 MR. JESSE GELLER: And my concern was slightly  
19 different in the sense of the -- although I'm concerned  
20 about the view from Asheville Road, my concern is  
21 how -- the impact on the mass of the structure. And  
22 what -- frankly, what I found was that as they reduced  
23 the structure, the things -- the tricks they did to  
24 sort of make it appear smaller, the in and the out,

1 right, and the different colors and the angles, were  
2 more effective. The taller the building is, the less  
3 effective and, frankly, not effective at all, those  
4 tricks were.

5 So that when, for instance, last week I looked  
6 at the structure, particularly at the front where it's  
7 a flat roof but it's sort of articulated with an end  
8 and it's three stories, to me that started to really  
9 look like it was part of a transitional kind of  
10 construction concept, like what we've seen within what  
11 we're all calling the greenbelt. Which is why my  
12 comment was, you add a roof, all of a sudden it starts  
13 to look like that big building again, particularly  
14 where the -- in a linear fashion you're feeding into  
15 the fourth floor. And now all of a sudden you've sort  
16 of taken away what I actually liked about what they had  
17 done last week.

18 Mr. Book's comment -- and, again, I'm sorry  
19 for speaking for you, but you won't say a word.

20 MR. BOOK: You haven't given me a chance.

21 MR. JESSE GELLER: He commented to you about  
22 how he doesn't want to see the fourth floor anywhere  
23 from Asheville Road, and therefore, what he's going to  
24 tell you is he was hoping they were going to make it

1 disappear visually from Asheville Road. Not by magic,  
2 not by trick, but they were actually going to make it  
3 disappear.

4 Do you want to speak for yourself?

5 MR. BOOK: You've just spoken for me. You  
6 actually --

7 MR. JESSE GELLER: I was listening.

8 MR. BOOK: Yes. So I was expecting that the  
9 fourth floor was going -- visually was going to  
10 disappear from the intersection of Russett and  
11 Asheville. And so I was a little surprised,  
12 disappointed that the building that was -- the version  
13 that was presented tonight restored, in a large part,  
14 that fourth floor. I mean, it's at least a  
15 three-and-a-half story --

16 MR. JESSE GELLER: There's an appearance of a  
17 fourth floor.

18 MR. BOOK: There's an appearance of a fourth  
19 floor, so we've now added the height back to the  
20 building that I liked in the version that we looked at  
21 last week. It had disappeared. It just hadn't  
22 disappeared far enough back. And so I'll -- you've  
23 said it and I'll reiterate. What I'd like to see is  
24 that the fourth floor be scaled back. I don't know how

1 much back it needs to be scaled back. Maybe it's the  
2 entirety of it but --

3 MR. JESSE GELLER: It just so happens -- I'd  
4 like to call on Building Commissioner Bennett, who I  
5 see in the back of the room. Trying to get a ride with  
6 the -- on the fire truck, I see.

7 So there were a couple of questions that were  
8 raised at the last hearing, and I understand that we  
9 have some responses.

10 MR. BENNETT: Well, last week Mr. Hussey  
11 indicated that, in his view, the fourth floor could  
12 only go back to a certain point that was technically  
13 not feasible based on stairways and elevators and other  
14 types of design. And in my view when I was listening  
15 to that, I understood, based on the design that you  
16 have in front of you, this board can -- and it was  
17 recommended, I think, by a consultant or peer reviewer,  
18 Ted Touloukian, that the building go back at least 175  
19 feet on one of the floors to try to make it least  
20 visible from Asheville as possible.

21 But the interior layout, where it might not be  
22 the prototype that the applicant wants, this board, I  
23 don't think, has to really concern itself with that  
24 type of layout. You want to focus on the massing and

1 the bulk of the building and let that internal design  
2 fall into place at a later date. And that's  
3 essentially my view with respect to whether it is or  
4 isn't technically feasible to stop that, you know,  
5 somewhere. It can go anywhere it wants in the  
6 building. The applicant would just have to redesign  
7 the interior floor plan.

8 MR. JESSE GELLER: So just focusing for a  
9 minute on Mr. Book's concern, which is the disappearing  
10 point within what is visible from Asheville Road,  
11 that's 175 feet, according to Mr. Touloukian.

12 MR. BENNETT: Yeah. My recollection on one of  
13 his comments in the report was approximately 175 feet.  
14 Where that ends up, I think it might be the first turn,  
15 maybe the second turn on that original design. I don't  
16 know the number of units where the stairways or the  
17 elevators are. That was just, I think, something that  
18 he looked at when he looked at that model and made that  
19 determination.

20 MR. BOOK: So perhaps that isn't as -- that is  
21 not as radical of a comment in terms of removing the  
22 entire floor. Maybe there's some portion of the fourth  
23 floor that could still remain.

24 But my concern is that the neighborhood --

1 does this building appear to be a three-story building  
2 from the neighborhood? Because that actually is what  
3 makes -- I think it relates to the other buildings that  
4 are in Hancock Village. I think it relates to what  
5 we're calling the infill buildings in the S7 in terms  
6 of their height and mass. That seems to be the right  
7 height, the right scale.

8 And I think we saw comments from the town  
9 conservation person, Tom Brady, about the trees. I  
10 think there was some concern that using foliage and  
11 trees to mask some of the buildings may not work, that  
12 new trees may not root, they may not survive. It's  
13 well beyond my knowledge in that area, but, I guess,  
14 based upon that, I don't think we can rely and should  
15 rely on trees as being the answer to mask the  
16 appearance of this building. I think the building,  
17 standing on its own, needs to read as a three-story  
18 building. So that's my opinion on the large building.

19 I said last week and I still feel the same  
20 this week, I'm not opposed to the development in the  
21 S7. I realize that that's unpopular to most everybody  
22 I've heard speaking, but I'm not opposed to those  
23 buildings, in particular now that they've scaled back  
24 building number 2 back to the smaller four-unit

1 building. I like the change, and so I'm not opposed to  
2 any of those infill buildings so to speak.

3 One question -- I'm going to raise this  
4 question. I think it's worthy of discussion. There  
5 was quite a bit of discussion from the neighborhood  
6 regarding the access to the VFW and whether or not --  
7 based upon the fire chief's concerns about safety,  
8 whether or not emergency access and egress from VFW  
9 needs to be a condition for that -- for the large  
10 building. I raise it as a question, and I think we  
11 should talk about it.

12 I'm not so concerned -- while I think that  
13 access and egress for vehicular traffic for the  
14 residents of Hancock Village would be nice and  
15 probably -- and certainly beneficial, I didn't hear  
16 anything and we haven't heard anything from either the  
17 traffic consultant for the applicant nor our peer  
18 reviewer that the traffic is, in fact, a problem and  
19 that VFW access is critical to this project.

20 So I'm not -- I don't think that  
21 conditioning -- making VFW access a condition for the  
22 project -- the residents of the project -- I don't  
23 think we need to go that far. I don't think there's  
24 any justification for that kind of a condition, but I

1 wonder whether or not emergency access and egress, if  
2 that should be a condition, if that is --

3 MR. JESSE GELLER: Emergency access and egress  
4 for emergency vehicles to and from what?

5 MR. BOOK: To the east side to get to the  
6 apartment building.

7 MR. JESSE GELLER: To and from what?

8 MR. BOOK: To and from VFW.

9 There was a question about being able to drive  
10 up Asheville, getting up the small road, getting the  
11 fire trucks up those roads.

12 MR. JESSE GELLER: So the question that you're  
13 asking is whether there -- whether we should condition  
14 this on the ability to gain access to VFW Parkway at a  
15 minimum for emergency vehicles. Is that the ask?

16 MR. BOOK: That's the ask. That's the  
17 question I'm putting before --

18 MR. JESSE GELLER: Well, we also have a larger  
19 question. The fire chief has said that he only has, I  
20 believe, two companies that meet the standard that he  
21 has cited to get to Hancock Village, and that is not  
22 what he prefers.

23 And the question he raises is: Should there  
24 be projects of this size? And that's part of the

1 reason why I asked him, you know, so what are you in  
2 favor of, or are you proposing that we have a  
3 moratorium on construction in this part of South  
4 Brookline?

5 Now, if not this project -- I don't mean to  
6 pick on this project, but I assume with the next  
7 project if someone proposes to put up an apartment  
8 building, this will be the same issue. It's not  
9 specific to this project. Anybody who puts up a  
10 certain sized housing, it's an issue.

11 The question is whether the board feels that  
12 that's a compelling issue. You know, obviously none of  
13 us are proposing an unsafe -- that they build an unsafe  
14 project, and I'm sure they're not proposing to build an  
15 unsafe project.

16 MR. BOOK: I didn't hear the fire chief say  
17 that this is an unsafe project.

18 MR. JESSE GELLER: That's not what he said.  
19 It doesn't meet the preferred times. Like, he cited  
20 eight minutes was the period that two companies can get  
21 to the location. So just in the broader scope of your  
22 discussion, that's something for discussion.

23 MR. BOOK: Okay.

24 MR. JESSE GELLER: My personal feeling is that

1 I don't know that you condition this project based on  
2 their being able to get access to VFW for emergency  
3 vehicles. I do think you add as a condition that you  
4 use best efforts to try and again access to VFW Parkway  
5 for access and egress for all vehicles, including fire  
6 and emergency vehicles, since that is important.

7 MR. BOOK: I have every confidence that  
8 they're going to use -- I mean --

9 MR. JESSE GELLER: It's in their own interest.

10 MR. BOOK: Yes. But I heard -- maybe I'm -- I  
11 heard more of a concern on the -- from the fire chief  
12 on the --

13 MR. JESSE GELLER: Response time.

14 MR. BOOK: You think that was his biggest  
15 concern?

16 MR. JESSE GELLER: Well, he's right there.  
17 Ask him.

18 MR. FORD: If I may clarify one thing, I never  
19 said I want access from the parkway. We're not going  
20 to come in from the parkway. I know the residents  
21 here, some of them have spoken and shown pictures of  
22 the congestion on their streets, but that's how we get  
23 in. We're not going to go down to the parkway.

24 I asked for egress from the parkway for that

1 one section of the development that goes down and dead  
2 ends at the parkway so I can have my companies get out  
3 onto the parkway, go down to maybe Lagrange and back in  
4 and we're back in service and not have to turn around  
5 into the development.

6 MR. BOOK: I'm sorry. So maybe I  
7 misunderstood. You don't have a concern about getting  
8 your trucks up Asheville --

9 MR. FORD: I didn't say that either. I just  
10 said that we won't be coming in from the parkway.  
11 That's out of our way. We're not going to come in from  
12 the parkway. We're going to come in from the area of  
13 Clyde and Independence. That's the direction we'll be  
14 coming from, so we're not going to go out to Beverly or  
15 the parkway to come back in.

16 MR. LISS: Would the Grassmere access increase  
17 your accessibility and your kind of overall arrival?

18 MR. FORD: That access is so I can get to  
19 those two new proposed buildings. Otherwise I'd have  
20 to get -- to get to those buildings that are right  
21 there, I'd have to go down to the center of Hancock  
22 Village and come up all through the project.

23 MR. LISS: I think that needs to be addressed.

24 MR. FORD: The other thing that I brought up

1 that is important to me is the portion of the  
2 development that comes in from Independence towards  
3 Grassmere. That is a dead end to me now. Now the new  
4 building is being put in, so I see an opportunity to  
5 extend the driveway from the current parking to that  
6 new building even if it's only an emergency egress  
7 drive so that when my companies come in there, they can  
8 drive out.

9 MR. BOOK: So who -- under whose control to  
10 make those access points --

11 MR. LISS: I don't know.

12 There's two potential accesses. There's one  
13 from Independence onto --

14 MR. FORD: Do you want me to show you?

15 MR. LISS: Yeah. I mean, based on our  
16 understanding, it looks like you definitely want the  
17 Grassmere right here, which would give you access from  
18 Thornton; right?

19 MR. FORD: But see these two here, picture my  
20 apparatus here and they're stuck in there.

21 MR. LISS: So I have a circle here and I have  
22 a circle here. Those two would be very assistive to  
23 you; right?

24 MR. FORD: Well, this one is already here.

1 MR. LISS: So you can get in and out there?

2 MR. FORD: No, no, no. This gets me in. Now  
3 my apparatus are stuck, and then I have to do this  
4 hammerhead turnaround.

5 What would be nice to me, now that they're  
6 eliminating this green space that was there -- they're  
7 going to put a building there -- we'll bring this  
8 driveway through to here so I can drive in and then  
9 drive out.

10 MR. LISS: Let me just show --

11 Just take a look at what he's saying.

12 MS. NETTER: Can I just ask one question,  
13 please, here? This is very difficult to be discussing  
14 in this fashion, almost impossible. Not that it isn't  
15 important. It is.

16 So my first question to the chief and the  
17 applicant is: Has this particular issue been  
18 discussed, the Grassmere and some of these -- have you  
19 and the applicant talked about these issues?

20 MR. FORD: In the beginning, we sat down, as I  
21 mentioned earlier. They made some concessions. But  
22 this situation right here just came about -- today was  
23 the first day --

24 MS. NETTER: So my suggestion -- if you would

1 bear with me -- is that I think there should be a  
2 conversation between the chief and the applicant to see  
3 whether this can be addressed.

4 Would you consider that appropriate?

5 MR. LISS: Yeah. I think it's apparent that  
6 the board very highly values the safety and, obviously,  
7 your opinion, so -- and I leave it to them to confer  
8 with me. But I'm confident in our discussions that  
9 safety is very, very important. And if it means  
10 expediting it instead of deliberating here and seeing  
11 if it's actually something that's amicable between the  
12 parties, I don't know, would you do that?

13 MR. JOE GELLER: We've said all along we'd be  
14 happy to meet with the chief, and we did meet with the  
15 chief. I wasn't aware of his additional concerns.

16 And he's right. We did add those two  
17 buildings. The Grassmere issue I think we addressed  
18 tonight. We will work on whatever issue and allow the  
19 chief access through there. That's not a problem for  
20 us at all. I'm not sure I understand the access, so  
21 it's good that we will have a meeting to understand  
22 that.

23 But we did explain to the chief why we had  
24 that hammerhead at the end of -- it's coming -- the one

1 coming off of Independence Drive. And there is an  
2 issue with the NCD and access onto Thornton that  
3 precluded us from going in that direction, so that's  
4 was why we stopped it at that point. Because before,  
5 we had a green space there that we could have continued  
6 with access, but we couldn't do that.

7 So again, we're happy to have that  
8 conversation. I think we can come to a resolution that  
9 the chief would agree with like we did in the past.

10 MR. JESSE GELLER: Let them have the  
11 conversation. They will have the conversation and  
12 they'll relay to us the information.

13 MS. NETTER: Let me make one other  
14 suggestion. If you wouldn't mind -- it's not for me to  
15 tell you how to do your job, but on behalf of the board  
16 I would request that perhaps there's -- I don't know if  
17 there's two letters, one going through all your  
18 comments for the board and -- or maybe it's just one  
19 letter. But we'd like to ask also -- or instead --  
20 after you have the conversation with the applicant --  
21 in writing what your thoughts are, please.

22 MR. FORD: Okay. I will give a report to  
23 you.

24 MS. NETTER: Thank you.

1 MR. JESSE GELLER: Thank you.

2 MR. BOOK: All right. So we're turning back  
3 to -- so with that clarification, I think I've made a  
4 full circle on that issue. I think we're back to  
5 making it a requirement using best efforts.

6 MR. JESSE GELLER: Okay.

7 Just as an aside, Mr. Hussey, I know you  
8 commented on the improvements within the S7. And aside  
9 from your comment that you would have preferred that  
10 they -- much taller buildings at the corners, do you  
11 have any further commentary on the improvements that  
12 they have proposed within the greenbelt as they are  
13 currently constructed?

14 MR. HUSSEY: No. I don't think so. I'm  
15 pleased that they've taken that east -- the west  
16 side --

17 (Inaudible. Clarification requested by  
18 the court reporter.)

19 MR. HUSSEY: This double building that they  
20 had last time is reduced to one. That's an  
21 improvement.

22 MR. JESSE GELLER: And I assume if it met  
23 within the Hussey density calculation before, then the  
24 removal of that second half with additional units

1 simply makes it meet the requirement more?

2 MR. HUSSEY: Yes.

3 MR. JESSE GELLER: So the issue, then, is --  
4 just to circle back to the final -- it seems to me that  
5 the final comments were really about the larger  
6 building. And it seems to me that certainly if, you  
7 know -- well, before I say this, let me see if Mr. Liss  
8 or Mr. Zuroff has anything in addition to say about any  
9 of this.

10 MR. ZUROFF: I want to go back to my original  
11 comment, and that is that I'm less concerned about the  
12 appearance of the big building and much more concerned  
13 about the number of units -- the number of people that  
14 are living there. And that goes right to the safety  
15 concerns of the chief and to the traffic concerns of  
16 the traffic peer reviewer.

17 And I do believe in the peer reviewers, but I  
18 also find it somewhat straining credibility to say that  
19 there's no traffic control -- no traffic calming is  
20 necessary. Well, they said some measures are  
21 necessary, which would involve slowing down the traffic  
22 on Russett and condensing Independence Drive. And  
23 clearly that will slow traffic down, but it won't  
24 ameliorate the traffic congestion. And I'm still --

1 MR. JESSE GELLER: Well, you haven't filtered  
2 that back into --

3 MR. ZUROFF: I'm going to filter it back into  
4 the fact that I agree with Chris, that taking the  
5 fourth floor off the building and removing a level of  
6 parking will go a long way to making this a better  
7 project for the neighborhood. And those are based not  
8 just on aesthetics because, frankly, I don't think the  
9 aesthetics from looking at that building from a small  
10 point of view at Asheville is going to matter in ten  
11 years. But it definitely will matter in ten years if  
12 there's an extra hundred people living in this project.

13 MR. JESSE GELLER: What about the greenbelt?

14 MR. ZUROFF: I think that the applicant has  
15 made progress in terms of making the greenbelt a little  
16 bit less -- well, more attractive by reducing the size  
17 of the buildings and the way they're sited within  
18 that. I'm still concerned about the number of parking  
19 spaces there, not because it takes away the greenbelt  
20 but, again, it's a density issue for me. I think  
21 they've done a good job of siting the buildings,  
22 scaling them down. I'm still not in favor of loft  
23 spaces. I think they've taken some of that out.

24 We've made incremental progress with the

1 developer and I applaud that, that they have reduced  
2 the number of units in each iteration of the project.  
3 So now we're down to 110 units in the larger building  
4 and 166, I guess, in the remaining buildings. Am I  
5 correct?

6 MS. NETTER: No.

7 MR. ZUROFF: I'm sorry, 166 total, which is  
8 progress.

9 (Multiple parties speaking.)

10 MR. ZUROFF: In today's iteration we're down  
11 to 165. We started at 192. That's progress. I'd like  
12 to see more progress for all of the safety, traffic.

13 And, frankly, you know, I think the  
14 blasting -- I think we have a good consultant. I think  
15 the developer has agreed to have that consultant on  
16 board throughout the process. I'm less concerned about  
17 blasting than some people are. I think it can be done  
18 safely, and I think it will be done safely. But, of  
19 course, if you take out a level of parking in the big  
20 building, then that means a lot less blasting, a lot  
21 less trucking of rock out of the project.

22 You know, and I'm going to ask you guys,  
23 because you're voting on this, why you don't want to  
24 restrict -- make this project somewhat conditional on

1 making those access roads more accessible to the  
2 fire/safety issues.

3 MR. JESSE GELLER: Well, the chief has said  
4 that the reason that he is seeking egress onto VFW is  
5 for vehicles to exit.

6 MR. ZUROFF: I understand that, but -- so that  
7 being said -- and I'm accepting his word as the  
8 authority in this issue -- why can't we make that part  
9 of our permitting conditions? And I understand that we  
10 have no control over the VFW or the state authorities,  
11 but if it is a safety issue, then I think that we  
12 should consider --

13 MR. JESSE GELLER: The safety issue is getting  
14 to the scene.

15 (Multiple parties speaking.)

16 MR. ZUROFF: It impacts the rest of the town  
17 because his vehicles are now trapped. Even though they  
18 get there on time, they have to leave there quickly  
19 sometimes and that's his concern. And that's a  
20 legitimate concern. They have to get to another fire,  
21 perhaps.

22 MR. HUSSEY: I agree with that. I think that  
23 should be a condition, getting at least vehicular  
24 egress onto the VFW Parkway.

1 MR. LISS: I disagree with that.

2 MR. JESSE GELLER: Do you want to comment --

3 MR. LISS: The S7, the greenbelt, I'm actually  
4 pleased with. I think we can live with it. It never  
5 was an issue for me on the S7 areas.

6 Density is an issue. If we lower the unit  
7 numbers, we would lower the amount of people, less  
8 impact, not a bad thing at all. All along I've been an  
9 advocate of the larger building. Just -- I never saw  
10 an issue with that aesthetically, but if we're going to  
11 direct impact, obviously less units, less impact. I  
12 like the way it looks now. I think it's drastic, from  
13 192 units down to about 165 units.

14 The only reason I would say to step down that  
15 and make it a true three-floor building would be to  
16 eliminate that lower level of parking. I do believe  
17 that that does create a potential issue.

18 I'm not concerned about the blasting in  
19 general. I think we have capable staff -- or capable  
20 people in charge of that. I mean, I've seen some crazy  
21 things blown up before, and everything seems to last,  
22 so we have to believe that you can hire the best to get  
23 the best job done.

24 So I'm not voting. If the board's looking

1 between a three and four, like a hybrid of that, I'm  
2 kind of -- I'll flip them at that point. If it means  
3 less parking or less invasive puddingstone blasting,  
4 I'd say then go with the three levels because you can  
5 eliminate the parking. But if there's no impact on the  
6 parking and the second level is there regardless, I  
7 don't see an additional -- that third-and-a-half or  
8 fourth level being a huge impact.

9 As for conditioning the project on egress for  
10 the VFW, the reason I say no is because -- and I think  
11 it alludes to what you were stating -- is that it's not  
12 a primary concern. The primary concern is access in  
13 getting there. Yes, it's a safety concern. Yes, it's  
14 a concern leaving there. There are certain limits.  
15 But to condition the entire project based on the  
16 exiting of the vehicles, I just think is wrong. I just  
17 think it's almost undue to place that on them because  
18 it's not up to them. It's not up to us. We're waiting  
19 on the state, and who knows their input? Who knows  
20 what decision making goes on at that level?

21 But to that point, I believe that all the  
22 work -- anything that can be done -- and I urge the  
23 applicant and the chief to meet to get -- whatever can  
24 be done, should be done to make this as safe as humanly

1 possible, you know, but I do not believe that  
2 conditioning the VFW -- I think that they should work  
3 towards the VFW and best efforts should be mandated,  
4 but I would strongly urge -- I'm very hesitant to put a  
5 condition like that that could potentially derail a  
6 project, you know, based on a completely -- you know, a  
7 third party that's just not even involved.

8 MR. ZUROFF: Can I ask a couple of other  
9 questions?

10 MR. JESSE GELLER: Sure.

11 MR. ZUROFF: And they're more on the lines of  
12 how we go. This is a question for Edie.

13 Can preservation or historical or any other  
14 condition, can they -- subsequent to our proceedings,  
15 can they stop this project based on designation that  
16 it's an historical site?

17 MR. JESSE GELLER: You mean the state or the  
18 local?

19 MR. ZUROFF: Not the local. I'm talking about  
20 the state.

21 MS. MURPHY: The applicant will have to --  
22 because they're getting the financing from  
23 MassDevelopment, they will have to file a notification  
24 form with the Mass Historical Commission and ask the

1 Mass Historical Commission to give them a ruling that  
2 this project has no adverse impact on any historical  
3 resources.

4 MR. ZUROFF: That's a requirement?

5 MS. MURPHY: That's a requirement before they  
6 close their financing.

7 MR. ZUROFF: Now, there was discussion that  
8 there is an application pending to designate this as an  
9 historical site.

10 MS. MURPHY: It has been declared to be  
11 eligible to be listed on the --

12 MR. ZUROFF: Eligibility, does that mean an  
13 application is pending?

14 MS. MURPHY: I don't know where this stands at  
15 the national register, but both the City of Boston and  
16 the Town of Brookline have declared to Mass Historical,  
17 and Mass Historical has agreed that it is eligible for  
18 listing on the national register.

19 MR. ZUROFF: So please explain to me.  
20 Eligibility means what?

21 MS. MURPHY: It means that it is historic. It  
22 triggers Mass Historical Commission to review --

23 MR. HUSSEY: I think to get the actual  
24 designation requires an application -- I believe. I

1 may be wrong about this -- from the owner, not from the  
2 town.

3 MR. ZUROFF: All right. So that's not likely  
4 to happen. All right.

5 MR. HUSSEY: But for purposes of their  
6 designation of the commission's ruling on something  
7 like this, eligibility does count for a lot.

8 MR. ZUROFF: Okay. Then I understand better.

9 All right. On another level altogether, the  
10 developer has agreed to provide shuttle service to  
11 ameliorate, at least to a degree, some of the traffic  
12 that will be generated from the project itself.

13 We all recognize that there will be -- in this  
14 new development, there will be children that are going  
15 to the Baker School and the Baker School, as we all  
16 know, is already crowded. And I know that we are not  
17 considering the school issue, per se, but as part of  
18 the traffic control issue, since the developer is  
19 offering to shuttle their citizens to T stops and the  
20 like, what about running a shuttle for the school  
21 children in the neighborhood so that parents don't have  
22 to drive up Beverly Road to drop off their children,  
23 which I know for a fact, since I live in that  
24 neighborhood, many parents with single children will

1 drive their kids to the school even though they live a  
2 block away. And there's a lot of traffic generated for  
3 single-student drop offs. What about running a shuttle  
4 in the neighborhood to take those kids to school? Can  
5 we do that?

6 MS. NETTER: I think that's -- I mean, it's up  
7 to the board, but I think from -- well, first of all,  
8 as you know, you've got a regulation in the zoning,  
9 section 5.9, that requires a transportation access  
10 plan. The applicant has sought a waiver from the  
11 entire -- but there's a fair amount of discussion as I  
12 read the regulations. And, frankly, I can't imagine  
13 you -- I mean, it sounds like an awfully good idea and  
14 I can't imagine that's something the applicant -- you  
15 know, if you agree on everything else -- that the  
16 applicant would just say it's a very good idea given  
17 all the concerns you've heard addressed from the  
18 neighbors.

19 Now, I'm speaking as me, my own concerns. You  
20 have staff in the Planning Department who have  
21 focused -- not here tonight, perhaps -- do a lot of  
22 work with transportation, and maybe we'll get their  
23 input as well. I love to give my input, but it doesn't  
24 have a whole lot of value compared to what the staff

1 will give you.

2 MR. ZUROFF: Well, I understand that. I'm  
3 just proposing -- and, again, I'm not voting on this,  
4 but I'm proposing it as a possible condition.

5 And along that line, because we all know that  
6 there are a number of conditions that we'd like to  
7 see -- or you would like to see on the project. Are we  
8 going to discuss those first, or are we going to just  
9 discuss the overall design of the project?

10 MS. NETTER: Well, I'm not sure what kind  
11 of -- the questions that you're discussing now are  
12 questions that have -- issues that have -- could have  
13 significant financial impacts; right? And so to the  
14 extent that you have a recommendation that may have  
15 significant financial impacts, now would be the time to  
16 raise it. Does that answer your question?

17 MR. ZUROFF: Well, it does. And what I just  
18 suggested is certainly -- I understand that that's a  
19 significant cost to the developer, but it's a  
20 consideration that we can have.

21 And so we -- I know that you're sort of  
22 backing into the same parking space but you're still --  
23 we're still getting to the same place in that you have  
24 to look at the overall design of the project and see

1 whether it's approvable. And then as part of that,  
2 because it has -- there's a certain amount of  
3 compromise in every kind of proposal, and certainly the  
4 40B, then we have to decide what conditions we will  
5 impose to allow this development to go forward, if we  
6 allow it to go forward on a certain configuration.

7 So I think what I'm saying is, everything has  
8 to be considered at the same time. It would be nice to  
9 be orderly and just say, look, these are the conditions  
10 we want now. With those conditions, then you can build  
11 this kind of building or this kind of development.

12 You know, I'm willing -- I'm putting my  
13 opinion out as to what kind of scale I would like to  
14 see this development on, but I'm also coming up with  
15 what I consider to be some reasonable conditions and  
16 restrictions that I would like you guys to consider.

17 MR. JESSE GELLER: Thank you.

18 Mr. Hussey?

19 MR. HUSSEY: I sound like a broken record, but  
20 I still maintain that the apartment building should be  
21 three stories and that one level of the parking should  
22 be eliminated.

23 MR. JESSE GELLER: I thought last time your  
24 comment was that -- your position was that they should

1 eliminate a portion of the second floor of the  
2 parking.

3 MR. HUSSEY: No. Not a portion. My initial  
4 sense was that one whole floor should be eliminated.

5 MR. JESSE GELLER: Was does that bring your  
6 parking ratio to?

7 MR. HUSSEY: Roughly 1.5 parking spaces per  
8 unit.

9 MR. BOOK: Over the whole development?

10 MR. HUSSEY: No, no. I'm just talking about  
11 this part of the building.

12 MR. JESSE GELLER: What does it bring for the  
13 entire project, though?

14 MR. HUSSEY: I don't know.

15 MR. BOOK: I thought I heard Marc Levin  
16 indicate during his presentation that if a story -- if  
17 it were a three-story, it's 87 units, and if a parking  
18 level -- a tray of parking were eliminated, that would  
19 leave 70 parking spaces to serve 87 units.

20 MR. HUSSEY: No. You've got to count the open  
21 space parking, 56 spaces in the --

22 MR. BOOK: They're serving the big building  
23 and not --

24 MR. HUSSEY: They're serving the big building

1 here.

2 MR. BOOK: And not the new units in the --

3 MR. HUSSEY: You've got parking over here.

4 Some of this is infill. Some of this may have to be  
5 picked up over here.

6 MR. JESSE GELLER: I disagree with Mr. Hussey  
7 on that. I don't have an objection to the two levels  
8 of parking. I thought I heard you say last week that  
9 you were moving on that to eliminate a portion of it.  
10 I would have been more inclined towards that. But I  
11 understand you're sort of -- the Hussey calculation  
12 model, but I think we disagree on that.

13 I want to summarize for people because we're  
14 sort of going around and around on this. So I think we  
15 need to give them direction so they have a sense of  
16 where we are and where we're coming from. I think, at  
17 the very least, comments on the -- let's first comment  
18 on the parking.

19 MR. BOOK: I said it last week and I'll repeat  
20 it. I don't have an objection to parking at two spaces  
21 per unit.

22 MR. HUSSEY: So then the only other issue, it  
23 seems to me -- I gather you're both not in favor of  
24 eliminating the whole floor. So the only other

1 question is that if they do cut back the fourth floor  
2 enough so you don't see it at all, then you're talking  
3 about -- then the developer is going to have to come  
4 back and really cut back somewhere in this area.

5 MS. NETTER: When you say "this area," why  
6 don't you give some idea of what you're saying.

7 MR. HUSSEY: We have the east crank and the  
8 west crank and then we have the center portion.  
9 Somewhere in the middle of the center portion would be  
10 where you cut back.

11 The problem is that you have two -- you are  
12 then left with two stair systems, but there's a  
13 limit -- you have to be a certain number of feet from  
14 the stair system in order for it to be a legal egress.  
15 You understand what I'm saying? You can't have -- you  
16 cannot have these -- if you're looking at this  
17 fifth-floor plan, you've got units all the way out to  
18 the end of the building on the east side. If you  
19 didn't have any stairs in between on this stairway on  
20 the west end, the only stair feeding over, it's too far  
21 away. There's a limit to this corridor to that -- from  
22 there to this stairwell.

23 MR. JESSE GELLER: Well, I guess my answer to  
24 that is, that's an issue that they're going to have to

1 work out.

2 MR. HUSSEY: Yeah.

3 MR. BOOK: What is your feeling about the  
4 three versus four floors? I don't think I actually got  
5 a clear --

6 MR. JESSE GELLER: I think I'm sort of working  
7 my way to your position. You know, because of -- in  
8 some sense, unfortunately for them, what they showed me  
9 when they showed me the building roof was how much  
10 better it looks without it and particularly how that  
11 impacts breaking up the structure. And I know  
12 Mr. Zuroff doesn't care about those kinds of things.  
13 He cares about the number of units. But to me, that  
14 was what was bothering me.

15 So I guess my conclusion is that I don't want  
16 to see the fourth floor. I don't want to see it from  
17 Asheville Road. I don't want the neighbors to see it.  
18 I want it to look like it's three stories, and I want  
19 it, therefore, to -- basically I want it to look  
20 transitional like those other structures are in the  
21 S7.

22 So I think I'm coming around to your position  
23 that -- I'm not at Mr. Hussey's position because,  
24 frankly, I think if they could figure out technically

1     how to do it so that it's not visible from Asheville  
2     Road, that's their magic, and I don't necessarily need  
3     them to take the whole thing off. I understand what  
4     you're saying.

5             So I think the consensus from us is that, one,  
6     I think we do not have -- I think the voting members'  
7     feeling is that within the greenbelt, the elimination  
8     of those additional units that have been added back in  
9     results in, generally, the greenbelt improvement being  
10    acceptable to the board members.

11            The large building, it is not unanimous but  
12    Mr. Book's opinion and my opinion that two stories  
13    are -- two floors of parking are satisfactory.  
14    Mr. Hussey disagrees with that. He believes that one  
15    floor should be eliminated.

16            And I think the consensus is that with respect  
17    to the height of the building, that if there is going  
18    to be a fourth floor, it needs to be invisible from  
19    Asheville Road and, therefore, it needs to be  
20    significantly further back. To use Mr. Touloukian's  
21    sense of where that break point is as relayed to us by  
22    Mr. Bennett, that would be 175 feet. But I think at  
23    the end of the day, it's beyond the curb where it's  
24    essentially internal to Hancock Village. So I think

1 that's where we were are. Response? Thoughts?

2 MR. LEVIN: As always, we've made a tremendous  
3 effort throughout this process to address the design  
4 concerns that the board has conveyed to us, and I will  
5 say that we will try one more time.

6 I do want to point out that I believe  
7 Mr. Touloukian's comment about 175 applied to the fifth  
8 floor, not to the fourth floor, and that is relevant in  
9 terms of view and so forth. But be that as it may, we  
10 don't know exactly where the 175 feet breaks. I don't  
11 think that's a magic number. What I hear from you is  
12 that you want it to be invisible and I'm hoping that  
13 "invisible" means that if you see it, you see just so  
14 little of it that it's not noticeable. I don't know if  
15 it can be 100 percent invisible, but we'll take a  
16 look. We'll see what we can do.

17 MR. JESSE GELLER: And obviously within that  
18 sort of sense is the notion that this roof that you've  
19 now added -- I understand where it comes from, but I  
20 don't think it's an improvement.

21 MR. LEVIN: No. I think that it was, as you  
22 say, a logical approach. I think it was an honest  
23 approach in trying to improve the look of the  
24 building. That's a matter of taste. I appreciate the

1 fact that you may differ, but we were trying to address  
2 multiple concerns by doing it that way. As I said,  
3 we'll go back to the drawing board and we will see what  
4 we can do to meet your requests.

5 MS. NETTER: Let me seek a clarification from  
6 the board so that there's no misunderstanding. I am  
7 not trying to encourage you one way or the other by  
8 this question, but there was some discussion about the  
9 viability of trees growing around -- as I understood  
10 it -- around the apartment building. And so my  
11 question to you is -- maybe I won't be so specific  
12 right now -- but what do mean by making the building  
13 invisible?

14 MR. JESSE GELLER: No. We're not making the  
15 building invisible.

16 MS. NETTER: The view from -- that would be  
17 very interesting, wouldn't it?

18 MR. JESSE GELLER: I think -- well, go ahead  
19 Mr. Book.

20 MR. BOOK: Well, I don't think that we can  
21 rely on plantings -- new planting as a means to make  
22 that floor, the fourth floor invisible given what the  
23 town conservation -- Tom Brady -- not the football  
24 player -- the concern that new foliage may not survive,

1 that the conditions may not be suitable for its  
2 survival. So I think the invisibility of that fourth  
3 floor has to stand on its own.

4 MR. JOE GELLER: Can I just clarify one  
5 thing? We did see Mr. Brady's comments -- the  
6 arborist, not the quarterback -- and I think it's got  
7 to be clarified.

8 I don't disagree that the fourth floor may not  
9 be hidden by vegetation immediately, but the planting  
10 that we're proposing is not being planted in the  
11 ledge. The ledge is going to be blasted out of those  
12 areas. There's planted areas that are going to be put  
13 back with -- there's walls shown on the -- or boulders  
14 shown on the plan in the latest renditions that you've  
15 all seen with planting areas that are actually for  
16 trees to grow on. And that significant area is not  
17 planting on top of ledge.

18 So I think that needs to be clarified because  
19 that's clearly not our intent to plant on the ledge.  
20 The intent is, as the area is blasted out, we put back  
21 planting areas that have sufficient medium to grow  
22 trees and shrubs. And everything was shown on --

23 MR. BOOK: May I ask, did you have that  
24 conversation with Mr. Brady?

1 MR. JOE GELLER: No. But I can certainly do  
2 that.

3 MS. NETTER: So would it be helpful to the  
4 board if, perhaps, something in writing comes from  
5 Mr. Brady after this conversation?

6 MR. JESSE GELLER: That would be helpful,  
7 yes.

8 MS. NETTER: So perhaps planning staff will  
9 help facilitate that.

10 MR. JESSE GELLER: Let me raise the obvious  
11 other issue here, which is one of timing. And this was  
12 exactly my concern, frankly, the last time. You know,  
13 I'm more than happy to hear that, you know, you'll go  
14 back and see if there's a way that you can make this  
15 invisible. The problem that we now have, Mr. Schwartz,  
16 is that we are on a hard deadline for December --

17 MS. NETTER: We have to get an extension,  
18 clearly. That's the short story.

19 MR. JESSE GELLER: Yes.

20 MR. LEVIN: Once again, over the course of the  
21 proceedings, we've accommodated the need to get what  
22 needs to get done, taken care of, for these hearings.  
23 And if that be the case, then we will extend it  
24 further.

1 I would suggest, since we're all starting to  
2 get some project fatigue, that if you'd be willing to  
3 do a working session, we could prepare something on the  
4 design side to be committed to in advance of the  
5 November 24th hearing to at least get some sense of  
6 agreement, if that's possible.

7 MR. JESSE GELLER: Mr. Hussey?

8 MR. HUSSEY: No. It shouldn't be me. It  
9 should be either you or Jonathan.

10 MS. NETTER: Let me make a suggestion here,  
11 and you can overrule me, obviously. But as I watch and  
12 listen to you, all of you have different points of view  
13 here. And I think that a working session is not going  
14 to get anybody where you want to go because getting one  
15 person's point of view --

16 MR. SCHWARTZ: The problem that we have is  
17 that -- with all respect -- that we feel like we're  
18 shooting in the dark a little bit. And we come here  
19 with a revised plan that we think, you know, in good  
20 faith, meets the needs and, you know, it doesn't and,  
21 you know, a discussion happens and then we have to come  
22 back again.

23 So we feel that the advantage of a working  
24 session is that at least we can have some ability to

1 get some feedback before coming back here. Otherwise,  
2 frankly, the way we feel about it is this thing might  
3 continue to January, February, March, and, you know,  
4 where does this thing end? So, honestly, we think it  
5 would be very useful, Ms. Netter, so that's our  
6 position.

7 MR. HUSSEY: Okay. Before you go into a  
8 working -- Joe, could you come up here for just a  
9 minute? I want to indicate to you what my sense is  
10 that will make these two guys happy, and then you can  
11 deal with it as you would.

12 You know, either you cut everything back to  
13 somewhere in this area, or you cut out -- cut back to  
14 here and you cut this set of apartments out.

15 MR. LEVIN: We have the modeling capability,  
16 as you've seen, to figure out what it is that would  
17 make that fourth floor, quote/unquote, invisible. So  
18 let us try, and we'll see where that line is. I can't  
19 speculate on where that line is.

20 MR. JOE GELLER: Can you just say what you  
21 said one more time?

22 MR. HUSSEY: Sure. I think the line of  
23 cutting the fourth floor back -- you know, just running  
24 back like this -- is somewhere in here, certainly

1 getting around this corner because that seems to be  
2 where this stops. That seems to be this corner.

3 The other alternative is to cut back, you  
4 know, the leading -- the so-called south, the front  
5 side, so that you keep some units here in that corridor  
6 but you cut back some of these units.

7 MR. LEVIN: I think that's far more than 175  
8 feet. That's why I want to take a look.

9 (Multiple parties speaking.)

10 MR. HUSSEY: It's the egress issue. You  
11 understand what I'm saying by the length of it?

12 MS. NETTER: Let's just check with the other  
13 two members. Otherwise, I don't want you to end up --

14 MR. JESSE GELLER: Right. The magic here is  
15 not 175 feet. The magic here is that it visually  
16 should be a three-story building. Okay?

17 MR. HUSSEY: From Asheville Road.

18 MR. JESSE GELLER: From Asheville Road. Thank  
19 you.

20 MR. BOOK: From anywhere on -- I mean, one of  
21 the neighbors --

22 MR. JESSE GELLER: Left side and right. So  
23 whatever that is in linear feet along the building,  
24 that's really what we're talking about. And that

1 paradigm also exists in terms of, you know, what you  
2 can do in terms of setbacks, because it's about visual  
3 more than specific feet.

4 MR. HUSSEY: Are we still -- we're still  
5 talking about, though, from the intersection of  
6 Asheville Road and --

7 MR. BOOK: Russett.

8 MR. JESSE GELLER: Personally, I'm not  
9 concerned about what is seen from the VFW Parkway.

10 MR. HUSSEY: But I'm just -- you know, you get  
11 further in here -- and remember the lesson I gave you  
12 last time about sections, how high the building is.  
13 The same applies for the further back you get. You get  
14 back 200 feet, you might be able to see the leading  
15 edge of something.

16 MR. JESSE GELLER: So they've raised the  
17 question of working sessions. We have to deal with the  
18 timing concern. You know, frankly, I share Edie's  
19 concerns about the working sessions for obvious  
20 reasons, because you hear three different opinions --  
21 you hear five different opinions, frankly, but three of  
22 them that are voting. And therefore, while you would  
23 get something constructive out of one member, I'm not  
24 sure it gives you what you need, which is you need two

1 members to tell you, yeah --

2 MR. LEVIN: But two members aren't going to --  
3 or three members, five members aren't going to respond  
4 until November 24th, so the fact that we get feedback  
5 may not be -- it may be a bum steer, if you will, but  
6 it's better than coming in on the 24th and finding out  
7 that we've been going down the wrong path.

8 MR. HUSSEY: One of you two have to be there  
9 at a working session, absolutely.

10 MR. JESSE GELLER: I know you disagree but --

11 MS. NETTER: No. It's up to you --

12 MR. JESSE GELLER: Anything that drives this  
13 to a conclusion.

14 Okay. So scheduling?

15 MS. STEINFELD: I'll take care of the working  
16 group.

17 MR. JESSE GELLER: So our next hearing is  
18 scheduled for November 24th, 7:00 p.m. We need to get  
19 an extension.

20 MR. SCHWARTZ: In terms of the extension,  
21 maybe we can just talk about -- does it make sense at  
22 this point for us to submit a final waiver list on the  
23 assumption that there will -- you know, this  
24 building -- you know, the buildings in their current

1 configuration -- understanding that we're going to try  
2 and set the fourth story back, but on that basis,  
3 submit a revised waiver list? I'm just trying to  
4 understand what makes the most sense timewise.

5 MR. JESSE GELLER: There's no downsize, so,  
6 you know --

7 MR. SCHWARTZ: Right.

8 MR. JESSE GELLER: But I think, again, we're  
9 going to have to deal with this issue about extension  
10 because come December 5th we're not going to be --

11 MR. SCHWARTZ: Right.

12 MS. NETTER: So, then, the question is -- you  
13 guys have been doing two hearings a week now. The  
14 question is what you're willing to do here.

15 MR. HUSSEY: Well, I think it's what we have  
16 to do to get this done. But I think that somebody --  
17 maybe it's the Planning Department, maybe with you  
18 Edie -- needs to sit down and work out a schedule -- a  
19 more detailed schedule --

20 MS. NETTER: Yeah. I think they have that.  
21 They'll get that for you, Chris.

22 MR. HUSSEY: Well, I think we need to really  
23 think through how many working sessions there needs to  
24 be, how many more --

1 MS. NETTER: This is the end of the working  
2 session. After the hearing is closed, all the work is  
3 done here.

4 MR. HUSSEY: I understand that, but I'm  
5 hearing that the whole thing is still fungible. We  
6 don't have a definite closing of hearing dates. We've  
7 got one listed but --

8 MS. NETTER: We have to do that right now.

9 MR. SCHWARTZ: I'm prepared to do that now,  
10 but I need to understand what the thinking is in terms  
11 of when the board wants to discuss what, so then we can  
12 work out a schedule and then I can give you a date.  
13 Otherwise, I'm not sure what I'm being asked.

14 MR. HUSSEY: I agree. That's what I'm asking  
15 for too.

16 MS. NETTER: Okay. So basically, we need  
17 another hearing, one additional hearing, assuming  
18 things move forward.

19 So right now there's a hearing on the 24th, as  
20 you know, there's a hearing on December 1st, and the  
21 question with this board is, are you willing to meet a  
22 week later? Two weeks later? What are you willing to  
23 do? Right now the hearing is closed on the 5th. We  
24 talked about the 12th, the 17th. What can you live

1 with? Your schedule is most important.

2 MR. HUSSEY: That's what I'm saying. We've  
3 got to work out how many hearings we need to get to,  
4 one, approval of the basic plan; and then two, the  
5 waivers and the conditions.

6 MS. NETTER: We're doing that now. We need  
7 one more hearing.

8 MR. HUSSEY: Are you sure you can do it in one  
9 more hearing?

10 MS. NETTER: We're going to try.

11 MS. STEINFELD: Because otherwise, we're into  
12 the holidays.

13 MR. HUSSEY: The only holiday I've got is  
14 Christmas, but there are other holidays. I'm not the  
15 only --

16 MR. LISS: I think you're the short end of the  
17 stick on this board.

18 MS. STEINFELD: Monday, December 8th?

19 MR. LISS: Let's do it.

20 MR. JESSE GELLER: Mr. Book?

21 MR. BOOK: Yes.

22 MR. JESSE GELLER: Mr. Hussey?

23 MR. HUSSEY: That's fine.

24 MR. LISS: Wait. Does that mean the hearing

1 on the 5th is a Friday?

2 MR. SCHWARTZ: No. The 5th is when we  
3 extended to just to give a few extra days after the  
4 hearing on the 1st.

5 MR. HUSSEY: So we've got one on the 1st of  
6 December?

7 MS. NETTER: Yes.

8 MR. HUSSEY: And we've got one on the 8th of  
9 December?

10 MS. NETTER: Yes.

11 MS. STEINFELD: And the close of the hearing  
12 will be extended to February 12th, the deadline?

13 MR. SCHWARTZ: December 12th?

14 MS. STEINFELD: December 12th, yeah.

15 MR. SCHWARTZ: Yes, ma'am.

16 MS. STEINFELD: Thank you, sir.

17 MR. JESSE GELLER: Okay. Any other details?

18 MS. MORELLI: When would the final waivers  
19 list be due? Do you want to set a date for that?

20 MR. JESSE GELLER: When do you think you could  
21 have them?

22 MS. NETTER: I think he's going to have them  
23 by the 24th, I thought, is what you were heading for.

24 MR. SCHWARTZ: We're going to submit a waiver

1 list based on the current plan, a four-story building,  
2 because it's going to be set back. But it's still  
3 going to be a four-story building in some version, is  
4 the way we're going to show it, with the S7 the way it  
5 is. And that's the basis on which we'll submit a  
6 waiver list.

7 MR. HUSSEY: That makes sense. And so  
8 hopefully, if we do anything, we'll be able to knock  
9 off one of those waivers.

10 MR. JESSE GELLER: I want to thank everyone.  
11 We are adjourned until December the 1st -- November  
12 24th.

13 (Proceedings suspended at 11:12 p.m.)  
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1                   I, Kristen C. Krakofsky, court reporter and  
2 notary public in and for the Commonwealth of  
3 Massachusetts, certify:

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

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

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

13                   Dated this 24th day of November, 2014.

14 \_\_\_\_\_

15 Kristen Krakofsky, Notary Public

16 My commission expires November 3, 2017.

17

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23

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