

1 TOWNSHIP OF TEANECK
BOARD OF ADJUSTMENT
2 WEDNESDAY, JANUARY 20, 2010

3
IN THE MATTER OF: : TRANSCRIPT OF
4 APPLICATION AND PUBLIC HEARING : PROCEEDING
5 on Investigation and Adoption :
6 of 554 Queen Anne Road LLC :
7

8 B E F O R E:

9 TOWNSHIP OF TEANECK BOARD OF ADJUSTMENT
THERE BEING PRESENT:

- 10 JAN MEYER
- 11 ANNEKEE BRAHVER-KEELY
- 12 EDWARD MULLIGAN
- 13 OSCAR McCLOUD
- FAROUK SHEIKH
- WARREN A. HODGES, Chairperson

14

15 A L S O P R E S E N T:

- 16 HAROLD RITVO, Esq.
- Counsel to the Board
- 17
- 18 ROSILAND V. McLEAN
- Board Secretary
- 19 DAN MELFI
- Board Engineer
- 20
- 21 Edward J. Trawinski, Counsel for the Applicant

22

23 Reported by: ANGELA M. SHAW-CROCKETT
24 Certified Court Reporter
Registered Professional Reporter
25 License No. XI102184

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2 INDEX

3	EXAMINATION BY	WITNESS	PAGE
4	MR. TRAWINSKI	Chris Rodriguez	9
5	MR. TRAWINSKI	Michael Kauker	82
6	MR. TRAWINSKI	Sarah Klayn	146

7

8

9 EXHIBITS

10	FOR ID	DESCRIPTION	PAGE
11	Exhibit A-5	Map of Property	11
12	Exhibit A-6	Michael Kauker's report	83

13

14

15

16

17

18

19

20

21

22

23

24

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1 ZB2009-21 - 554 Queen Anne Road LLC - (Michael F. Daly,
Esq., & Edward Trawinski, Esq.)- 554 Queen Anne Road - Block
2 #2409 - Lot 8 - R/S zone
Applicant seeks a conversion of an existing family room at a
3 residential single-family dwelling to a house of worship.
Site plan approval required. Variances required: Use
4 variance, lot area, front yard setback, off-street parking,
exterior design & parking in the side yard. Date of
5 application: 05/22/09 - Plans deemed complete: 08/26/09 -
120 days: 12/24/09

6

7 (Time noted: 7:07 p.m.)

8 CHAIRMAN HODGES: Thank you. Today we're
9 here for Application Number ZB2009-21.

10 I would like to remind everybody we -- to
11 keep everyone silent so we have a good record
12 of this. This is also recorded and the court
13 reporter is taking notes, okay.

14 The attorney, please.

15 MR. TRAWINSKI: Good evening,
16 Mr. Chairman, members of the Board. My name is
17 Ed Trawinski. I'm an attorney at Schenck,
18 Price, Smith & King. We have offices at
19 10 Washington Street, Morristown, New Jersey,
20 and also on Century Road in Paramus.

21 We are the attorneys for the applicant in
22 this matter, having taken over from Mr. Daly
23 after the hearing on December 16th.

24 My understanding is here -- that we're
25 here tonight on continued notice and continued

1 publication, which were found to be in order
2 based upon my review of the transcript of
3 December 16, 2009.

4 After I reviewed that transcript, it
5 became apparent to me that the proceedings,
6 despite the best efforts of the Board and the
7 Chair, were somewhat confused and confusing.

8 For the sake of clarity of the record, I
9 would like to respectfully ask the Board if it
10 would consider deviating from the procedures
11 that were announced at the beginning of the
12 December 16th meeting, allow us to temporarily
13 suspend the cross-examination of Robert
14 Ehrlich, which I understand may not have been
15 concluded at the conclusion of the last
16 hearing, and then allow the applicant to
17 proceed to present its two witnesses with --
18 remaining witnesses, which are its architect
19 and its planner.

20 Based upon my experience in testimony we
21 have to present, I would surmise that from our
22 perspective, we have a total of about 25
23 minutes of testimony to present to you. About
24 five to seven minutes from our planner -- five
25 to seven minutes from our architect and about

1 20 minutes from our planner.

2 And then at the end of the testimony, we
3 would suggest to the Board that the Board can
4 open for cross-examination, open for questions,
5 or follow whatever procedures suits the Board.

6 But I think this way the Board would have a
7 full view of our case, as would the public, so
8 that the questions don't drift off into items
9 that were either irrelevant or to items that
10 make the record be confused and unclear.

11 I'd also suggest or respectfully ask that
12 after reviewing the record, again, despite the
13 best efforts of the Board and its counsel,
14 there was a fair amount of testimony presented
15 by people who came up saying they were going to
16 ask questions on cross-examination, as is want
17 to happen before planning boards because people
18 certainly want to have their say and we're not
19 trying to minimize that or reduce that in any
20 fashion.

21 But perhaps it would make sense in this
22 case, given the interest of it, that once we
23 finish our testimony when anyone comes to the
24 microphone, that they're sworn. And that way
25 we don't have a record as we have right now

1 with a number of pages of unsworn testimony
2 from concerned citizens and objectors.

3 So I'd ask the Board if it would consider
4 that, and then I have a couple of housekeeping
5 items that I'd like to call to the Board's
6 attention based upon my review of the record.

7 CHAIRMAN HODGES: Okay. What we're going
8 to do is we'll follow that procedure. We'll
9 have your witnesses -- your experts give
10 testimony. The Board will ask questions of
11 each expert as they go along and then we'll
12 open it up to the public.

13 MR. TRAWINSKI: I understand. Thank you,
14 Mr. Chairman, members of the Board.

15 On the issue of parking spaces, there was,
16 I think, an unclarity in the record as to what
17 our client was attempting to demonstrate and
18 what relief our client is seeking.

19 The notice of publication, the application
20 that was submitted, sought a variance from the
21 required number of parking spaces of 21 by
22 providing six on site. That variance relief
23 our client is still seeking. We are not
24 attempting to obviate the need for that
25 variance.

1 We have provided information to the Board
2 that shows we've made a good-faith effort to
3 obtain overflow parking or off-site parking.
4 But we are still requesting a variance for the
5 six spaces. That should obviate any concerns
6 on the part of the Board as to permanency of
7 those available spaces as to what the intent of
8 the people was who signed those various
9 notarized -- I'll call them parking
10 permissions, obviate concerns over the
11 utilization as part of this application as the
12 CVS parking lot where they overflow with the
13 municipal parking lot.

14 So perfectly clear, we are seeking a
15 variance for 15 parking spaces.

16 CHAIRMAN HODGES: Before you go on, during
17 the last hearing that we had, the applicant
18 stated that he would get documentation about
19 the different areas.

20 So am I to understand that there'll be no
21 documentation? You're going to just ask for a
22 variance and saying there's only six parking
23 spaces?

24 MR. TRAWINSKI: There will be proofs
25 presented as to the rationale for the

1 variances, which is a typical rationale in the
2 case of any orthodox use, and I know that the
3 Board is mindful of it, being familiar with
4 Orthodox synagogues, and that's the fact that
5 the people generally walk to service. And
6 given the fact that there's no catering hall or
7 the other type of facilities you might find in
8 a larger institutional use, our position is
9 that for purposes of the nature of the relief
10 we're seeking, that we'll be able to adequately
11 demonstrate to the Board that the variance
12 relief is something that's justified under the
13 Municipal Land Use Law.

14 There was also confusion that I saw in the
15 record, and maybe it was clear in the Board
16 members' mind, as to what we were seeking and
17 what we thought we were.

18 For purposes of this application, as was
19 indicated in the original letter filed by my
20 predecessor, Mr. Daly, with the Board, we are
21 asking to be classified, for purposes of this
22 application, as a house of worship. We are
23 seeking conditional use permission for a house
24 of worship in the family room, the kitchenette
25 area, and the vestibule, basically what I'll

C. RODRIGUEZ - 1/20/10

1 characterize in shorthand as the addition.

2 Reserving our rights, in the event we're
3 unsuccessful on this application to proceed
4 with the interpretation issue, but our hope is
5 that we will be able to persuade the Board that
6 we've satisfied the statutory criteria and that
7 we don't need that. But I don't need to
8 have -- or I don't want to have any confusion
9 in anyone's mind that what we are seeking is
10 the conditional use relief as a house of
11 worship.

12 If we are where we need to be
13 procedurally, I'd like to call our architect,
14 Christopher Rodriguez, have him sworn.

15 MR. RITVO: Identify yourself for the
16 record, spelling your last name and providing
17 us with your office address.

18 THE WITNESS: Rodriguez,
19 R-O-D-R-I-G-U-E-Z. Office address is 22-08
20 Route 208, Fair Lawn, New Jersey.

21 C H R I S R O D R I G U E Z,

22 called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 MR. RITVO: Now, I have qualified
25 Mr. Rodriguez -- I'm not sure of the township,

C. RODRIGUEZ - 1/20/10

1 but another Board -- and I'm prepared to make a
2 recommendation, Mr. Chairman, unless there's
3 anyone in audience who wishes to question
4 Mr. Rodriguez with respect to his
5 qualifications of expert architects only.

6 Seeing none, Mr. Chairman, I would
7 recommend Mr. Rodriguez as an expert in the
8 field of architecture.

9 CHAIRMAN HODGES: Thank you. Proceed.

10 MR. TRAWINSKI: Thank you, Mr. Chairman,
11 Mr. Ritvo.

12 EXAMINATION BY

13 MR. TRAWINSKI:

14 Q. Mr. Rodriguez, I know that the Board is
15 familiar with what you do for a living, but would
16 you tell the Board what it is you do for a living.

17 A. I'm an architect. I design spaces for
18 people of various different types of occupations;
19 residential, commercial, institutional, educational,
20 medical, various types of developments that people
21 would want to do. They would come to our office for
22 construction documentation.

23 Q. And are you familiar with this site,
24 554 Queen Anne Road, and the structures that exist
25 on it?

C. RODRIGUEZ - 1/20/10

1 A. Yes.

2 Q. Were you the architect who prepared the
3 plans for the addition?

4 A. Yes.

5 Q. And can you describe for the Board what is
6 the nature of the plans that you prepared and what
7 exists there today. I notice also you have two --

8 A. Two documents.

9 Q. -- documents up on the board.

10 MR. TRAWINSKI: Would you like to have
11 those marked?

12 THE WITNESS: Yes.

13 MR. TRAWINSKI: Okay. I think we're up
14 to, Mr. Ritvo, A-5.

15 MR. RITVO: A-5, but I'll come down and
16 mark it.

17 There are two?

18 MR. TRAWINSKI: Yes.

19 CHAIRMAN HODGES: I'd like to recognize
20 that Mr. Farouk has joined the Board.

21 (Exhibit A-5 was received and marked for
22 identification, as of this date.)

23 MR. RITVO: A-5 is a -- entitled "Map of
24 Property, Lot A, Block 2409." Doesn't appear
25 to have date on it or indication of who drew

C. RODRIGUEZ - 1/20/10

1 it, but it is a shaded survey. That will be

2 A-5.

3 While I'm here to save time, this is the

4 same plans provided to the Board?

5 THE WITNESS: Exactly.

6 MR. RITVO: The other one is the

7 architectural plan of Mr. Mecky's plate block

8 and has been submitted to the Board and needn't

9 be marked. It's the site plan of the cover

10 sheet except that it's shaded in different than

11 what the Board has. So it still needs to be

12 marked as A-5.

13 BY MR. TRAWINSKI:

14 Q. Would you describe for the Board what A-5

15 depicts?

16 A. A-5 is the site plan that's on the cover

17 sheet of the submitted documents. And what we did,

18 for clarification, is just show the area in blue of

19 the part of the property that would be used for the

20 house of worship and the other area of the dwelling

21 or the structure would remain as the residence.

22 The ground strip you see going up toward

23 Van Buren is a new pathway that goes from the

24 existing door and landing and then a pathway that

25 brings you out in the existing sidewalk. It also

C. RODRIGUEZ - 1/20/10

1 provides access for van or handicapped-accessible
2 persons to be able to get out and have a clear path
3 of travel to the interior of the building through
4 the vestibule.

5 In addition, what we did to help
6 accommodate the cars and the opening of the doors
7 when people would get out of their cars, we
8 increased the driveway width by approximately one
9 foot on the north side of the property so that when
10 people would get out of their cars, they wouldn't
11 step on grass or the ground but they would step on
12 paving.

13 We also -- to the neighbor to the north,
14 we created a planting buffer with what we're calling
15 out to be emerald-green arborvitaes, which create a
16 green hedge along the property line. And you can
17 see that on your documents, and also to the circle
18 that runs along the property line on the north side
19 of the property.

20 So those are the -- essentially the
21 changes that we made to the site plan; the addition
22 of the planting berm, the widening of the driveway
23 by one foot, the providing of the
24 handicapped-accessible parking berth, the path from
25 the door to the street, and we also widened the

C. RODRIGUEZ - 1/20/10

1 driveway apron to 20 feet so that the van could come
2 in, head-in parking into that parking berth.

3 Q. Would you describe to the Board the
4 interior of the addition.

5 A. On the inside -- on the south side of the
6 development or on the blue is where a former garage
7 used to be. A garage was converted to a
8 kitchenette.

9 MR. ROSE: Point of information.

10 A. The remainder of the room, as you can see
11 on the floor plan --

12 MR. ROSE: Mr. Chair, a point of
13 information, please?

14 MR. TRAWINSKI: Mr. Chair, there is no
15 such thing as a point of information from a
16 member of the public and I respectfully object.

17 MR. ROSE: Can this display face the
18 public? Can they at least delineate --

19 CHAIRMAN HODGES: This has to face the
20 Board members. Sorry.

21 A. As submitted by -- the document that had
22 been on file for quite a period of time, the site
23 plan that's shown right there is a document that's
24 been in the township for many months.

25 In addition, on page A-2, which

C. RODRIGUEZ - 1/20/10

1 additionally was one of the documents that was
2 submitted to the township, we show a floor plan.
3 We've indicated the room names of the new area; one
4 is the kitchenette, was the former garage area.
5 There's a sanctuary of approximately 1200 square
6 feet, which is part of the new development. There's
7 a vestibule on the north side of the property that
8 faces Van Buren that's part of the new development,
9 as is the bathroom and the closet that's within that
10 vestibule area. And that's pretty much what was
11 done two and a half years ago.

12 Q. Other than warming facilities in the
13 kitchenette, are there any cooking facilities in the
14 kitchenette?

15 A. No.

16 MR. TRAWINSKI: I do not have any other
17 questions of this witness, Mr. Chairman, and
18 members of the Board.

19 CHAIRMAN HODGES: All right. When you
20 said kitchenette was moved to the garage; is
21 that correct?

22 THE WITNESS: It's not that it was moved.
23 It's a new component of a structure. That used
24 to be a garage. We provided a kitchenette
25 adjacent to what was the family room and now

C. RODRIGUEZ - 1/20/10

1 proposed to be the sanctuary.

2 CHAIRMAN HODGES: What is the size of the
3 kitchenette?

4 THE WITNESS: The kitchenette is
5 275 square feet. So it's the same -- what is
6 it? Two-car garage before, so 18 by 20 maybe,
7 maybe a little less than 275. Somewhere in
8 that area. It was a small two-car garage.

9 CHAIRMAN HODGES: So this kitchenette that
10 you're describing is just to warm food; is that
11 correct?

12 THE WITNESS: Exactly.

13 CHAIRMAN HODGES: So this to warm food is
14 the size of a two-car garage?

15 THE WITNESS: You know what? There was no
16 other way to break the space down. That was
17 the space that we had. If we could have made
18 it smaller, we would have. But the way the
19 whole configuration worked out, it didn't make
20 sense to start breaking up walls to make the
21 space look smaller. We wanted a more
22 rectangular room for the family room. So it
23 just made more design sense to make that a
24 rectangle and this was just a leftover space
25 that we used as a kitchenette.

C. RODRIGUEZ - 1/20/10

1 CHAIRMAN HODGES: Any other questions from
2 members of the Board?

3 MS. BRAHVER-KEELY: You mentioned that you
4 wanted the driveway to give access for a van?

5 THE WITNESS: Yes. A handicapped -- a
6 handicapped parking berth. Because we have six
7 spots on the site, we wanted to add one of them
8 to be handicapped-accessible parking berth. So
9 that's why we added that parking that's on --
10 well, if you see on the cover sheet, it's
11 addition to the driveway. It's the
12 8-by-18 spot and it says HC for handicapped.

13 MS. BRAHVER-KEELY: Okay.

14 CHAIRMAN HODGES: Any other questions from
15 members of the Board?

16 MR. MULLIGAN: So your parking in the
17 driveway will be head-in parking?

18 THE WITNESS: Yes, stacked. All the way
19 in and then cars stacked behind it, four more.
20 There would be one in the front, four more
21 behind it, and the handicapped van would be
22 adjacent towards the right of the last car.

23 MR. MULLIGAN: Isn't that possibly unsafe
24 if there's a problem you can't -- you have
25 to -- is there any other way you can configure

C. RODRIGUEZ - 1/20/10

1 that?

2 THE WITNESS: There's no other way to
3 configure there without adding more variances
4 to the property. Right now we're just short of
5 all the development. We don't have any
6 variances for impervious, pervious coverage.
7 No coverage factor right now. If we were to
8 add more blacktop or asphalt or impervious
9 area, we'd increase the height of the variance.

10 Secondly, we would have to start parking
11 in the front yard area, because the way this
12 property is, there is no other place to park
13 other than in that driveway. It's a corner lot
14 so we're kind of pinned in on where we can
15 park.

16 MR. MULLIGAN: I'm just concerned about
17 the safety issue with how that parking is. If
18 there's a problem -- I'm concerned about the
19 safety with the parking and I think it -- I'm
20 not sure if risking the safety is worth not
21 possibly having to expose new additional
22 variances.

23 MR. McCLOUD: You said that the parking
24 would be stacked?

25 THE WITNESS: Yes.

C. RODRIGUEZ - 1/20/10

1 MR. McCLOUD: If there were an emergency
2 and EMS or an ambulance had to arrive, where
3 would that vehicle have to park, in the street?

4 THE WITNESS: Well, yes. There is parking
5 in the street. Van Buren would probably be the
6 most likely place for emergency vehicles to
7 park.

8 I would suspect if there was a fire,
9 nobody would want to bring any more vehicles
10 any closer to the structure and hopefully these
11 vehicles would get out of there. But the way
12 the property is, it's not a very large property
13 to start bringing emergency vehicles onto the
14 property. Typically, I think they would stay
15 in the street, go into the building, take care
16 of whatever needed to take care of, and then
17 remove themselves.

18 But that's also why we have that new
19 pathway from the sidewalk to be able to get
20 into the structure.

21 MR. RITVO: The stacked parking means that
22 there are not traditional stalls; is that what
23 you're proposing?

24 THE WITNESS: The parking berths are
25 legal-sized. It's just a configuration of

C. RODRIGUEZ - 1/20/10

1 them. They're all 9-by-18 stalls.

2 MR. RITVO: I understand they're 9 by 18.

3 But they're proposed to be one after the other,

4 correct?

5 THE WITNESS: Exactly.

6 MR. RITVO: The first car will not be able

7 to exit if all the spaces are taken. Is that

8 fair to say?

9 THE WITNESS: The first four will not be

10 able to exit.

11 MR. RITVO: Isn't there another waiver or

12 variance required?

13 And I turn to Mr. Melfi here and I want to

14 give the applicant a fair chance to respond,

15 because it doesn't meet the design criteria for

16 parking spaces, I don't think the ordinance

17 permits stacked parking.

18 Because we're making a record, Mr. Melfi,

19 identify yourself and tell the record who you

20 are.

21 D A N M E L F I,

22 called as a witness, having been first duly sworn,

23 was examined and testified as follows:

24 MR. MELFI: Dan Melfi, zoning officer,

25 Township of Teaneck.

C. RODRIGUEZ - 1/20/10

1 MR. RITVO: How long have you been zoning
2 officer of the Township of Teaneck?

3 MR. MELFI: Three years.

4 MR. RITVO: Do you hold certificates from
5 the State of New Jersey authorizing you to hold
6 the office of zoning officer?

7 MR. MELFI: Yes.

8 MR. RITVO: Please tell the Board -- did
9 you hear my question?

10 MR. MELFI: Yes.

11 As of right now, there is no ordinance in
12 regards to stacked parking for the Township of
13 Teaneck.

14 MR. RITVO: Not permitted, correct?

15 MR. MELFI: It's not prohibited.

16 MR. RITVO: It's not prohibited?

17 MR. MELFI: No.

18 MR. RITVO: Okay. Thank you.

19 The other question I have with respect to
20 this kitchenette. What's the difference
21 between -- this is a 275-foot-square room,
22 correct?

23 THE WITNESS: Yes.

24 MR. RITVO: What's the difference between
25 a 275-foot-square kitchen and a 275-foot-square

C. RODRIGUEZ - 1/20/10

1 kitchenette?

2 THE WITNESS: It doesn't have a stove.

3 You don't necessarily cook in there.

4 MR. RITVO: So is it part of the

5 applicant's application -- I don't know if you

6 can answer this, but I think the Board would

7 like to know -- that there will not be a stove

8 in that room?

9 MR. TRAWINSKI: I believe in the record,

10 the last proceeding, that question was asked

11 and answered at least three times. The answer

12 remains the same. No, there is no stove.

13 MR. RITVO: Thank you for the fourth.

14 Thank you. I have no further questions. Thank

15 you.

16 CHAIRMAN HODGES: Any further questions

17 from members of the Board? Members of the

18 public, anyone have any questions for this

19 witness, any questions only at this time?

20 MR. TRAWINSKI: Mr. Chairman, I thought

21 you had changed the process that you were going

22 to let us --

23 CHAIRMAN HODGES: I want to keep it like

24 this. First your witness and if somebody wants

25 to ask your witness a question, the public is

C. RODRIGUEZ - 1/20/10

1 allowed to do that.

2 MR. TRAWINSKI: I thought you had changed
3 the procedure. My apologies. We had made the
4 request.

5 CHAIRMAN HODGES: Any members of the
6 public want to ask this expert a question?

7 MS. ABBOTT: Janet Abbott, 277 Griggs
8 Avenue.

9 MR. RITVO: Ms. Abbott, the rules of this
10 Board permit only questions at this time.

11 MS. ABBOTT: I understand.

12 MR. RITVO: Thank you very much.

13 MS. ABBOTT: Were you the original
14 architect when the family room was planned?

15 THE WITNESS: Yes.

16 MS. ABBOTT: When you submitted the
17 architectural plans, did you note on that that
18 it said "Teaneck Temple"?

19 THE WITNESS: I'm really not familiar with
20 what your question is. I'm talking --

21 MR. TRAWINSKI: You've answered the
22 question.

23 MS. ABBOTT: So you're not familiar. So
24 you don't remember putting "Teaneck Temple" --

25 THE WITNESS: My construction documents

C. RODRIGUEZ - 1/20/10

1 called it a family room. I think you're
2 addressing another document that's not the
3 construction document.

4 MS. ABBOTT: Then I may be wrong about
5 that, okay. Thank you.

6 MR. CAMPEAS: Rif Campeas, 258 Griggs
7 Avenue. C-A-M-P-E-A-S.

8 Mr. Rodriguez, you designed this family
9 room originally?

10 MR. TRAWINSKI: I'm going to object,
11 Mr. Chairman. The question was just asked and
12 answered by the last questioner. And what's
13 happening is the record is becoming clouded
14 with repetitive questions which is becoming
15 unnecessarily time-consuming.

16 CHAIRMAN HODGES: Okay. We're going to
17 ask everyone to please pay attention as much as
18 you can to the person before you, this way we
19 don't get the questions asked over and over.

20 MR. CAMPEAS: I apologize.

21 CHAIRMAN HODGES: Thank you.

22 MR. CAMPEAS: Have you ever designed a
23 family room of this sort before?

24 THE WITNESS: I don't understand your
25 question.

C. RODRIGUEZ - 1/20/10

1 MR. CAMPEAS: When you designed family
2 room at other times, was there ever any one
3 with these dimensions, with these sort of
4 electrical facilities, with these
5 characteristics?

6 MR. TRAWINSKI: I'm going to object to the
7 question as grounds of relevancy. What was
8 done by this architect throughout his career is
9 of no consequence to this application.

10 The Board is considering this particular
11 application and this particular family room.

12 CHAIRMAN HODGES: Mr. Campeas, you want to
13 answer his question?

14 MR. CAMPEAS: I think it points to the
15 whole process that has preceded this and while
16 they would like to dismiss everything that we
17 caught beforehand, including the last time we
18 met, it's unfair to the people who have to live
19 in this community if we don't examine the
20 entire record and the entire process of how we
21 got to this point.

22 Mr. Rodriguez was introduced and signed in
23 as an expert, and therefore it's fair to ask
24 him about his previous experience and whether
25 it's a typical design for a family room or was

C. RODRIGUEZ - 1/20/10

1 this designed as a temple from the beginning.

2 MR. TRAWINSKI: Mr. Chairman, may I be

3 heard on the objection?

4 CHAIRMAN HODGES: Response?

5 MR. TRAWINSKI: First of all, what the

6 questioner thinks is also of no consequence.

7 What the Board is dealing with is facts before

8 the Board. The history may be of interest to

9 the residents, it may be of interest to others.

10 This Board is considering a particular

11 application based upon the facts presented to

12 it.

13 The history of what took place is of no

14 consequence legally before this Board. In

15 addition to which, as I'm sure your counsel

16 could advise you, that whether the actor is a

17 good actor or a bad actor, the actor's

18 intentions on an application before a board is

19 of no legal consequence to a proceeding before

20 a planning board and the zoning board.

21 I respectfully request that the objection

22 be sustained.

23 MR. CAMPEAS: And I would suggest that the

24 objection is not being answered. I think it's

25 relevant because they're asking for variances.

C. RODRIGUEZ - 1/20/10

1 There's a good-faith question here of whether
2 they're going to follow those variances. And
3 point of fact, in New York State, that was
4 ruled as a reason for objection of variance
5 recently.

6 MR. TRAWINSKI: Mr. Chairman, one final
7 comment good faith/bad faith. I'm mindful of
8 the New York State case. However, we're in
9 New Jersey. And the law in New Jersey is that
10 the good faith or bad faith of an applicant is
11 also of no consequence. The Board is supposed
12 to presume that an applicant will obey the
13 conditions imposed by the board and obey the
14 law. And if not, then it's up to the
15 enforcement officials to take the appropriate
16 action.

17 MR. CAMPEAS: So there's no examination of
18 previous history of whether they've actually
19 followed the rules or not? That seems
20 ridiculous.

21 You're going to say that we can't examine
22 whether they've dealt in good faith with the
23 neighbors? You're going to say that's
24 irrelevant?

25 You may have to take several hours to

C. RODRIGUEZ - 1/20/10

1 decide this. I have to live with this
2 structure for the rest of my time in Teaneck on
3 Griggs Avenue.

4 And second of all, whether New Jersey law
5 says that that's the law here, there's no
6 reason why in good faith you can't change the
7 law just like they did in New York State in
8 this recent decision.

9 CHAIRMAN HODGES: Mr. Ritvo?

10 MR. RITVO: Mr. Campeas has argued before
11 the Board what his point is and why he wants to
12 ask this question. Other people have asked
13 questions as to the good faith or bad faith of
14 the historical -- of the history of this
15 particular site.

16 But this Board is now faced with the issue
17 of a variance request, site plan review for
18 this particular use.

19 The Board is often faced with these kind
20 of questions, particularly when someone has
21 built something without permits. And the Board
22 has faced this issue almost on a monthly basis
23 over the last year, from my recollection. And
24 I have advised the Board then what I am
25 advising the Board now: You may not -- you

C. RODRIGUEZ - 1/20/10

1 should not give any deference to the applicant
2 because the room exists, and you should not
3 treat it negatively because the room exists.

4 So therefore you must treat the room neutral.

5 Therefore, I advise you that the
6 objection, in my opinion, is a valid one. That
7 doesn't stop the neighbors from asking
8 questions with respect to credibility. It
9 doesn't stop the neighbors from making the
10 argument that Mr. Campeas just made during the
11 time that the neighbors can present their side
12 of the case.

13 But as to whether or not what happened
14 here, as far as the building and it exists, the
15 Board should treat this room as that it isn't
16 there and the applicant is asking to put it
17 there. No deference for, no deference against,
18 and the variance is requested. That's my
19 advice to the Board.

20 MR. CAMPEAS: I'm sorry, Mr. Ritvo. Could
21 you repeat that part about asking questions
22 about the honesty? I'm sorry. I didn't quite
23 follow.

24 MR. RITVO: What I said is that the Board
25 is often faced with an issue of someone who is

C. RODRIGUEZ - 1/20/10

1 applying for a variance, who has already
2 constructed something in violation of the
3 zoning ordinance or without permits. And the
4 same question has come up before this Board on
5 a monthly basis, seems more frequently over the
6 last year than in previous years.

7 And the advice I have given the Board, the
8 law as I understand it is, this Board looks at
9 an application. It doesn't look at what's
10 there, it looks at what's proposed. It takes
11 no -- gives no deference from what is there and
12 it makes no negative inference from what is
13 there. It looks at application from planning
14 and zoning criteria, statutes and cases.

15 So therefore, it's not relevant --
16 Mr. Trawinski is right -- as to this aspect how
17 this was designed. If it was designed for
18 this, it doesn't mean that the Board has to
19 approve it. If it was designed for this, it
20 doesn't mean that the Board should disapprove
21 it.

22 I want you to look at the application as
23 presented and hear it. That doesn't stop the
24 neighbors or interested persons from making
25 points with respect to credibility of

C. RODRIGUEZ - 1/20/10

1 witnesses' testimony on cross-examination or
2 making arguments about the effect of what will
3 happen if the use is proposed as permitted.
4 That's the scope of the review of this
5 application.

6 So I would suggest sustaining the
7 application as to whether this has been
8 designed before, design issues, and rather,
9 look to the use itself. It's up to you,
10 Mr. Chairman.

11 CHAIRMAN HODGES: Do you have any other
12 questions?

13 MR. CAMPEAS: So when you say that we have
14 an opportunity to discuss the honesty, why is
15 it not relevant to what was presented to the
16 architect originally in those plans and how it
17 was then presented to the public? Is that not
18 a question of honesty?

19 CHAIRMAN HODGES: Well, the question that
20 we're looking at here is -- we take the
21 application and we decide whether to grant the
22 variance or not to grant the variance. Whether
23 this applicant has already done the work,
24 changed the structure, doesn't have a concern
25 with us. We're supposed to judge it just on

C. RODRIGUEZ - 1/20/10

1 the facts that we have, not was it done -- not
2 did they plan to make this a house of worship,
3 not if they're going to use it as a house of
4 worship, not if they planned to do things
5 without permits, we don't get involved in it.
6 All we decide is there are variances, there are
7 things here that do not go to the code of
8 Teaneck and we decide whether to grant variance
9 on it or not.

10 MR. CAMPEAS: How are you asking us to ask
11 questions about honesty and the -- and the
12 trustworthiness of the people if we're not
13 allowed to ask questions about past behavior?

14 MR. RITVO: Mr. Campeas, the Board is not
15 asking you to ask any questions. You are free
16 to ask any questions or anyone else who's
17 interested in this application is free to ask
18 any questions that that person may wish.

19 What I have suggested to the Board is that
20 the issue of this witness, that this witness
21 had testified about -- if you want to ask about
22 the history of this or ask about what his
23 client asked him to do, do it according to what
24 his client asked him to do, you may ask that.
25 But not about his experience. Only about the

C. RODRIGUEZ - 1/20/10

1 testimony he's given as to credibility. That
2 you may ask.

3 But the Board is not -- you may ask
4 anything you like, but you may not ask the
5 questions about integrity of the design because
6 that's not before this Board. What you may ask
7 is what this -- cross-examine what this witness
8 testified to or what you believe will undermine
9 what he's testified to. That you may ask.

10 CHAIRMAN HODGES: You want to sit down now
11 or --

12 MR. CAMPEAS: Well, I'd like to think
13 about it and reserve the right to come back up.

14 CHAIRMAN HODGES: Sure.

15 MR. KINLOCH: James Kinloch, 73 Shepard
16 Avenue, K-I-N-L-O-C-H.

17 I want to ask one quick question for the
18 architect.

19 When the drawings were originally
20 submitted to the planning board -- I mean to
21 the building department, when I looked at the
22 back, the title of the drawing says "Residence,
23 554 Queen Anne Road, Feldman Residence."

24 I know how I do drawings on my job, but
25 when we started the work -- a job --

C. RODRIGUEZ - 1/20/10

1 MR. TRAWINSKI: Object. He's making a
2 statement. This is exactly what was allowed.

3 MR. RITVO: Mr. Kinloch, I think what
4 Mr. Trawinski is saying is that if you have a
5 question --

6 MR. KINLOCH: I do have a question.

7 MR. RITVO: Just ask it. When you talk
8 about your job, I think that's the point here.

9 MR. KINLOCH: My question is, when you
10 first designed this job and you put on
11 residence, Did you know -- design it as being a
12 residence, or did you design it with the
13 intention of a place -- house of worship being
14 attached to it? That's what I'd like to know.
15 Or were you told there was going to be an
16 addition as a residence?

17 CHAIRMAN HODGES: Just one person at a
18 time.

19 MR. KINLOCH: Did you know when you were
20 given the job, I would like to design my job
21 with an addition to my house -- to my
22 residence.

23 THE WITNESS: That's what I was told.

24 MR. KINLOCH: Then were you told we're
25 going to design it as a house of worship?

C. RODRIGUEZ - 1/20/10

1 MR. TRAWINSKI: I'm going to object. It
2 assumes facts not in evidence. There's been no
3 testimony by this witness that he was ever told
4 that it would be --

5 MR. RITVO: May I help you, Mr. Kinloch?
6 Were you ever told that this was going to
7 be a house of worship?

8 THE WITNESS: No.

9 MR. KINLOCH: Thank you.

10 MR. HARRIS: Joe Harris, 267 Griggs
11 Avenue.

12 Sir, how close will the driveway be to the
13 residence next door?

14 THE WITNESS: Approximately 10 feet.
15 Right now it's 11 feet, and it will be reduced
16 by one foot.

17 MR. HARRIS: And I just want to understand
18 this. There's a driveway and you're saying
19 that there will then be 10 feet between the
20 edge of the driveway and the actual house next
21 door?

22 THE WITNESS: No, I'm saying to the
23 property line.

24 MR. HARRIS: And how far from that is the
25 house; do you know?

C. RODRIGUEZ - 1/20/10

1 THE WITNESS: I never measured the offset
2 from the property line to that house.

3 MR. HARRIS: Do you think it might be 6 or
4 7 feet.

5 THE WITNESS: I'm not going to guess.

6 MR. HARRIS: In the 10 feet, is that where
7 you were intending to put trees?

8 THE WITNESS: Not trees, shrubs. And you
9 could see them on the drawings. The circles
10 show the area of the arborvitaes.

11 MR. HARRIS: Arborvitaes shrubs?

12 THE WITNESS: Yes.

13 MR. HARRIS: What is the purpose of those
14 shrubs?

15 THE WITNESS: A green screen.

16 MR. HARRIS: I'm sorry. But I don't know
17 what a green screen is.

18 THE WITNESS: Vegetation along the
19 property line.

20 MR. HARRIS: What is the purpose of a
21 green screen?

22 THE WITNESS: Well, I think it's an
23 attractive separation between two dwellings or
24 two properties.

25 MR. HARRIS: Is it intended to prevent

C. RODRIGUEZ - 1/20/10

1 noise?

2 THE WITNESS: That could be a consequence
3 of it. I can't guarantee that.

4 MR. HARRIS: Do you think it would prevent
5 noise?

6 THE WITNESS: I think it will.

7 MR. HARRIS: You do. How tall do you
8 think the shrubs will be when they're grown?

9 THE WITNESS: Well, they continue to grow,
10 but our anticipation -- it would be
11 approximately 6 feet tall and they would
12 continue to grow from there.

13 MR. HARRIS: And right next to the shrubs,
14 you will have a driveway?

15 THE WITNESS: Not right next to the
16 shrubs. It will be probably 5 to 6 feet away
17 from the shrubs.

18 MR. HARRIS: When I have listened to you
19 today, I was trying to understand the
20 dimensions. That's why I'm asking these
21 questions.

22 So where will people walk to get to the
23 front of the shul.

24 THE WITNESS: On the driveway.

25 MR. HARRIS: They will walk on the

C. RODRIGUEZ - 1/20/10

1 driveway?

2 THE WITNESS: Yes.

3 MR. HARRIS: But I thought cars were to
4 park in the driveway?

5 THE WITNESS: The cars and there'll also
6 be spaces. The cars are approximately 7 feet
7 wide. The driveway is 11 feet wide.

8 MR. HARRIS: I thought that you said that
9 the driveway would have space for one set of
10 cars, one behind the next, five of them; and
11 next to that there would be a place for a van
12 for handicapped people; is that correct?

13 THE WITNESS: Yes.

14 Have you looked at the drawing? It's
15 clear.

16 MR. HARRIS: It was facing the front not
17 the audience.

18 THE WITNESS: It's there, but it's been on
19 the public record for many months.

20 MR. HARRIS: Well, I'm here tonight.

21 THE WITNESS: It's there on that pedestal.

22 MR. HARRIS: You said the driveway is
23 11 feet wide?

24 THE WITNESS: Yes.

25 MR. HARRIS: How can you have these cars

C. RODRIGUEZ - 1/20/10

1 one after the next, which you said I think are
2 six or 7 feet wide, and then where would the
3 van be that's next to them, if it's 11 feet
4 wide.

5 THE WITNESS: I think if you looked at the
6 drawing it would be more clear.

7 MR. HARRIS: I just can't imagine how a
8 van --

9 MR. RITVO: Bring the drawing to the mike.

10 THE WITNESS: The van spot is right where
11 I'm pointing adjacent to that parking berth.

12 THE BOARD SECRETARY: Perhaps if the
13 attorney could step to the side, the audience
14 would be able to see. Thank you.

15 MR. HARRIS: So I am looking at this now
16 and I'm seeing -- this says "macadam." What is
17 that?

18 THE WITNESS: Asphalt.

19 MR. HARRIS: Is that what is meant by --
20 to be where the driveway is?

21 THE WITNESS: That is the driveway. The
22 driveway exists there right now, that dotted
23 line and the hatched in, or poched area, of one
24 foot is the new driveway area.

25 MR. HARRIS: Incidentally, I'm not sure

C. RODRIGUEZ - 1/20/10

1 why you talk about what exists today, since we
2 are being asked to judge a plan not what
3 exists.

4 THE WITNESS: I'm telling you what exists
5 today. If there's opposition to what I'm
6 telling you, that will be taken care of.

7 Right now there's a driveway that exists
8 and there's a one-foot addition to that
9 driveway. I was asked what was proposed, so I
10 could talk about what is proposed and what
11 existed. The driveway existed, we're adding
12 one foot to that driveway.

13 MR. HARRIS: What I don't understand and
14 I'll address this to the Board as well, is why
15 we're even having any testimony.

16 MR. TRAWINSKI: I'm going to object to the
17 witness's lack of understanding. He can ask
18 questions.

19 CHAIRMAN HODGES: What we need to do at
20 this time is just ask questions only. If there
21 are any statements --

22 MR. HARRIS: Why is it that your
23 testimony -- the acting chairwoman said that we
24 are instructed not to look at what is there but
25 only to look at what is proposed. And since

C. RODRIGUEZ - 1/20/10

1 that is his direction to us tonight, I would
2 like to know why it is that you have introduced
3 testimony about what is there?

4 THE WITNESS: Because I was asked what are
5 we proposing to do.

6 MR. HARRIS: Isn't it irrelevant what is
7 there then?

8 THE WITNESS: It's combative.

9 MR. TRAWINSKI: I'm going to ask -- object
10 also, it's not the witness's job to determine
11 what's relevant or not relevant.

12 MR. RITVO: Let's try to -- if I could,
13 Mr. Chairman. Sir, if you would ask your
14 questions --

15 MR. HARRIS: I did ask a question.

16 MR. RITVO: If I could finish, I'll
17 certainly allow you.

18 If you could ask your questions as to what
19 you wish to know about the site, that would be
20 helpful to the Board. You've made your point.
21 The Board understands.

22 MR. HARRIS: Where will the baby carriages
23 be parked?

24 MR. TRAWINSKI: I'm going to object. It
25 assumes facts not in evidence.

C. RODRIGUEZ - 1/20/10

1 MR. RITVO: If baby carriages are there,
2 where would -- if people bring baby carriages,
3 have you provided for them?

4 THE WITNESS: There's probably within the
5 vestibule, there's ample space to fold up and
6 store baby carriages.

7 MR. HARRIS: How will the baby
8 carriages -- have you seen the baby carriages
9 that are parked outside there?

10 MR. TRAWINSKI: Object again. It assumes
11 facts not in evidence.

12 MR. HARRIS: I'm introducing a fact. Baby
13 carriages are --

14 MR. TRAWINSKI: Object. The witness is
15 not under oath. He's not allowed to introduce
16 facts at this juncture.

17 That's the reason, Mr. Chairman, I
18 respectfully asked for the change in process.

19 MR. RITVO: If I might, Mr. Chairman, the
20 witness is trying to elicit a potential use of
21 the property -- the question, trying to ask,
22 potentially uses of property and how the
23 proposed plan will accommodate that.

24 So, Mr. Rodriguez, have you observed any
25 baby carriages there at any time?

C. RODRIGUEZ - 1/20/10

1 THE WITNESS: No.

2 MR. RITVO: Okay. That's the answer to
3 your question. Go ahead, Mr. Harris.

4 MR. HARRIS: Have you ever examined it,
5 the property on a Saturday morning?

6 THE WITNESS: No.

7 MR. HARRIS: Isn't that when baby
8 carriages would be there?

9 MR. RITVO: If he knows.

10 THE WITNESS: I don't know.

11 MR. RITVO: I understand what
12 Mr. Trawinski is trying to do, the protection
13 of the record. But this -- the Board has
14 provided latitude in these kind of things. And
15 so long as it doesn't get too far afield, I'd
16 ask you to please indulge the Board,
17 Mr. Trawinski, and answer the question if you
18 know.

19 Go ahead, Mr. Rodriguez. Do you
20 understand the question?

21 THE WITNESS: Repeat the question.

22 MR. HARRIS: I asked you if you've ever
23 been there on a Saturday morning?

24 THE WITNESS: And I said no.

25 MR. HARRIS: Thank you.

C. RODRIGUEZ - 1/20/10

1 Do you know the impact of parking five
2 cars in a row as you are proposing?

3 MR. TRAWINSKI: I'm going to object for an
4 expert to assume a hypothetical. The facts,
5 when they're pending a hypothetical, need to be
6 placed in evidence. There are no facts that
7 there's any impact.

8 MR. RITVO: Mr. Harris, let me help you,
9 Mr. Harris, if I might.

10 Is there any impact to parking five cars
11 as configured from a safety perspective?

12 THE WITNESS: I don't think so.

13 MR. RITVO: That's your answer.

14 MR. HARRIS: Yes. I'm thinking it over.

15 MR. RITVO: Thank you.

16 MR. HARRIS: Do you know whether the
17 building that exists there now meets the codes
18 of a family residence?

19 MR. TRAWINSKI: I'm going to object.
20 Whether or not the construction codes are met
21 are not an issue before this Board. That's a
22 determination for Mr. Melfi to make as the
23 zoning officer and the construction official.

24 MR. RITVO: Mr. Harris, perhaps if you can
25 help the Board where you're going because

C. RODRIGUEZ - 1/20/10

1 Mr. Trawinski is right. The code enforcement
2 is not usually before this Board. So if you
3 think there's something that impacts the zoning
4 that you want to bring out --

5 MR. HARRIS: The reason I'm asking the
6 question, sir, is that as far as I understand
7 it, the building that exists there now, which
8 you're being asked to approve, was built to be
9 supposedly a home.

10 So if it was built to be a home, then I
11 assume it -- I assume, but I don't know, that
12 meets home requirements.

13 MR. RITVO: Let me rephrase the question
14 to help you.

15 Mr. Rodriguez, is there any difference in
16 code requirements for the family room that was
17 built as a residential family room to the code
18 requirements that are required for its proposed
19 use?

20 THE WITNESS: There are code issues that
21 would come into play upon approval. And those
22 are issues that we would take care of and
23 further documentation of the house of worship
24 and the residence. There would have to be a
25 separation wall between the two uses and some

C. RODRIGUEZ - 1/20/10

1 other code issues that we're aware of and we
2 would take care of once we go forward and put
3 that back to the building department.

4 MR. RITVO: Are those other issues in the
5 design presented to this Board?

6 THE WITNESS: No.

7 MR. RITVO: Would there be design changes
8 from that you've presented to this Board?

9 THE WITNESS: It's really upgrading fire
10 separation between the two uses.

11 MR. RITVO: Is there a wall now?

12 THE WITNESS: There's a wall there now.
13 It's been built, permanent, approved and a CO
14 has been issued on the structure as it is
15 today.

16 MR. RITVO: What I'm trying to get to, are
17 you going to make more changes structurally?

18 THE WITNESS: Not structurally. We're
19 going to add Sheetrock to create a fire
20 separation.

21 MR. RITVO: Thank you. Go ahead,
22 Mr. Harris. I'm sorry.

23 MR. HARRIS: I appreciate the help.

24 So you are asking the Board to approve a
25 plan that you have not submitted yet?

C. RODRIGUEZ - 1/20/10

1 MR. TRAWINSKI: I'm going to object.

2 Again, it's not a fact in evidence and it's not

3 what is before this Board.

4 We're asking the Board to approve a plan

5 that is before the Board.

6 MR. HARRIS: Have you submitted --

7 MR. TRAWINSKI: There's an objection

8 standing. I'd ask that the Chair rule on this.

9 MR. RITVO: Mr. Harris, I think he said --

10 Mr. Chairman, if I might -- I think he said

11 that there's no structural changes proposed.

12 There would be more of shoring up and doing

13 things that are already existing.

14 So that's the answer he gave. I don't

15 know if that was clear to you.

16 Does that help with your question?

17 MR. HARRIS: You are asking for a variance

18 for six parking spaces.

19 So my question to you is: Why do you

20 think that this space which has been said to be

21 really quite small, you had said that, why do

22 you think that this space should be approved

23 when 21 spaces are required?

24 MR. TRAWINSKI: I'm going to object to the

25 question. That's beyond the scope of the

C. RODRIGUEZ - 1/20/10

1 purview of this witness. That's a question for
2 a professional planner.

3 MR. RITVO: The planner is going to come,
4 Mr. Harris, next, I think they said. That's a
5 question for him.

6 MR. HARRIS: I have just one question for
7 you, if I may. What is the rule on asking a
8 second round of questions of a particular
9 witness?

10 CHAIRMAN HODGES: For this witness here?

11 MR. HARRIS: Of any witness. Is there a
12 particular rule?

13 CHAIRMAN HODGES: No, there's no rule.

14 MR. HARRIS: Thank you very much.

15 MR. TRAWINSKI: Mr. Chairman, just so the
16 record is clear and somebody in a black robe
17 doesn't think that I was asleep during your
18 response, I actually do think that the
19 Municipal Land Use Law strongly suggests that
20 repetitive questioning should be avoided by a
21 Board.

22 While strict rules of evidence do not
23 apply, and the Chair is correct on that, the
24 courts are quite clear that repetitive issues
25 should not be condoned by a Board.

C. RODRIGUEZ - 1/20/10

1 CHAIRMAN HODGES: What I ruled was that if
2 Mr. Harris comes up with another question that
3 he'd like to ask, he's very well permitted to
4 come up and ask the question.

5 As far as repetitive, I agree with you.
6 We're not going to have the same question asked
7 over and over again. But if a new question
8 comes up, he's welcome as part of the public to
9 ask.

10 MR. TRAWINSKI: That I didn't -- I
11 apologize. I thought I misunderstood the
12 Chair's response.

13 CHAIRMAN HODGES: Any other questions to
14 be asked of the architect? Yes, sir.

15 MR. ROSE: Northumberland Road.

16 Good evening. This is a repetitive
17 question, and I apologize for my outburst --
18 not outburst, but my vocalization earlier. I
19 could not get the information. I'd like it
20 now, if you could use the chart, which should
21 be made available to the public to peruse while
22 you're discussing things, and then perhaps you
23 can also in the answer point to the areas on
24 the chart so we can get an idea and understand
25 this more fully.

C. RODRIGUEZ - 1/20/10

1 My question is also on the parking issue,
2 one phase of the parking issue when it said
3 there are five spaces in a row. Can you please
4 point exactly for me on that document and show
5 it to us and other people watching.

6 MR. TRAWINSKI: Mr. Chairman, with the
7 Board's consent and the Chair's consent, we'd
8 ask for the permission to turn the plan around,
9 face this way in responding to this.

10 MR. ROSE: Thank you.

11 MR. RITVO: But since that hasn't been
12 done for the Board, maybe you should do it both
13 ways.

14 MR. TRAWINSKI: I'm sorry. I thought it
15 was done for the Board in the beginning.
16 That's the reason that we faced the board --
17 we'll do it both ways.

18 MR. RITVO: If you could, to help the
19 Board.

20 MR. TRAWINSKI: Mr. Rodriguez, do you
21 understand? After you do this this way, you're
22 going to turn it around and respond to that.

23 THE WITNESS: We could call this the
24 parking berth all the way over here.

25 MR. TRAWINSKI: Just so the record is

C. RODRIGUEZ - 1/20/10

1 clear, you should indicate that you're
2 referring to A-5, I believe.

3 THE WITNESS: Yes. This is parking berth
4 one and it follows back towards Van Buren.
5 That's parking berth one, two, three, four, and
6 five. And next to parking berth number five is
7 where the handicapped van would be.

8 MR. ROSE: Thank you. Thank you. That
9 clarifies it.

10 MR. TRAWINSKI: Would you turn that around
11 and now show the Board what you did.

12 THE WITNESS: (Witness complies.)

13 This parking berth all the way in here,
14 will be parking berth number one and it will
15 follow back towards Van Buren, that would be
16 two, three, four, five adjacent to Van Buren.
17 And adjacent to that would be the handicapped
18 parking berth.

19 MR. RITVO: And the width of that
20 driveway?

21 THE WITNESS: The width of the driveway is
22 11 feet.

23 MR. RITVO: And the average width of a car
24 is?

25 THE WITNESS: About six and a half.

C. RODRIGUEZ - 1/20/10

1 MR. RITVO: Thank you.

2 MR. ROSE: Just a quick point of

3 information.

4 How do I submit a concern regarding errors

5 in the transcript from the last meeting? Do I

6 do that now, here? Is there an open session

7 where we have --

8 CHAIRMAN HODGES: Tomorrow you can see the

9 clerk. At the end of the meeting, we'll put on

10 the record. How's that?

11 MR. CAMPEAS: Rif Campeas, 258 Griggs

12 Avenue.

13 The five spaces that are on the site, are

14 those in addition to the Rabbi's parking spot?

15 THE WITNESS: It's inclusive of all

16 parking spots.

17 MR. CAMPEAS: So if the Rabbi has a car,

18 that's one less spot?

19 THE WITNESS: The requirement is the

20 residence has two spots. The additional 19

21 spots are for the house of worship.

22 So you could say that the resident is

23 taking care of with the first two spots and

24 then that fourth spot is for the house of

25 worship.

C. RODRIGUEZ - 1/20/10

1 MR. CAMPEAS: So there are only four spots
2 for the house of worship?

3 THE WITNESS: There's six spots total.

4 MR. CAMPEAS: Correct. And if the Rabbi
5 has three cars, then we're talking about
6 whatever the math is, sorry, I can't do it; is
7 that correct?

8 THE WITNESS: The code requirement is that
9 a resident has two parking berths. Some people
10 have more, some people may have less. But the
11 code requirement is two for a residence. The
12 additional spots required are for the house of
13 worship.

14 MR. CAMPEAS: So it would be -- 19 would
15 be -- I'm sorry. The 19 would include the
16 residence too?

17 THE WITNESS: No. The 21 includes the
18 residence.

19 MR. CAMPEAS: Thank you. When this plan
20 was made, other than -- other than the green
21 screen, what accommodations were made for the
22 neighbors in terms of noise?

23 CHAIRMAN HODGES: Sir, this is only the
24 architect. So it would only -- we're only
25 talking structural questions to this person

C. RODRIGUEZ - 1/20/10

1 right now. As far as the noise or anything
2 else would go to the planner.

3 MR. CAMPEAS: Were there any
4 accommodations of any sort done for the
5 neighbors' benefit in your architectural plan?

6 THE WITNESS: We put up the green screen.

7 MR. CAMPEAS: That's it?

8 THE WITNESS: Yes.

9 MR. CAMPEAS: Could I ask a question of
10 the Board?

11 Can we bring, in the future, pictures of
12 the strollers in the driveway on a Saturday?

13 CHAIRMAN HODGES: You can at the end, once
14 all the witnesses have spoken for the
15 applicant, then there's time that everyone can
16 come up and give an opinion, make a statement.

17 And at that time, you can bring any pictures,
18 if you have posters or drawings, you're welcome
19 to bring them in and you can do that during
20 your statement.

21 MR. CAMPEAS: Thank you.

22 MR. WARNER: David Warner, 269 Grove
23 Street, Teaneck, W-A-R-N-E-R.

24 I'm not going to ask about the driveway.
25 I want to ask about the kitchenette.

C. RODRIGUEZ - 1/20/10

1 It's been established conclusively there's
2 no stove in it. And that question was
3 addressed to you.

4 So I am curious as to what equipment will
5 be in it that it should be called a
6 kitchenette?

7 Is there going to be any heating devices?
8 Are they electric, are they gas? Have you made
9 any specific accommodations in terms of extra
10 electrical power, gas lines to that area to
11 accommodate that equipment?

12 THE WITNESS: The kitchen, as I stated
13 earlier, the differentiation between the
14 kitchen and the kitchenette or it not being a
15 kitchen is a stove.

16 In this area, there's going to be a
17 counter, there's going to be a freezer, a
18 refrigerator and a warming box in addition to
19 the counter.

20 MR. WARNER: A warming box is not an oven?

21 THE WITNESS: It's not an oven.

22 MR. WARNER: That warming box, is there
23 any extra safety equipment to accommodate the
24 possibility that warming box may be on for
25 25 hours partially unattended?

C. RODRIGUEZ - 1/20/10

1 THE WITNESS: There's no requirement for
2 that. It's not a fire hazard. It's just like
3 any other plug-in appliance.

4 MR. WARNER: Did it require actual
5 electrical 240-volt outlets or things of that
6 sort?

7 THE WITNESS: All standard electrical and
8 in fact -- there's no gas in there -- but
9 there's all standard electrical plug-in
10 appliances.

11 MR. WARNER: Commercial appliances.

12 THE WITNESS: Not necessarily. It's just
13 not a commercial kitchen. It's a warming
14 kitchen. Some people call it other things.
15 It's not a kitchen. It's not necessarily a
16 commercial appliance. At this point, it's for
17 the resident or the use of warming, the
18 refrigerator and the cooler.

19 MR. WARNER: No sink?

20 THE WITNESS: There's a sink there.

21 MR. WARNER: Thank you.

22 CHAIRMAN HODGES: Mr. Rodriguez, just for
23 clarification not only for myself and people in
24 the public, what exactly is warming box?

25 THE WITNESS: It's almost like, you know,

C. RODRIGUEZ - 1/20/10

1 a -- you know the big bread bins where they
2 keep bread warm. It's something similar to
3 that where it keeps food warm. It's not -- it
4 takes cold food and warms it. It doesn't cook
5 it.

6 It works conceptually somewhat like a
7 microwave, but it is not a microwave. It keeps
8 food warm.

9 MS. BRAHVER-KEELY: Could you give us
10 size, please?

11 THE WITNESS: They vary in size. I don't
12 know exactly.

13 MS. BRAHVER-KEELY: What is the proposed
14 size?

15 THE WITNESS: Maybe they're the size of --
16 little bit smaller than half the size of a
17 regular refrigerator. It's two little doors.
18 It's like maybe what you would call dorm
19 refrigerator. It's something small like that.

20 MS. BRAHVER-KEELY: The size of a stove
21 is -- a stove is 38 inches and about --

22 THE WITNESS: 3 feet tall.

23 MS. BRAHVER-KEELY: Is that how you
24 describe this?

25 THE WITNESS: Approximately, but it

C. RODRIGUEZ - 1/20/10

1 doesn't cook. It just warms.

2 MR. McCLOUD: Ask a question: Do you know
3 the maximum temperature that that warming box
4 will be heated to?

5 THE WITNESS: I do not.

6 MR. McCLOUD: Is there an automatic safety
7 device for turning that off in case it's
8 accidentally left on?

9 THE WITNESS: You'd have to ask the owners
10 of the appliance.

11 MR. McCLOUD: Well, I don't know who the
12 owners of the appliance are. You're the
13 architect who's planning the space.

14 THE WITNESS: Yeah, but I don't specify
15 the exact equipment and the safety features
16 that are required for that equipment. I
17 provided a space and then brought in an outside
18 appliance to plug in.

19 MR. MULLIGAN: But isn't it usual when you
20 draw up a kitchen or kitchenette that you'll --
21 when you lay it out, there's certain
22 professional standards are used, the triangles
23 and different things.

24 You would create a space for, say, a
25 28-cubic-foot refrigerator or a space for a

C. RODRIGUEZ - 1/20/10

1 40-inch stove. You would create --

2 THE WITNESS: It wasn't laid out like
3 that. It wasn't being laid out as a kitchen to
4 have a great use. It was really laid out as a
5 kitchen counter with a sink initially. And
6 then, you know, a freezer and a cooler and the
7 warming box. But that was not part of the
8 original plan.

9 MR. MULLIGAN: Is it fair to assume that
10 we don't know exactly what's in there right
11 now? We know that there's a warming box and
12 there's a refrigerator, but we don't know
13 whether it's a 20-cubic-foot refrigerator or a
14 10-cubic-foot. We don't know the exact size
15 and the capacity of the warming box?

16 THE WITNESS: Yes.

17 MS. BRAHVER-KEELY: Since Mr. Ehrlich is
18 still under oath and knows the property, could
19 you bring up -- testify and explain exactly
20 what we're looking at.

21 MR. TRAWINSKI: If that's acceptable to
22 the Chair and the Board, certainly.

23 CHAIRMAN HODGES: I see no problem with
24 that.

25 We're going to take a break first and then

C. RODRIGUEZ - 1/20/10

1 we'll come back and we'll talk about it.

2 (At 8:13 p.m. a recess was taken.)

3 (At 8:23 p.m. the hearing resumes.)

4 CHAIRMAN HODGES: We're going to start

5 again. Before we get started, I just want

6 to -- Mr. Trawinski and Ms. Brahver-Keely, I

7 just want to reverse my last decision I made,

8 after the break I kind of felt a little better.

9 Instead of having the applicant come up

10 now and explain the warming box, we're going to

11 hold it until he comes back up to give

12 testimony. This way we can have him up one

13 time, everybody can ask questions. Because if

14 I bring him up now, there might be a lot of

15 questions to be asked and then he'll come up

16 again. So we'll just do it all at the same

17 time.

18 So I'm not avoiding the issue of the

19 warming box. All we're going to do is just ask

20 him when he comes up to give his testimony

21 later on during the hearing, okay?

22 Do we have any other questions for the

23 architect from members of the Board?

24 MR. RITVO: I have a question.

25 When I asked Mr. Melfi about the

C. RODRIGUEZ - 1/20/10

1 specifications for the design of parking
2 spaces, he indicated that he didn't see
3 anything in the ordinance with respect to those
4 parking spaces.

5 But I want to read a section to you that I
6 believe is applicable and I want you to know
7 and ask you some questions about it, but I want
8 you to have the benefit of the ordinance.

9 Section 33-18(b)(3). Getting the
10 ordinance?

11 THE WITNESS: Yes.

12 MR. RITVO: These pages are not the same
13 pages as the ordinance. They're blown up. But
14 it's Standards and Specifications 33-18.

15 THE WITNESS: Yes.

16 MR. RITVO: You see (b)(3). A, B and then
17 1, 2, 3.

18 I'm going to read it because the public
19 will be interested anyway and hope it will save
20 time, if that's all right, Mr. Chairman.

21 "With respect to vehicular and pedestrian
22 circulation, including walkways, interior drive
23 to the parking, special attention shall be
24 given to location and number of access points
25 to the streets, public streets, width of

C. RODRIGUEZ - 1/20/10

1 interior drives and access arrangement of
2 parking areas that are safe and convenient and
3 do not detract from the design of proposed
4 buildings and structures of the neighboring
5 property.

6 "Treatment and design of proposed
7 screening shall be shown. All parking spaces
8 shall be usable and safe" -- I think there's a
9 word missing when it reads -- "all parking
10 spaces shall be usable and safely and
11 conveniently arranged.

12 "Access to this site from adjacent roads
13 shall be designed so as to interfere as little
14 as possible with traffic flow on those roads
15 and to permit vehicles a rapid and safe ingress
16 and egress to the site."

17 I think that's the essence of that
18 paragraph as it relates to this.

19 So I would like to ask first of
20 Mr. Trawinski whether or not there's a request
21 for a waiver? These are site standards. So I
22 assume it's a waiver of the site standards.

23 MR. TRAWINSKI: If the Board determines
24 one is necessary, we've published with the
25 catchall, and it's in there.

C. RODRIGUEZ - 1/20/10

1 MR. RITVO: Now, secondly, I'd like you to
2 please, Mr. Rodriguez, to speak to the
3 requirements of that section or take a minute
4 to reread it.

5 THE WITNESS: (Witness complies.)

6 MR. RITVO: Okay?

7 THE WITNESS: Yes.

8 MR. RITVO: Okay. So I think the
9 operative concern of the Board, at least I
10 would direct you that -- safe, usable and
11 conveniently arranged access to the site from
12 adjacent roads so as not to interfere as little
13 as possible traffic flow, permit a rapid and
14 safe ingress and egress to the site.

15 Those seem to be operative phrases and
16 tell us how that can be done with the design.

17 THE WITNESS: Well, by reading this, I
18 think it's more about how you get into the site
19 from the street, not what happens once you're
20 on the site.

21 It seems that rapid ingress and egress
22 from the street, I think we have that with our
23 apron and our access to the street for backing
24 out or pulling in. It doesn't necessarily say
25 the configuration of the parking within the

C. RODRIGUEZ - 1/20/10

1 site, from my reading.

2 MR. RITVO: "Safely and conveniently
3 arranged." I know I've sprung this on you and
4 if you want to take a couple of minutes to
5 think about it, I'm not trying to -- the Board,
6 I'm sure, would like an answer if you've had a
7 chance to consider. So if you need a little
8 more time, I want you to know the Board will
9 give you the opportunity. But it's an issue
10 that should be addressed.

11 Do you want to wait a little while and
12 then come back or if you're ready, I'm not
13 trying to stop you.

14 THE WITNESS: I mean, do I think they're
15 safely and conveniently arranged? I do.
16 They're stacked one in front of the other.
17 It's not a chaotic configuration of the parking
18 berths.

19 There's a clear delineation of where you
20 park relative to the car in front of you. And
21 you're always going in first and then parking
22 behind that car. If it was a chaotic or
23 haphazard parking configuration, I would agree,
24 would potentially be an issue. This, although
25 it may be unusual, it's not unsafe.

C. RODRIGUEZ - 1/20/10

1 MR. MULLIGAN: The question I think "cars
2 parked in line," I think that screams safety
3 issue and I also think it's screams convenience
4 issue.

5 THE WITNESS: Well, you know, if you were
6 to go to a parking lot, if you took away the
7 middle spot of those five, that's typically the
8 way you park in a normal parking lot.

9 MR. MULLIGAN: But if you go into a
10 parking lot and they park them like that, the
11 cars have the keys left in them for fire safety
12 reasons and there's an attendant there in the
13 event of an emergency, he starts moving cars
14 out.

15 THE WITNESS: I'm saying if you go to a
16 normal parking lot, you have an aisle, you have
17 a car here and then another car and then
18 there's an aisle on the other side. It's
19 typical to have two cars where the bumpers
20 could be touching each other.

21 The only thing that makes this more
22 atypical, there's no aisleway in the middle and
23 there's a --

24 MR. MULLIGAN: But in the parking lot that
25 you're referencing. The two cars that are

C. RODRIGUEZ - 1/20/10

1 touching bumpers are generally facing each
2 other and each one can exit without waiting for
3 the other one because they back out of the
4 space.

5 So you're talking about creating a parking
6 lot where in order for vehicle number two to
7 exit the vehicle behind it has to leave first.

8 THE WITNESS: Exactly.

9 MR. MULLIGAN: And the first vehicle in
10 line, the first one that pulls in can't leave
11 until the other two. I don't think that's
12 safely, and I don't think that's convenient.

13 THE WITNESS: Okay.

14 MS. BRAHVER-KEELY: Obviously the Board is
15 struggling with squeezing six cars in there, so
16 I have a suggestion which may or may not work.

17 Can we have a determination by the police
18 department and fire department if this is
19 considered safe parking, easy egress and --

20 MR. TRAWINSKI: Actually, Mr. Chairman, I
21 was going to ask the Board, with due deference
22 to your question, and certainly we'll proceed
23 to do that, take notice of its engineer's own
24 report, starting with the engineer's report of
25 August 11, 2009.

C. RODRIGUEZ - 1/20/10

1 In paragraph four, where your engineer,
2 Mr. Lorenz, on behalf of Schwanewede Hals
3 Engineering, points out to Mr. McKearnin,
4 township engineer, that, quote, while the
5 parking configuration is unconventional, given
6 the proposed use, it should be acceptable.

7 MS. BRAHVER-KEELY: That's the engineer.
8 I would like the opinion of the police and fire
9 department.

10 MR. TRAWINSKI: I have that one too for
11 you, Madam Board member.

12 The police department, Chief Wilson, in a
13 memo to Chief Wilson from Lieutenant Robert
14 Karney, dated September 10, 2009, which I would
15 also ask the Board to take notice of, does not
16 say that they're unsafe. What Lieutenant
17 Karney says is, "proposed plans" -- in third
18 paragraph. I'm only quoting from it, not the
19 entire -- this is the second.

20 The proposed plans indicate the five
21 parking spaces and one handicapped space will
22 be provided. However, the five spaces proposed
23 are stacked parking spaces, which is less than
24 desirable as congregants would most likely
25 utilize on-street parking so as not to be

C. RODRIGUEZ - 1/20/10

1 blocked in. There's no statement there that
2 it's unsafe either.

3 The Board is free to go ahead and inquire
4 of that; however, I would also respectfully
5 submit to the Board, based upon my knowledge of
6 the application of the parking standards by
7 Mr. Gluck and the municipality of Teaneck, that
8 Teaneck historically has not prohibited stacked
9 parking. And to discriminate against this
10 applicant in that regard would be a violation
11 of RLUIPA.

12 MS. BRAHVER-KEELY: We don't discriminate.
13 We just try to get to safety and all that.

14 In that same letter where it says that the
15 parking configuration is unconventional, given
16 the proposed use it should be acceptable, the
17 line before that says the number of parked cars
18 should be shown as five. Handicapped spaces
19 may not be included in the count.

20 How did we come up with six?

21 MR. TRAWINSKI: I believe that was
22 reviewed with Mr. Schwanewede, but I'm not
23 positive, and that it was agreed that six was
24 the total number -- five plus the one
25 handicapped.

C. RODRIGUEZ - 1/20/10

1 MR. RITVO: I can tell the Board this,
2 that after the adoption of the residential site
3 improvement standards, which includes
4 handicapped parking spaces, in the parking
5 count that typically the construction office
6 has not differentiated between handicapped
7 parking spaces and regular parking spaces.

8 This application, as you've heard, is kind
9 of a hybrid. There are two parking spaces
10 allotted for the residence and so it's kind of
11 a in-between kind of issue, but I will be
12 prepared, if the Board wishes, to advise you on
13 that when you reach the deliberative phase or
14 along the way.

15 But I think that's the genesis of why
16 there's confusion in some of the review.

17 Under the old, traditional township
18 ordinance, handicapped parking spaces were not
19 included in the parking count of required
20 parking spaces.

21 When the residential site improvement
22 standards were adopted, that changed somewhat
23 because the residential site improvement
24 standards, which applies to residences,
25 multiple-family and single family, indicate

C. RODRIGUEZ - 1/20/10

1 that handicapped spots are included and they
2 supersede township ordinance.

3 So that's kind of some confusion created
4 by this case because it's a amalgam of both
5 residence and other use. It's kind of unclear,
6 but I will -- I think I need to look at that
7 and advise you.

8 CHAIRMAN HODGES: Any other questions from
9 members of the Board?

10 Any other questions of members of the
11 public? Yes, sir.

12 MR. HUMS: Jeff Hums, H-U-M-S, 261 Teaneck
13 Road.

14 Since we're on safety, looking at the
15 chart here marked A-5, I believe, the blue area
16 is the sanctuary, correct?

17 THE WITNESS: Yes.

18 MR. HUMS: There's two exits. One in the
19 front, one in the back, correct? Marked on
20 there.

21 THE WITNESS: There's two exits. I don't
22 know that you would say one in the front, one
23 in the back. One faces Queen Anne Road and one
24 faces Van Buren.

25 MR. HUMS: That's the one facing Van

C. RODRIGUEZ - 1/20/10

1 Buren?

2 THE WITNESS: Yes.

3 MR. HUMS: If there were strollers and if
4 these strollers magically appeared and were
5 stored in the vestibule, if there was an
6 incident that blocks somehow that front exit
7 for people getting out of the exit, would that
8 stroller cause potential safety issue?

9 THE WITNESS: I think it depends on how
10 people, you know, respect forms of egress
11 access. There's a whole large closet over
12 there that's probably ten and a half feet wide
13 where strollers could also be placed. I don't
14 know necessarily it would be a hazard or
15 potential blocking of the egress. I would hope
16 that people who are going to use the space
17 would not put strollers in front of an access
18 path to get out.

19 MR. HUMS: We can't guarantee that. They
20 could use the closet, may not use the closet.

21 Also going with the safety issue, going
22 back to the cars parked along the side to the
23 safety, getting in and out safely, let's say
24 the last car that's facing closest to the
25 driveway, we'll call it car number five. Car

C. RODRIGUEZ - 1/20/10

1 number five is parked there.

2 God forbid there was an incident, a person
3 for car number five was incapacitated,
4 everybody ran out, how would we get the other
5 cars out?

6 THE WITNESS: I'm not the person to ask
7 that question.

8 MR. HUMS: Do you see that as a potential
9 safety issue?

10 THE WITNESS: It could be a potential
11 safety issue. I'm not an expert to tell you
12 how to extricate cars from a potential
13 hazardous situation.

14 MR. HUMS: But if that did happen, it
15 would definitely slow down some rescue --

16 THE WITNESS: In that vein, they're
17 potentially many, many issues. But I can't
18 answer that question specifically.

19 MR. HUMS: Thank you.

20 CHAIRMAN HODGES: Any other questions?

21 Just so we can make this a little quicker,
22 anybody wants to ask a question, get a little
23 closer. This way we can get you up and down
24 quicker.

25 MR. ANDREA: Gerald Andrea, 255 Van Buren

C. RODRIGUEZ - 1/20/10

1 Avenue, A-N-D-R-E-A.

2 Was there ever any regard to the close
3 proximity to the living room, to the bedrooms
4 of the house right next door where I live?

5 THE WITNESS: I'm not sure. Can you --
6 I'm not sure I understand the question.

7 MR. ANDREA: The house just right next
8 door to the driveway and the entrance to the
9 establishment to the -- was there ever any
10 consideration for the fact that that house,
11 which is right on the border, the windows to
12 the bedrooms and the living room are right
13 there. In your own experience as a homeowner
14 or whatever you saw --

15 THE WITNESS: I think maybe to answer your
16 question, the town prescribes setbacks to
17 create distances between residences.

18 So yes, we did respect that. Because we
19 didn't seek a variance for side yard or rear
20 yard or any other setbacks.

21 So in answer to your question yes, we did.
22 We followed the guidelines that are established
23 by Teaneck for the buildable area.

24 MR. ANDREA: Did the question ever come up
25 regarding all of the space on the Queen Anne

C. RODRIGUEZ - 1/20/10

1 side? There's a large huge lawn, large area as
2 opposed to everything being crammed into one
3 little area -- I mean, those are my words, I
4 know -- one little area that abuts right up
5 against a residential home.

6 THE WITNESS: Well, it was designed as a
7 residence, so it was consistent with the
8 residential neighborhood.

9 The second thing is when you look at that
10 development -- when you look at the
11 development, the way it was constructed, there
12 may be a 17- or 18-foot piece from Van Buren
13 that's visible and from Queen Anne Road,
14 there's only about 5 feet that it'll increase
15 into the side yard setback.

16 So the visual appearance of the structure
17 is minimized even though it's 16, 17, 1800
18 square feet. It's a very small profile or mass
19 that was introduced to the site lines from
20 either one of those two streets.

21 MR. ANDREA: But did you ever project in
22 your plan the people living in that living room
23 and sleeping in those bedrooms being right --
24 abutting right up against where traffic,
25 parking places are crammed into a small area?

C. RODRIGUEZ - 1/20/10

1 Did you ever --

2 THE WITNESS: We didn't create any
3 bedrooms.

4 MR. ANDREA: No, I'm talking about my
5 bedrooms.

6 THE WITNESS: Oh, I don't know about your
7 house configuration. I was never in your
8 house.

9 MR. ANDREA: You don't have to be. I have
10 pictures I can show you from my living room and
11 the bedroom and the area right outside of that
12 window.

13 Well, I'm trying keep it in the form of a
14 question. I don't want to get into the golden
15 rule or any of that.

16 As an architect, as a creative person, did
17 you ever use your own imagination as to the
18 people living next door, regardless of whether
19 you had to follow rules or not? This is kind
20 of a personal question.

21 THE WITNESS: And I just don't understand
22 your question.

23 MR. ANDREA: I have to put it in a
24 question.

25 Can you imagine living in a living room or

C. RODRIGUEZ - 1/20/10

1 sleeping in a bedroom that's right on an
2 entrance to a place that's going to have
3 traffic from residents of the neighborhood
4 going in and out on a regular basis? Could you
5 imagine that?

6 THE WITNESS: We know a group of
7 townhouses are like that all the time. A
8 townhouse development is even closer to the
9 property --

10 MR. ANDREA: Oh, I disagree with that.

11 MR. RITVO: Mr. Andrea, I think you've
12 made your point. The Board understands your
13 concern. I think the Board understands that
14 you're concerned about how it impacts on you.

15 MR. ANDREA: I think that's all.

16 MR. RITVO: Thank you, sir.

17 CHAIRMAN HODGES: Any other questions of
18 this witness?

19 MS. ABBOTT: Point of order.

20 If somebody is a member of the
21 congregation, are they not represented by
22 counsel and can they ask questions?

23 MR. KAHN: Larry Kahn. I'm not a member
24 of the congregation.

25 MR. RITVO: Mr. Kahn, before you say

C. RODRIGUEZ - 1/20/10

1 anything.

2 I just want to respond to the question

3 because it's one that comes up all the time.

4 The Board's bylaws provide that if someone

5 is represented individually or in a group, that

6 the lawyer should take care of all questions

7 and comments.

8 And so I'm not going to -- I don't

9 think -- the Board doesn't ask everybody if

10 they are or not. But it's assumed that if

11 someone comes up here, they're not represented

12 by counsel.

13 MR. KAHN: Larry Kahn, 272 Schley Place.

14 K-A-H-N. Just my notes on this. It's not any

15 disrespect to the Board. I have one question

16 for the Board, for Mr. Ritvo specific, and one

17 question for the witness here.

18 The parking guidelines that you referenced

19 earlier, are those guidelines that apply to

20 residential properties?

21 MR. RITVO: This is a site plan

22 application, so it applies to the site plan.

23 Those are site plan guidelines. The

24 application on a house of worship has to have a

25 site plan.

C. RODRIGUEZ - 1/20/10

1 So, yes, they apply to this property
2 because it's a house of worship and it requires
3 a site plan.

4 MR. KAHN: Okay. And as to Mr. Rodriguez,
5 were there any provisions designed into the
6 kitchenette area for additional power, say,
7 above a standard 115 volt, 15 amp circuit which
8 is what you have for any lamp or table radio or
9 small appliance?

10 THE WITNESS: No.

11 MR. KAHN: Were there any additional lines
12 for gas service or anything --

13 THE WITNESS: No.

14 MR. KAHN: -- to that effect?

15 THE WITNESS: No.

16 MR. KAHN: Thank you.

17 MR. KINLOCH: James Kinloch, 73 Shepard
18 Avenue.

19 Going back to the parking. The architect
20 said that you're required to have two spots for
21 the house and 19 spots for the house of
22 worship. That's 21 spots.

23 Could you please tell me where the 21
24 spots are total? If the parking is only going
25 to have six spots --

C. RODRIGUEZ - 1/20/10

1 CHAIRMAN HODGES: Sir, what happened here
2 was that they've explained that they've made
3 room for six spots. They're asking for a
4 variance for the other 15, that means the code
5 of Teaneck says there should be 21 spots there.
6 They're asking for a waiver. That's why
7 they're here. They appear here to ask for a
8 variance.

9 And after listening to all the information
10 that we listen to, then we make a decision on
11 whether we grant the variance and say that's
12 fine you can only have six spots or we deny it
13 and then they have to get 21 spots before they
14 can --

15 MR. KINLOCH: My question is where would
16 the others --

17 CHAIRMAN HODGES: He doesn't have to at
18 this point.

19 MR. KINLOCH: Where would they be located?

20 CHAIRMAN HODGES: This is the point. He's
21 asking for a variance; he's asking for a waiver
22 of it.

23 MR. KINLOCH: Six spots is just -- even if
24 you gave him the variance, six spots still
25 isn't going to be enough though.

C. RODRIGUEZ - 1/20/10

1 CHAIRMAN HODGES: He's asking for a
2 variance. He doesn't have to show any other
3 spots.

4 MR. KINLOCH: None at all?

5 CHAIRMAN HODGES: Right. He says he has
6 six spots. He's asking us to say -- give us a
7 break and waive it and -- down to six from 21.

8 MR. KINLOCH: I could understand if it was
9 maybe two spots or three spots. But that's a
10 big difference. You have to consider --

11 CHAIRMAN HODGES: Wait, wait. You cannot
12 come up here and make statements.

13 MR. KINLOCH: I'm not making a statement.

14 CHAIRMAN HODGES: Yes, you are making a
15 statement. Only at this time we're asking you
16 just to ask a question.

17 Later on when everybody has testified, you
18 can come up and say in my opinion, I don't
19 think six is enough, that's up to you. You can
20 say that. I'm not stopping you from saying it.

21 But at this point right now, you're not
22 sworn in or anything. We kept it to just
23 questions; we have to keep it at questions.

24 MR. KINLOCH: The question would be then
25 when you first designed the house, how many

C. RODRIGUEZ - 1/20/10

1 spots did you design for? That would be a
2 question.

3 CHAIRMAN HODGES: That's his answer. He
4 designed for six.

5 MR. KINLOCH: Okay. He just answered the
6 question. I'm just asking again. That's all.

7 CHAIRMAN HODGES: You know what? There's
8 a lot of people here, a lot of people want to
9 hear this application and I'm not trying to be
10 rude to you --

11 MR. KINLOCH: I wasn't here from the last
12 one.

13 CHAIRMAN HODGES: Can't have people coming
14 up asking questions over and over.

15 MR. KINLOCH: I wasn't here for first one.

16 CHAIRMAN HODGES: He testified they have
17 six.

18 MR. KINLOCH: That's it.

19 CHAIRMAN HODGES: Six and six. Do you
20 have another questions?

21 MR. KINLOCH: I'll come up later when we
22 have open questions.

23 CHAIRMAN HODGES: Good. Anybody else have
24 any questions of this applicant? Seeing none.

25 MR. TRAWINSKI: I'd like to call Michael

M. KAUKER - 1/20/10

1 Kauker, our planner.

2 MR. RITVO: Mr. Kauker, identify yourself

3 for the record spelling your last name.

4 MR. KAUKER: Michael F. Kauker,

5 K-A-U-K-E-R. Business address is 356 Franklin

6 Avenue, Wyckoff, New Jersey.

7 M I C H A E L K A U K E R,

8 called as a witness, having been first duly sworn,

9 was examined and testified as follows:

10 MR. RITVO: Mr. Kauker has been qualified

11 as a planner before boards in the township and

12 in other boards.

13 Anyone have any questions with respect to

14 Mr. Kauker's qualifications, an expert in field

15 of planning only?

16 Seeing none, I would recommend Mr. Kauker

17 as an expert as a planner.

18 MR. TRAWINSKI: Mr. Chairman, may I mark

19 as an exhibit Mr. Kauker's report, please?

20 CHAIRMAN HODGES: Yes.

21 MR. TRAWINSKI: There are sufficient

22 copies for distribution to the Board.

23 MR. RITVO: If there are extra,

24 Mr. Chairman, I would recommend we put them out

25 so the public can look through.

M. KAUKER - 1/20/10

1 This will be A-6, I believe.

2 CHAIRMAN HODGES: Yes.

3 (Exhibit A-6 was received and marked for
4 identification, as of this date.)

5 MR. TRAWINSKI: Mr. Ritvo, I'm not sure we
6 identified it for the record.

7 MR. RITVO: The report is entitled
8 "Planning and Zoning Analysis, Block 2409,
9 Lot 8, Teaneck, New Jersey," dated
10 November 23rd, 2009, is on the heading of
11 Kauker & Kauker. A-6.

12 MR. TRAWINSKI: Before going into
13 Mr. Kauker's report, I am prepared to present
14 testimony that the use of a house of worship
15 has been deemed by our courts as an inherently
16 beneficial use.

17 I know that this Board has heard many
18 applications relating -- I'm sorry, Mr. Ritvo,
19 I don't mean to --

20 MR. RITVO: Yeah, let me stop you.

21 This Board has repeatedly been -- had
22 these applications and is familiar with the
23 law. And I have advised the Board and the
24 Board has made findings on many, many occasions
25 that all houses of worship are inherently

M. KAUKER - 1/20/10

1 beneficial use as described by the statute and
2 case law.

3 And I would recommend to the Board that
4 they not have to hear that testimony again, as
5 it's an established law, if the Board so
6 wishes.

7 CHAIRMAN HODGES: Yes. Let's proceed.

8 MR. TRAWINSKI: Thank you, Mr. Ritvo,
9 Mr. Chairman.

10 EXAMINATION BY

11 MR. TRAWINSKI:

12 Q. Mr. Kauker, you're familiar with the site
13 and the surrounding neighborhood?

14 A. Yes, I am.

15 Q. And you're the planner who prepared, at
16 the applicant's request, a planning and zoning
17 analysis for the property commonly known as
18 554 Queen Anne Road?

19 A. Yes, I've prepared that report.

20 Q. Would you describe the report for the
21 Board and provide the basis for your findings and
22 conclusions.

23 A. The report basically presents and
24 identifies the nature of the variances that we are
25 seeking before the Board. It also presents the

M. KAUKER - 1/20/10

1 backdrop as to the nature of the proposal that gives
2 rise to those variances and identifies and discusses
3 the location, the size of the property, surrounding
4 conditions, which are solely residential, the nature
5 consistent with the requirements of the RS, which is
6 residential single-family zone, wherein this
7 particular property lies.

8 Houses of religious worship, as this Board
9 is very well aware, are permitted as a conditional
10 use within the township of Teaneck. To the best of
11 my knowledge, houses of religious worship are not
12 permitted as a matter of right in any of the zones
13 that exist within the Township of Teaneck. Teaneck
14 has chosen to give rise to the opportunity for
15 religious facilities through the conditional use
16 process.

17 Conditional use allows -- is provided in
18 the ordinance with regard to the RS zone which
19 essentially permits houses of religious worship on
20 lots no less than one-half acre in area. For
21 simplicity sake, we could call about half-acre --
22 half a builder's acre, 20,000 square feet.

23 By reference, houses of worship are also
24 allowed as conditional uses in the RM, which is a
25 residential multiple-family zone, which essentially,

M. KAUKER - 1/20/10

1 I believe, exists in only one particular location
2 within the township.

3 The RS zone is the sole single-family zone
4 within the main zones existing within the township.
5 And it essentially covers at least 90 percent of the
6 total area of the township that gives rise and
7 supports and provides residential facilities for the
8 bulk, the greater bulk of the population of Teaneck.

9 If you look at a zoning map, many of the
10 properties that have been platted and developed,
11 fully developed, will accommodate single-family
12 homes within the RS zone are typically consistent
13 with the minimum lot area requirement of 7500 square
14 feet. That is the dominant lot size that exists
15 throughout the township.

16 One of the specific variances that we are
17 requesting your consideration for is for the
18 deviation from the minimum lot area requirement for
19 houses of religious worship from the
20 20,000-square-foot lot area requirement. The
21 subject property in question is larger than most of
22 the single-family platted lots within the RS zone,
23 pretty much at the minimum requirements, 7500 square
24 feet. The subject property has a lot area of 14,300
25 square feet.

M. KAUKER - 1/20/10

1 So it's somewhere placed between the
2 optimum, minimum lot area requirement to accommodate
3 religious houses of worship and the minimum lot area
4 of 7500 square feet to accommodate a single-family
5 home.

6 The deviation from that particular
7 requirement needs to be addressed with regard to the
8 criteria and precepts set forth in a case called
9 Coventry Square vs. Westwood.

10 MR. RITVO: We're familiar with the
11 Coventry Square vs. Westwood.

12 For the public's edification, if I could
13 do it real quick, I don't mean to cut you
14 short, but if you were going to go over it,
15 Coventry Square said that when there's a
16 conditional use, it is a permitted use. And as
17 such, the Board has to look to the nature of
18 the use, whether conditions can be imposed on
19 that use to ameliorate any negatives -- what
20 are the negatives and then balance and weigh
21 the negatives versus conditions that could be
22 placed upon it.

23 I don't mean to rush -- take your thunder
24 away from you, Mr. Kauker. The Board has heard
25 that testimony many, many times.

M. KAUKER - 1/20/10

1 THE WITNESS: Thank you, Mr. Ritvo.

2 You're saving my voice.

3 A. The principal test that needs to be
4 addressed within the framework of the Coventry case
5 deemphasizes the positive special reasons criteria
6 and places the greater burden of the proofs on the
7 negative criteria aspect.

8 There are two prongs for that negative
9 criteria. The first is that we must provide enough
10 evidence to the Board to enable them to conclude
11 that there will be no substantial detriment to the
12 public good. And the concentration and the focus is
13 on the surrounding residential neighborhood.

14 We must also show that in order to deviate
15 from that standard within the framework of our
16 proposal, that there will be no substantial impact
17 on the intent and purpose of the zone plan.

18 In addition, the last remaining test is
19 that given the grant of the variance, we must answer
20 the question as to whether or not within the
21 framework of that grant that this site remains
22 appropriate to accommodate the proposed use.

23 Respectfully observe to the Board and
24 submit that is my opinion that the site indeed,
25 number one, is appropriate to accommodate the use;

M. KAUKER - 1/20/10

1 and number two, within the framework of its
2 14,300-square-foot lot area, it remains appropriate
3 to accommodate the use of a religious house of
4 worship because the scale of the home and the
5 religious house of worship that we propose is
6 proportionately smaller than that which you would
7 have on an optimum 20,000-square-foot lot area.

8 And in submitting the evidence to support
9 that opinion, I make the observation to the Board
10 that the structure that's proposed on the property
11 is well within the maximum building coverage
12 requirement within your ordinance.

13 As a matter of fact, the coverage
14 requirement for houses of worship is 30 percent, and
15 we show a total coverage of 22.2 percent, which is
16 7.73 percent less than the maximum required
17 coverage.

18 The total maximum impervious coverage set
19 forth is 35 percent, and we show a coverage
20 calculated at 33 percent, 2 percent lower than the
21 maximum.

22 So respectfully, given the consideration
23 of the grant of the lot area reduction request that
24 we have before you, the proportionately reduced size
25 of this facility in concert with the residence of

M. KAUKER - 1/20/10

1 the Rabbi, presents a compliant physical build
2 situation, which in fact is -- meets your ordinance
3 requirements and therefore does not pose a negative
4 effect on the surrounding area.

5 Not only do we meet the area covenant
6 requirements, but we also meet and exceed the
7 setback requirements.

8 Essentially, this application represents a
9 situation whereby they're, in fact, based upon what
10 is now on the site is there is no proposal to
11 increase the amount of building now on the site as
12 compared to what effectively is present on that
13 site. We do obviously propose to increase the
14 amount of parking on the site and, as documented,
15 the nature of visitations to the site which would be
16 generated by a religious house of worship.

17 The next major aspect of my testimony
18 deals with the deviation from the maximum or minimum
19 required parking that is essentially required for
20 house of worship which is set at one space per
21 hundred square feet for the first 3,000 square feet
22 of assembly area. Our assembly area total is
23 1900 square feet, and obviously that gives rise to
24 the 19 spaces that's required with two for the
25 residence.

M. KAUKER - 1/20/10

1 This Board, in my opinion, can consider a
2 grant of that particular deviation from the
3 ordinance for the following reasons:

4 Firstly, the application that's before you
5 is a very unique one. It proposes a special kind of
6 order of a synagogue which is Orthodox in nature,
7 which, effectively, substantial activity generated
8 by Wednesday, presence on the site; and Friday,
9 Saturday services does not need the required parking
10 because the participants and the members of the
11 synagogue essentially, as matter of precept and
12 practice, walk to the facility.

13 It was made known by Mr.~Ehrlich in his
14 base testimony, which occurred a couple of months
15 ago, that there may be certain types of activities
16 which are -- such as a bar mitzvah -- are the
17 subject of visitations and actions to the site by
18 others than members of the congregation. They
19 certainly would not be bound by that precept of
20 walking to this particular property.

21 There were mitigating measures and
22 proposals set forth whereby there would be backup
23 parking facilities proposed to accommodate those
24 periodic, from time to time, minimal visitations to
25 the site which are beyond the ambit of the normal

M. KAUKER - 1/20/10

1 week-to-week pattern of activity and utilization

2 that's proposed before you.

3 Respectfully observe that given the grant

4 of that variance that, in fact, there wouldn't be a

5 minimized impact on surrounding neighborhood for the

6 following reasons:

7 Firstly, I believe that the six spaces, as

8 shown, notwithstanding is the fact that they're

9 stacked, can adequately accommodate visitations to

10 the facility during the norm of operation of this

11 particular religious facility because it is

12 Orthodox, and I think that has a unique redeeming

13 aspect of this application that enables this Board

14 to consider such a substantial variance.

15 There are some other unique aspects to

16 this application, and I'd like to place on the

17 record, which further serve to mitigate and minimize

18 impact on surrounding area.

19 Firstly, if we had 21 spaces on this site,

20 there would be a greater aggregation and impact due

21 to cars coming and going at the point in time when

22 there would be services.

23 Secondly, it is well known that a

24 substantial portion of this -- of this structure is

25 occupied by the Rabbi's residence. In that context,

M. KAUKER - 1/20/10

1 the dual use of this site. It further reduces the
2 scale and size of a congregation or a religious
3 facility that could be accommodated on the site of
4 this nature.

5 For instance, if the Rabbi lived off site
6 and the entirety of the facility were proposed as a
7 religious facility within the framework of the bulk
8 requirements of the ordinance, it would certainly
9 have a larger scale of operation on the site.

10 In this particular neighborhood, I believe
11 that the breakdown scale and the minimization of the
12 scale and size of the religious facility proposed
13 is -- actually softens any potential impacts. I
14 believe from the scheduled times that the facility
15 is utilized by individuals outside the congregation
16 for special events, that the alternate parking
17 proffered by Mr. Ehrlich in his testimony can
18 adequately address the need for that additional
19 parking.

20 As a matter of record, obviously we're
21 asking for a substantial deviation from the parking
22 requirement of 15 spaces. That's not certainly to
23 be taken lightly, but I firmly believe that in the
24 framework of this particular application, given the
25 nature -- unique nature of the use that this Board

M. KAUKER - 1/20/10

1 could consider the grant of that particular variance
2 without, number one, substantial impact on the
3 intent and purpose of the zone plan and without
4 substantial impact on the surrounding residents in
5 the neighborhood.

6 We also, in terms of a third prong that's
7 required under this particular case, Coventry, we
8 have to reconcile this deviation with the
9 appropriateness of the ordinance that requires
10 similar kind of parking throughout the township for
11 religious facilities. And I think we essentially
12 meet that requirement by virtue of the fact that
13 this is indeed a unique situation which effectively
14 does not produce the need for parking that other
15 types of religious facilities would produce.

16 There is another plight to this
17 application that relates to the reality of the fact
18 that we are an inherently beneficial use. And to
19 that extent, a second set of proofs could apply to
20 this application as it relates to the precepts set
21 forth in the Sica case. Although wrongly, it's been
22 my practice that Sica typically applies to
23 inherently beneficial uses for which a deed one
24 variance is proposed, but to the extent that this
25 Board believes that Sica is appropriate in this

M. KAUKER - 1/20/10

1 particular situation, I believe we meet the

2 four-part test of Sica. Firstly --

3 MR. RITVO: This Board is also very
4 familiar with Sica as it applies in houses of
5 worship. Summarizing for the audience, if I
6 may, will help move you along, you must first
7 identify inherently beneficial use and the
8 nature of it. You must then identify the
9 negatives. You must then determine what
10 conditions can be applied, and finally
11 balancing -- recognizing the inherently
12 beneficial use against the negatives.

13 This Board has done it many times. It has
14 applied Sica to all variances associated, not
15 necessarily with one, though the Sica case was
16 one as applied to houses of worship. I believe
17 applies uniformity. The Board understands
18 that. The audience now understands it.

19 Why don't you just give us the criteria,
20 go through Sica, if you would, briefly. The
21 Board has heard this before.

22 THE WITNESS: I will be very brief.

23 MR. RITVO: Thank you.

24 A. I believe we meet the requirement of
25 identifying the public interest at stake because we

M. KAUKER - 1/20/10

1 provide a socially and societal benefit by virtue of
2 proposing a religious house of worship on the
3 property.

4 With regard to the identification of any
5 impacts associated with the application, I believe
6 the site plan, as designed, firstly, can work
7 safely. I believe that the buffer, as proposed,
8 between two properties is reasonable and sufficient
9 and meets your ordinance.

10 I also believe that the parking situation
11 can work within reason because it is, in fact, a
12 managed parking situation. There's no question that
13 it presents a management challenge because these
14 parking spaces are not designed as typical parking
15 spaces are, with individual access, but they're
16 certainly stacked in line.

17 The Board certainly can request any other
18 mitigating measures associated with the proper use
19 of this property over the long term as certainly
20 relates to a reasonable understanding and control of
21 the special events. They need to be assured that
22 the off-site parking that we propose is rationale
23 and dependable.

24 So those are examples of mitigating
25 measures that this Board -- that this applicant is

M. KAUKER - 1/20/10

1 aware of and that this Board has full latitude to
2 impose upon the applicant.

3 The fourth plight relates to the balancing
4 of the positive aspects of this application and the
5 negative impacts. And I certainly believe that the
6 ability of this particular property in this section
7 of the Township of Teaneck presents a reasonable use
8 of the site consistent with your bulk requirements
9 and one that will not have a negative impact on
10 surrounding residents.

11 The nature of the use of this facility is
12 not constant. Rather we're not talking about an
13 eight-hour operation, such as you would with a
14 commercial facility. And I think the reality of the
15 extremely limited presence of a religious facility
16 on this site by virtue of the nature of the
17 services, the incidents of the services, I believe
18 is a real factor that relates to minimization of
19 impacts that is worthy of the Board's consideration.

20 That concludes my observations with regard
21 to Sica.

22 Q. Just a couple of questions.

23 Based upon the facts in evidence and based
24 upon your experience as a licensed professional
25 planner and your expertise, are you of the opinion

M. KAUKER - 1/20/10

1 that the statutory criteria in the Municipal Land
2 Use Law at NJSA 40:55D-70, d(1) and d(3) are
3 satisfied in this record?

4 A. Yes, I firmly believe that they have been
5 addressed in a positive and documental way.

6 Q. And the same question with respect to the
7 negative criteria under 40:55D-70D.

8 Is it your opinion that the negative
9 criteria both as to substantial detriment to the
10 public good and as to a substantial impairment of
11 the intent and purpose of the zone plan and zone
12 scheme have been satisfied in that the proper
13 application of the Sica balance test and given the
14 nature of the use would otherwise satisfy those
15 criteria?

16 A. I believe those criteria have been
17 satisfied, particularly keeping in mind that the
18 impacts that would give rise to a denial of this
19 application must be substantial in nature.

20 MR. TRAWINSKI: Mr. Chairman, members of
21 the Board, I do not have any other questions.

22 CHAIRMAN HODGES: Are there any questions
23 of the members of the Board?

24 MR. MULLIGAN: Yes. Couple of questions
25 for you, all kind of directed at the parking.

M. KAUKER - 1/20/10

1 With the stacked parking, and I know
2 you're slightly under with your coverage, I
3 personally would be more comfortable if you
4 built a parking, instead of stacking, covered
5 more ground so that cars could get in and out.

6 One of my personal things is the way you're
7 parking, the stacked parking is a potential
8 safety issue.

9 And I'm also wondering, we never had clear
10 answers. Will there be morning prayers at this
11 facility on regular days like not Friday, not
12 Saturday? Because that's a fairly
13 well-traveled commuter route in the morning.

14 There's buses that go by on a regular basis.
15 Monday through Friday, most of the nonresident
16 parking on the street is taken up by commuters.

17 THE WITNESS: With regard to your second
18 comment, I would defer that to Mr. Ehrlich, who
19 will provide you with a knowledgeable answer.

20 With regard to your first comment, I
21 think -- I think any one reasonable individual
22 sitting on the Board, in the audience would
23 agree that a -- that a normal contemporary
24 standard design of parking would be superior to
25 stacked parking.

M. KAUKER - 1/20/10

1 And I would observe to you that to the
2 extent that there were areas on this site which
3 could be considered to accommodate that. I'm
4 not speaking for my client, but just from a
5 point of view of understanding the nature of
6 your concern, there could be opportunities,
7 possibly on site, where that issue could be
8 addressed.

9 MR. MULLIGAN: From a planning
10 perspective, would it be safer -- I mean, this
11 is the point I'm looking at -- if the parking
12 was moved? I'm concerned that this is very
13 close to one of the main egresses, building,
14 and if there's strollers and if there's a
15 problem of any type, I'm concerned that this
16 could magnify the problem.

17 THE WITNESS: I understand it would be
18 easier, more efficient. It could, for all
19 intents and purposes, based on my knowledge of
20 the site, then produce another curb cut, given
21 the size of the property and the nature of
22 vehicular movements on Van Buren, which is
23 reasonably minimal, I don't think that that
24 would be a difficult task. And I don't believe
25 it, first, is, hypothetically, if you had a

M. KAUKER - 1/20/10

1 curb cut, that it would unduly impact the
2 residents because we are a corner lot.

3 MR. MULLIGAN: Right. But again, going
4 back from a planning thing, if there's an
5 alternative, it might shift some of the burden
6 to create justification. If we use safety as
7 our criteria, aren't we always better to cover
8 more ground, to move the parking, might end up
9 being a long-term better result?

10 THE WITNESS: I would have to agree with
11 you, notwithstanding the fact I don't think
12 that this is an unsafe arrangement, but that
13 what you're talking about would be more
14 efficient and more easily implementable and
15 usable.

16 MR. MULLIGAN: Thank you.

17 MR. McCLOUD: Mr. Kauker, some places in
18 your report, you describe a situation in terms
19 of square footage required for house of worship
20 and what is in this application. And you then
21 state that, however, it's a preexisting
22 condition, several places.

23 When you refer to the preexisting
24 condition, aren't you referring to a
25 preexisting condition that applied to a

M. KAUKER - 1/20/10

1 residential house, residential place rather
2 than a sanctuary?

3 THE WITNESS: Yes, sir.

4 MR. McCLOUD: Well, I don't understand how
5 you make the connection between a preexisting
6 condition for a house and now this is being
7 proposed by the applicant to have a sanctuary.

8 THE WITNESS: I understand. I'm merely
9 observing that the physical condition on the
10 site that is related to, is described as
11 such -- essentially remains the same. I didn't
12 mean to circumscribe or obviate or circumvent
13 applicable requirements of the conditional use
14 such as parking and such as the minimum lot
15 area. I think I was relating more to the
16 existing conditions as it relates to setbacks
17 and things of that nature.

18 So I hope that particular part of the
19 report is not confusing.

20 MR. McCLOUD: It is confusing to me, but
21 may be my problem. I have another question.

22 When you get to the negative criteria,
23 when you state that there's no substantial
24 detriment to the public good, if the Board were
25 to grant this applicant request and the

M. KAUKER - 1/20/10

1 neighbors immediately around this area moved
2 out of the area, wouldn't that be a negative
3 impact?

4 THE WITNESS: It depends on the reasons
5 why they would be moving out.

6 MR. McCLOUD: I'm saying if the reason
7 they were moving is because this application
8 had been approved?

9 THE WITNESS: I don't believe that is a
10 reasonable condition or question within the
11 light of the fact that your ordinance allows
12 for such activities throughout the RS zone.

13 MR. McCLOUD: But that's not my question.
14 My question is: If neighbors -- if the
15 result -- if as a result of granting, this
16 application the neighbors around this
17 particular site moved out, would that not be a
18 negative impact?

19 THE WITNESS: No, sir. Because that's
20 their choice. I don't believe that the
21 physical arrangements that we propose on this
22 site, nor the deviations from the two
23 particular stands of parking lot area would
24 give rise to that kind of decision. That's why
25 I stood before you and rendered my opinion to

M. KAUKER - 1/20/10

1 that effect.

2 MR. McCLOUD: Could I ask you what do you
3 base your opinion on that you've just stated as
4 an opinion?

5 THE WITNESS: I base my opinion on the
6 reality of the fact that there won't be no
7 off-site impacts due to the reduction in
8 parking because we don't need 19 spaces, number
9 one, because the unique nature of this
10 particular congregation.

11 And I also base my opinion on the reality
12 of the fact that the bulk and building mass
13 that we propose on this site, notwithstanding
14 the use is, in fact, well within the parameters
15 of your ordinance.

16 So that from the street, one would see a
17 structure that is typical structures
18 implemented throughout the zone consistent with
19 your setback and bulk requirements.

20 MR. McCLOUD: I have one final question:

21 The proposed project will not create a
22 significant increase in traffic?

23 THE WITNESS: Yes, sir.

24 MR. McCLOUD: And that's your, in essence,
25 testimony that you've given in this report?

M. KAUKER - 1/20/10

1 THE WITNESS: Yes.

2 MR. McCLOUD: But when the question was
3 asked of you about parking and off-street
4 parking, you referred to the applicant to
5 answer that question.

6 Why can't you speak to that question since
7 you have that in your report?

8 THE WITNESS: I don't recall that being
9 the question. I recall -- I recall the
10 question related to morning services.

11 MR. McCLOUD: But the morning services
12 have to do with where would they park.

13 THE WITNESS: I have no knowledge as to
14 whether -- so as to be able to answer that
15 question and I deferred that question to
16 Mr.~Ehrlich.

17 MR. McCLOUD: Well, in your report, I'm
18 sorry, you say, "The proposed project will not
19 create a significant increase in traffic."

20 THE WITNESS: Yes, sir.

21 MR. McCLOUD: Let me finish reading from
22 your report.

23 "As the congregation will arrive to the
24 house of worship by walking."

25 THE WITNESS: That's correct.

M. KAUKER - 1/20/10

1 MR. McCLOUD: But if it's on a weekday,
2 they won't necessarily arrive by walking, will
3 they?

4 THE WITNESS: If it is, but I have no
5 knowledge as to whether it is or not.

6 MR. McCLOUD: Okay. I just don't
7 understand how you make this conclusion and
8 then claim no knowledge.

9 THE WITNESS: Okay.

10 CHAIRMAN HODGES: Do we have any other
11 questions from members of the Board?

12 At this time, we need to change the tape.
13 So we're going to take a short break and during
14 this break time, if you are going to ask any
15 questions, please try to get in this first
16 three rows to the right.

17 (At 9:23 p.m. a recess was taken.)

18 (At 9:33 p.m. the hearing resumes.)

19 CHAIRMAN HODGES: Okay. If anyone would
20 like to ask questions of this witness, please
21 come down and sit in the first three rows over
22 here to the right. Over here to my right and
23 to your left. Sit in the first three rows if
24 you would like to ask any questions.

25 Any questions from members of the Board?

M. KAUKER - 1/20/10

1 Mr. Farouk [sic]?

2 MR. SHEIKH: So just two questions.

3 One, you talked about stacked parking
4 earlier and you said how a better use or a
5 better suggestion to try and come up with a
6 site plan that would actually allow for parking
7 that wasn't stacked, that was more
8 conventional.

9 Have you actually proposed something to
10 that extent to your client?

11 THE WITNESS: No, I have not.

12 MR. SHEIKH: Do you think it might be a
13 wise idea to do that and see if you can come up
14 with something that will alleviate the concerns
15 of the Board and I'm sure the members of the
16 public?

17 THE WITNESS: That's something that I
18 would recommend my client consider, but I can't
19 answer for him.

20 MR. SHEIKH: Okay. Just to touch on what
21 the Reverend talked about earlier, you say
22 here, and I quote from your report, "The
23 proposed project will not create a significant
24 increase in traffic, as congregation will
25 arrive to the house of worship by walking."

M. KAUKER - 1/20/10

1 So you've obviously looked into the
2 matter, looked into the use of the house of
3 worship and, you know, you've made a certain
4 determination. So I'm assuming you've spoken
5 with your client and ascertained their use and
6 the times at which to use this house of worship
7 and method in which they do that?

8 THE WITNESS: Yes.

9 MR. SHEIKH: So you, as an expert who can
10 make this determination, will obviously know
11 whether they're going to be using it at times
12 when they can drive and when they cannot drive.

13 THE WITNESS: I'm familiar with those
14 particular aspects, but for the question
15 related to morning prayers.

16 MR. SHEIKH: But if you don't know that,
17 then how can you make this determination?

18 THE WITNESS: I have no knowledge as to
19 whether or not there's morning prayers. And I
20 don't know that there is.

21 MR. SHEIKH: Right. No. But my question
22 is if you don't know that, how can you make
23 this determination?

24 THE WITNESS: There's a lot of things I
25 don't know. I made my determination based upon

M. KAUKER - 1/20/10

1 my knowledge of the special events as compared
2 to normal services. That's what I based that
3 comment on.

4 I did not take into consideration the
5 issue of whether or not there were morning
6 services. When I wrote that report, I had -- I
7 was not aware of that potential question.

8 MR. SHEIKH: And with respect to the other
9 events and special events that you referred to,
10 what are your thoughts with respect to parking
11 requirements and the ability of this site to
12 accommodate those?

13 THE WITNESS: The array of alternate
14 reliable backup facilities to accommodate those
15 events that was presented by Mr.~Ehrlich, I had
16 thorough discussions and knowledge of that and
17 certainly my opinion includes consideration of
18 his testimony.

19 MR. SHEIKH: Thank you very much.

20 CHAIRMAN HODGES: Any other questions,
21 members of the Board?

22 Start right here with the first lady in
23 the first row.

24 MS. CAMPEAS: Hi, my name is Ellen
25 Campeas. I live at 258 Griggs Avenue in

M. KAUKER - 1/20/10

1 Teaneck.

2 I just wanted to ask you if such
3 consideration was made as to the impact,
4 negative impact, positive impacts on the
5 character of the neighborhood in terms of
6 architectural style?

7 That particular structure does not at all
8 match or, as it is said here, "The general
9 character, conform to the general character of
10 the area which has" --

11 MR. TRAWINSKI: I'm going to object.
12 She's testifying. She's testifying as to that
13 particular structure. She started out asking
14 the question and then she proceeded to testify.

15 CHAIRMAN HODGES: What is the document you
16 have there?

17 MS. CAMPEAS: It says here "exterior
18 design."

19 CHAIRMAN HODGES: Is that his report?

20 MS. CAMPEAS: This is his report.

21 MR. CAMPEAS: "The exterior design of the
22 structure to be used in the capacity of a house
23 of worship must conform to the general
24 character of the area." And the area of town
25 that I live in is basically tudor-style homes.

M. KAUKER - 1/20/10

1 That's the -- I would say the majority the
2 majority of homes are tudor style.

3 MR. RITVO: Ms. Campeas, I think to move
4 this along and to allow Mr. Trawinski to have a
5 seat a little bit longer, I would suggest the
6 following question, if it's acceptable. May I
7 ask a few questions on your behalf?

8 MS. CAMPEAS: Sure.

9 MR. RITVO: Mr. Kauker, did you examine
10 the general character of the architectural
11 style of the neighborhood?

12 THE WITNESS: No, I did not.

13 MR. RITVO: So if you did not identify the
14 general character of the neighborhood, what's
15 the basis for your determination under exterior
16 design, that the structure must conform to the
17 general character of the area and how did you
18 come to that conclusion?

19 Do you understand the question?

20 THE WITNESS: Substantially, the structure
21 is existing on the site but for the recent
22 addition. That recent addition proposed as
23 18 feet, a facade facing the one street and
24 18 feet facade facing another street.

25 It is clearly not tudor in nature, but I

M. KAUKER - 1/20/10

1 don't believe that it represents the dominant
2 design of the home itself. It's a one-story
3 addition. I think it would be kind of
4 difficult to design a one-story addition in a
5 tudor manner, and I don't feel that the
6 additional facade, notwithstanding the fact
7 that it's not a mirror image, as the lady
8 observes, and I did not perform -- I'm aware of
9 the nature, general nature of architecture in
10 that area. But I didn't perform a detailed
11 survey. Because if I said that I did, then you
12 would ask me about specific properties and I
13 did not do a lot-by-lot analysis.

14 MR. RITVO: That's his answer.

15 MS. CAMPEAS: Thank you.

16 MS. ABBOTT: Janet Abbott, 277 Griggs
17 Avenue.

18 I have a little trouble understanding some
19 stuff in the report, and I'm going to ask for
20 your help in doing that please.

21 When you say "landscaped buffer," both --
22 I'm looking at the one specifically for
23 Van Buren Avenue, and you say that it's RS,
24 it's -- 15 feet is required, where existing
25 conditions on the site provide zero feet. I

M. KAUKER - 1/20/10

1 don't understand zero feet.

2 THE WITNESS: Zero feet is no buffer.

3 MS. ABBOTT: There's no buffer.

4 THE WITNESS: However, I must tell you

5 that the subsequent change to the site plan

6 were rendered in that situation. It did, in

7 fact, provide a buffer. So that variance has

8 been taken care of.

9 MS. ABBOTT: Okay. And the same thing is

10 then also true for the Queen Anne Road? There

11 will be additional -- an additional buffer

12 which now is zero feet.

13 So all these conditions existed at the

14 time that you inspected the site which is

15 relatively recently? That's a question.

16 THE WITNESS: Sure. Within the year.

17 MS. ABBOTT: The addition is already up

18 and the conditions existed when you examined

19 it?

20 THE WITNESS: That's correct.

21 MS. ABBOTT: Thank you.

22 MR. WARNER: David Warner, W-A-R-N-E-R,

23 269 Grove Street, Teaneck.

24 Sir, in your testimony, at several points

25 you suggested to the Board that these variances

M. KAUKER - 1/20/10

1 be granted on the basis that this was a special
2 use, not only in terms of size but in terms of
3 nature of the use. At least at one point, you
4 referred to that special nature being that this
5 is an Orthodox congregation.

6 So I would like to ask you -- and this
7 goes back to something that one of the Board
8 members started to pursue, when you began to
9 assemble your report, did you communicate with
10 your client as to what was the use to which
11 they were going to put this property?

12 THE WITNESS: Yes, I did.

13 MR. WARNER: Did they describe to you the
14 nature, the number, and the times and frequency
15 of the religious services that they would hold?

16 THE WITNESS: Yes, they did.

17 MR. WARNER: So since you're telling me
18 they did and since you're telling me you're not
19 aware of a morning prayer service, should I
20 understand from that that they said there would
21 not be a morning prayer service?

22 THE WITNESS: I'm not aware, but I don't
23 recall.

24 MR. TRAWINSKI: Object again. It's been
25 asked and answered at least four times now.

M. KAUKER - 1/20/10

1 MR. WARNER: It's not been answered. It's
2 been asked. It's never been answered.

3 I'm not asking whether there is. I'm
4 asking whether they told him whether or not
5 there was going to be a prayer service?

6 MR. RITVO: Mr. Trawinski, may I ask,
7 please? Let him answer one more time.

8 Were you told whether or not there would
9 be a prayer service in the morning?

10 THE WITNESS: Not to my recollection, no.

11 MR. RITVO: He doesn't know.

12 MR. WARNER: Okay. When did they say
13 there would be prayer services? Because this
14 goes to preparing the report, a report as to
15 whether the use is -- the variance should be
16 granted based on the special nature of the use.

17 MR. RITVO: You don't have to qualify your
18 question. Let him answer.

19 THE WITNESS: May I answer?

20 MR. WARNER: Please.

21 THE WITNESS: Are you sure?

22 MR. WARNER: Yes.

23 THE WITNESS: Are you ready?

24 MR. RITVO: Mr. Kauker, please.

25 CHAIRMAN HODGES: Sir, sir. We're not

M. KAUKER - 1/20/10

1 going to have a little contest here. Only
2 thing you do is answer the question.

3 THE WITNESS: I apologize, Mr. Chair.

4 Once in the evenings, not necessarily
5 prayer services but in the evenings. Friday
6 evening and Saturday.

7 MR. WARNER: That's when you were told
8 they would be using the property?

9 THE WITNESS: That's correct.

10 MR. WARNER: That's all they said.
11 Enough.

12 Have you ever prepared a report for
13 another Orthodox Jewish congregation?

14 THE WITNESS: Not to my recollection.
15 I've prepared a number of reports for Jewish
16 congregations, but I don't recall whether it
17 was Orthodox.

18 MR. WARNER: So it would be fair to say
19 you're not familiar with the normal frequency
20 of Orthodox Jewish prayer services?

21 THE WITNESS: That's correct.

22 MR. WARNER: So the basis of your proposal
23 that the variance be granted because of special
24 use is strictly based on the information your
25 client told you that they would have services

M. KAUKER - 1/20/10

1 Wednesday, Friday and Saturday?

2 THE WITNESS: That's correct.

3 MR. WARNER: And on that basis, you
4 prepared a report saying that their use would
5 be limited?

6 THE WITNESS: Excuse me. But for special
7 events.

8 MR. WARNER: Obviously, yeah. But for
9 special events. Thank you.

10 CHAIRMAN HODGES: Mr. Kauker, I have a
11 question.

12 You just stated that you never wrote a
13 report for the Orthodox community?

14 THE WITNESS: Not to my recollection.

15 CHAIRMAN HODGES: And you also stated that
16 based on the use, using this as an Orthodox
17 house of worship, that you didn't need 19
18 parking spaces; is that correct?

19 THE WITNESS: That's correct.

20 CHAIRMAN HODGES: So have you ever studied
21 or went to or examined any Orthodox house of
22 worship and noticed whether any cars are
23 actually driven to the service?

24 THE WITNESS: No, I have not.

25 CHAIRMAN HODGES: So based on your answers

M. KAUKER - 1/20/10

1 now, how do you come up with you're concluding
2 that the parking spaces are not needed?

3 THE WITNESS: Because I'm made aware that
4 one of the principal aspects of the method of
5 visitation to this facility requires a response
6 and a conformity to a rule of walking to the
7 synagogue. Simple as that.

8 CHAIRMAN HODGES: So just to -- so really,
9 you have no basis of fact or basis that --
10 you're not using any knowledge that you have or
11 any facts. You're just using what your client
12 asked you --

13 THE WITNESS: Absolutely. I didn't do any
14 independent surveys to verify what my client
15 told me, no.

16 CHAIRMAN HODGES: Where I'm confused a
17 little bit is if I said -- if I was a principal
18 here at the school and I hired you to write a
19 report and I told you that all the kids that
20 cross Teaneck Road use the crosswalk, you wrote
21 a report, would you assume that all the kids
22 used the crosswalk?

23 THE WITNESS: That's a little bit
24 different kind of analogy, but I don't know
25 what the nature of that particular study would

M. KAUKER - 1/20/10

1 be. I would take that information in hand.

2 CHAIRMAN HODGES: Okay. All right.

3 Mr. Campeas, you're up next.

4 MR. CAMPEAS: Rif Campeas, 258 Griggs
5 Avenue.

6 You said that there would be substantial
7 burden or increased burden if the Rabbi didn't
8 live in the house?

9 THE WITNESS: I said it would be a
10 different application and the impacts would be
11 physically greater.

12 MR. CAMPEAS: Physically greater. In what
13 way physically greater?

14 THE WITNESS: Well, if you had a larger
15 congregation, a larger assembly area, if you
16 had 19 parking spaces on site, which would
17 obviously come at the time of services, that
18 would create a great deal more activity than
19 that which would be generated by the site plan
20 that is before the Board.

21 MR. CAMPEAS: But if it was not a house --
22 if it was not a house in addition to a house of
23 worship, couldn't the entrance be on Queen Anne
24 Road, decreasing the burden on Mr. Andrea?

25 THE WITNESS: I don't know.

M. KAUKER - 1/20/10

1 MR. CAMPEAS: If the parking was facing
2 Queen Anne, couldn't you have face-in parking
3 with absolutely no need for stacking if you
4 could get 19? I doubt you could get 19 spots.

5 THE WITNESS: You would have very possibly
6 a contemporary design as compared to stacking,
7 that's correct, to accommodate a given number
8 of spaces.

9 MR. CAMPEAS: That would inherently be
10 better or worse?

11 THE WITNESS: I admitted to the Board that
12 would be a better situation, more optimum
13 situation than a stacked situation.

14 MR. CAMPEAS: Thank you. The issue of
15 when services occur only on holidays and
16 Shabbatot, is basically to accommodate Rabbi
17 Feldman's schedule?

18 THE WITNESS: I have no knowledge. I
19 can't answer that question.

20 MR. CAMPEAS: When you did your site plan,
21 did you look at how far away the nearest
22 Orthodox congregation is?

23 MR. TRAWINSKI: I'm going to object. This
24 witness did not prepare the site plan. It
25 assumes facts not in evidence.

M. KAUKER - 1/20/10

1 MR. CAMPEAS: When you prepared your plan,
2 whatever plan you want to call it.

3 MR. TRAWINSKI: I'm going to object. The
4 question requires specific details as to what
5 the witness is being asked to respond to,
6 otherwise the witness is only --

7 THE BOARD SECRETARY: Could you come up to
8 the mike so we can have you on the record?

9 CHAIRMAN HODGES: Repeat that.

10 MR. TRAWINSKI: I'm objecting to the
11 question because it assumes that this witness
12 prepared the site plan. The witness did not
13 prepare the site plan.

14 CHAIRMAN HODGES: All right. He didn't
15 prepare the site plan so we can -- if you're
16 talking about this, this is the planning and
17 zoning analysis.

18 MR. CAMPEAS: Okay. I'm sorry. My
19 mistake.

20 When you did the zoning and planning
21 analysis, did you consider how close this was
22 to the nearest Orthodox congregation?

23 MR. TRAWINSKI: I'm going to object to
24 that too. It's also irrelevant. There's
25 nothing in the ordinance that Teaneck -- that

M. KAUKER - 1/20/10

1 prohibits Orthodox synagogues or requires
2 Orthodox synagogues or any synagogues to be
3 distances from each other?

4 MR. CAMPEAS: It's not irrelevant. You're
5 talking about the impact and the benefits.

6 MR. RITVO: You haven't gotten there yet,
7 but this Board has had a vast -- a great number
8 of applications for houses of worship over the
9 years.

10 I know that the count was up to 82 since
11 we've been counting. So I say that for the
12 benefit of the public because there's a few
13 things that haven't been said in this
14 application but have to be said.

15 And I'm going to do it now, if I might,
16 Mr. Chairman, to help the public along.

17 There is a federal statute called a
18 Religious Freedom Institutionalized Person's
19 Act, it says that governmental entities
20 essentially shall not interfere with the right
21 to worship and that if it does, if they do,
22 those regulations have to be substantial
23 government interests and the least restrictive
24 possible.

25 That coupled with the case of Sica, which

M. KAUKER - 1/20/10

1 we talked about earlier, which is a New Jersey
2 Supreme court case, talks about identifying
3 inherently public -- inherently beneficial uses
4 and providing boards with less power over them
5 than other applications.

6 And those two things combined have made
7 this Board, have many boards, this Board
8 especially because of the number of
9 applications have, cognizant of the limitations
10 of this Board's powers in these type of
11 applications.

12 And one of those limitations that's
13 absolutely restrictive is that there can be no
14 limitation on houses of worship, and it doesn't
15 matter whether they're next door to each other.

16 This is a poor analogy, but people have
17 sometimes complained there's too many pizzerias
18 and nail salons. Because in the business
19 district, you can't control how many fast food,
20 pizzeria and chicken places or nail salons
21 there may be.

22 Even more so under the First Amendment of
23 the Constitution and the federal statutes. So
24 based upon that, if the Board seems to have
25 limited powers in certain areas, it's because

M. KAUKER - 1/20/10

1 it does. It knows it, it's been aware of it,
2 and I want to make the public aware of it.

3 And as to whether there was one next door
4 to each other or five in a row on a street,
5 this Board cannot consider that issue.

6 MR. CAMPEAS: As a layperson, I believe
7 RLUIPA also says that you need substantial
8 burden.

9 CHAIRMAN HODGES: As a layperson, I can
10 tell you I don't agree with you.

11 MR. CAMPEAS: My question though has not
12 to do with how many, but the conclusion that
13 it's a socially and societal benefit to have a
14 synagogue here.

15 MR. RITVO: I can tell you, sir, that
16 that's another issue that's well documented by
17 the Supreme Court of this state and courts up
18 and down the row both in federal courts and
19 state of New Jersey. So that's a given. The
20 Board has to accept that.

21 It's not only Mr. Kauker's opinion, it's
22 the law. I know it's not something -- I see
23 the frustration of the Board. I don't take a
24 personal decision in this, but times when I
25 advise them of this, the Board gets frustrated,

M. KAUKER - 1/20/10

1 but it is the law.

2 MR. CAMPEAS: You said that the parking
3 situation would not impose burden on the
4 neighborhood?

5 THE WITNESS: That's correct.

6 MR. CAMPEAS: How many Orthodox synagogues
7 are you familiar with that don't have parking?

8 THE WITNESS: I answered that question
9 before the Board and --

10 MR. CAMPEAS: That's a different question.
11 How many are you familiar with that do not
12 have parking?

13 THE WITNESS: I'm not familiar with any
14 other Orthodox congregations or sites because I
15 did not study any additional sites.

16 MR. CAMPEAS: Are you aware that people
17 can bring their car, leave it there for 25
18 hours or 49 hours if it's a holiday, parked on
19 the street and come and get it at the end of
20 services?

21 THE WITNESS: If there's no parking
22 restriction, I imagine that's a physical
23 possibility.

24 MR. CAMPEAS: Do you think that would
25 impose a burden on the neighborhood?

M. KAUKER - 1/20/10

1 THE WITNESS: Depends on the incidents,
2 how and where. I have no knowledge as to that.
3 I don't think anyone could with any degree of
4 accuracy address that issue.

5 MR. CAMPEAS: No one could address that
6 issue?

7 THE WITNESS: Those decisions are in the
8 hands of individuals. If they chose to make
9 that decision, then they would do it. And if
10 they parked in an unrestricted parking area,
11 they would not be legally stopped from doing
12 that. But I don't know what's in the mind of
13 any parishioner related to that kind of issue.

14 MR. CAMPEAS: The question was not what
15 was in the mind or who would do it.

16 Would it impose a burden on the
17 neighborhood if people came and left their car
18 25 or 49 hours?

19 THE WITNESS: If it were legally
20 permitted, it would not pose a burden.

21 MR. CAMPEAS: So based on no observation,
22 based on no experience, you come to the
23 conclusion that there's no burden?

24 MR. TRAWINSKI: Mr. Chairman, we're back
25 to testimony again. I didn't hear a question.

M. KAUKER - 1/20/10

1 He made a statement.

2 MR. CAMPEAS: That was a question.

3 CHAIRMAN HODGES: Sir, sir. You don't
4 need to answer to the attorney.

5 And so could you just rephrase it and ask
6 it as a question.

7 MR. CAMPEAS: So your conclusion that it
8 has no -- has no burden on the neighborhood --

9 MR. TRAWINSKI: Object to the form of the
10 question. It assumes that the witness is --
11 putting words in the witness's mouth.

12 The witness testified there was no
13 substantial detriment. He did not say that
14 there was no burden.

15 MR. CAMPEAS: I apologize then.

16 So you're saying there's no substantial
17 detriment to the neighborhood based on no
18 experience and no familiarity?

19 MR. TRAWINSKI: Object to the form of the
20 question. It assumes facts not in evidence.
21 The witness is an experienced professional
22 planner. He's here to provide professional
23 opinions.

24 MR. RITVO: Let me help to move this
25 along.

M. KAUKER - 1/20/10

1 Mr. Kauker, could you identify what, if
2 any, burden on the community this synagogue, as
3 proposed, would have.

4 THE WITNESS: Based upon the knowledge
5 that I was given with regard to the operation
6 of this facility, which I testified to before
7 this Board, I reiterate that there would be no
8 substantial negative impact on the surrounding
9 neighborhood.

10 MR. RITVO: No substantial negative impact
11 is his testimony.

12 MR. CAMPEAS: What do you base that upon?

13 THE WITNESS: I just told the Board and I
14 told the questioner, based upon the facts that
15 I laid before the Board. I'm not going to
16 repeat my testimony.

17 MR. CAMPEAS: Have you ever driven by
18 Queen Anne Road and -- well, I don't know the
19 names of the streets. But in front of Beth
20 Aaron on a Friday night or a Saturday night?

21 MR. TRAWINSKI: I'm going to object. It's
22 not relevant. We're not talking about Beth
23 Aaron. We're talking about this application in
24 this neighborhood and this site.

25 MR. CAMPEAS: We're talking about the

M. KAUKER - 1/20/10

1 effect of no parking on the neighborhood. That
2 is an example of a synagogue with no parking.

3 CHAIRMAN HODGES: I think -- okay. I
4 think we can -- we've made clear, at least it's
5 clear to me, is that Mr. Kauker has not visited
6 the site. He has not done reports on Orthodox
7 house of worships and the knowledge that he --
8 and the basis of his report in the planning and
9 zoning analysis comes from information he
10 received from his applicant.

11 MR. CAMPEAS: And is that sufficient for
12 the Board, or does the Board need someone who's
13 familiar with --

14 CHAIRMAN HODGES: We take everything we
15 hear and weigh it the same way you're saying
16 you might have an opinion of this expert, you
17 might have an opinion of the architect, the
18 same thing we do.

19 So we understand what you're saying. We
20 don't need other people to come up and say,
21 well, do you have another basis. We -- I think
22 we pretty much know what the basis he's using.
23 And we understand that.

24 And I understand what you're saying. You
25 want to try to bring everything out. We

M. KAUKER - 1/20/10

1 understand that. But we're -- we've done this
2 so many times. There are a lot of things that
3 we're looking at more than you might even look
4 at.

5 MR. CAMPEAS: I apologize. I'm a virgin.

6 I think that's it. Thank you.

7 CHAIRMAN HODGES: Mr. Rose?

8 MR. ROSE: Howard Rose, Teaneck. Good
9 day.

10 THE WITNESS: Good evening.

11 MR. ROSE: On page two, you indicate many
12 of the single-family homes in the neighborhood
13 are also utilized as houses of worship.

14 Could you indicate please what number
15 count you're eluding to with the word "many"?

16 THE WITNESS: I made that statement based
17 on knowledge given to me by my client.

18 MR. ROSE: So it's unsubstantiated?

19 THE WITNESS: I gave you a source. To the
20 extent that they would feel it's substantiated
21 or unsubstantiated, that's the source of my
22 statement.

23 MR. ROSE: Just as an aside, Mr. Ritvo,
24 there could never be too many pizzerias.

25 On page seven, regarding lot area, you're

M. KAUKER - 1/20/10

1 indicating 21,000 square feet required,
2 two-thirds of that or 50 percent increase would
3 be required. So you're saying, if I'm correct,
4 it would need a 50 percent increase to be
5 compliant.

6 Does that also mean that it is clearly not
7 sufficient for this type of an edifice to be
8 present on that sized property, page seven?

9 THE WITNESS: I quote 21,780 square feet
10 required lot area, that's not a builder's acre.
11 That's one-half taken literally, 43,560,
12 divided by two.

13 I don't see anything where -- I don't see
14 the writing that gave rise to your question.
15 You're confusing me.

16 MR. ROSE: Let me clarify. It's
17 indicating 31,000 required; 14,000 is
18 available; and my question to you, sir -- there
19 it is there, 14,000.

20 THE WITNESS: That's correct.

21 MR. ROSE: So my question based on that,
22 would it be fair to say --

23 THE WITNESS: 21,000.

24 MR. ROSE: 21,000 compared to 14.

25 THE WITNESS: That's correct.

M. KAUKER - 1/20/10

1 MR. ROSE: So you would need a 50 percent
2 increase of the 14,000 to be compliant. Would
3 it be fair to say that this site for this use
4 as a house of worship is clearly not
5 sufficient.

6 THE WITNESS: No, it would not because the
7 magnitude, the scale of the assembly area at
8 1900 square feet is consistent with that
9 reduced size.

10 MR. ROSE: Let me jump --

11 THE WITNESS: And there's nothing in the
12 ordinance, forgive me, that specifies that
13 there should be a minimum area of religious
14 facility. That --

15 MR. ROSE: Based on the size?

16 THE WITNESS: If you had a lot area that
17 was conforming, obviously you could build that.
18 That was my point, a larger religious facility.

19 MR. ROSE: I'm just trying to get an
20 economy of scale here, I guess.

21 To me it seems -- and I'm looking for your
22 opinion on this -- that clearly, it is not
23 sufficient since it requires a half-acre or
24 21,000. It doesn't have it.

25 THE WITNESS: That's why we're asking for

M. KAUKER - 1/20/10

1 variance.

2 MR. ROSE: Sorry for taking a moment. I

3 haven't prepared for this for several weeks.

4 Parking, mitigating based upon scale and

5 size, words that you've used, is not impacting

6 because a family lives on the premises.

7 Well, I don't understand that statement.

8 If you could please explain why it's pertinent

9 since nothing here is being stated based on a

10 family size living there.

11 All of these concerns radiate around the

12 specific size of the assembly hall, not the

13 fact of the size of the building, not the fact

14 that the family utilizes part of it.

15 That's why the variances are being

16 requested. The size of the worship hall area.

17 Very specific.

18 MR. RITVO: What's the question, Mr. Rose?

19 I don't understand the question.

20 MR. ROSE: I'm questioning what the

21 relevance is of the statement that's put in

22 here that "size and scale are mitigating."

23 MR. RITVO: The question is why is the

24 fact that there's a question of this property,

25 which is a residence for the Rabbi, how does

M. KAUKER - 1/20/10

1 that impact and should it not be the criteria
2 of the size and scale of the place -- the area
3 used as a house of worship?

4 MR. ROSE: Please. That's not exactly
5 accurate. I'm asking one portion to it,
6 please.

7 MR. RITVO: Go ahead.

8 MR. ROSE: I'm asking why it's relevant at
9 all since the variances are required based upon
10 not the size and scale of the house, but based
11 upon the size of the portion of the house
12 that's used for worship?

13 THE WITNESS: It's relevant because if you
14 didn't have the residents, you could occupy
15 that square footage with increased, a much
16 larger religious facility. That's why it's
17 relevant. And I stated that at the outset of
18 my testimony.

19 MR. ROSE: I heard that. So the question
20 becomes then, are you really telling us that if
21 circumstances were different, the situation
22 would be different?

23 We're here for some very specific
24 purposes.

25 CHAIRMAN HODGES: What's the question,

M. KAUKER - 1/20/10

1 sir? Only questions.

2 MR. ROSE: My question is, are you telling
3 us, through this testimony and through this
4 document, that if the circumstances of the
5 situation were different, the situation would
6 be different? That's kind of a duh situation
7 question.

8 MR. TRAWINSKI: I object to the
9 characterization as a duh situation.

10 MR. ROSE: Excuse me for that last
11 statement.

12 MR. TRAWINSKI: We're also at the point
13 where questions are being asked that are
14 speculative and irrelevant.

15 MR. RITVO: Mr. Rose, Mr. Rose, if I
16 might, Mr. Chairman, the question is if
17 circumstances were different, would things be
18 different? Can you answer that?

19 THE WITNESS: Yes.

20 MR. ROSE: Great information.

21 Regarding off-street parking now. You're
22 indicating that because this is for specific
23 religion and special needs, a variance should
24 be proposed.

25 Does that mean -- you're indicating that

M. KAUKER - 1/20/10

1 this is because there's a specific religion and
2 there's special needs. And I understand that.
3 It seems that the corollary, and correct me or
4 explain it, is that other religions would be
5 treat differently if this were to be treated
6 specially.

7 Wouldn't we treat all religions the same?

8 THE WITNESS: I can't answer that
9 question. You're talking about a generic legal
10 concept.

11 MR. ROSE: I pose it to the Board.

12 MR. RITVO: You'll have a chance at the
13 end of the testimony.

14 MR. ROSE: Thank you.

15 Stacked parking. If cars one, goes in
16 first and then followed by car two, three, four
17 and five and then car one has to be removed,
18 cars --

19 CHAIRMAN HODGES: Sir, sir, we already
20 went through this. We already went through
21 this.

22 If car one is in the driveway first. Of
23 course we have to move out two, three, and
24 four.

25 MR. ROSE: Right. But I have a question;

M. KAUKER - 1/20/10

1 I have a question regarding that. May I pose
2 it? Thank you.

3 When car one has to be removed, where are
4 cars two through five to be put for that
5 moment? Curbside by other people's homes or by
6 the CVS parking lot and then come back after
7 car one is removed?

8 MR. TRAWINSKI: Objection, it calls for
9 speculation.

10 MR. ROSE: It calls for planning in terms
11 of stacked parking. And I ask the witness
12 again to answer the question.

13 CHAIRMAN HODGES: It's a hypothetical
14 question. I'll let the question go through.

15 MR. TRAWINSKI: I'm not sure our planner
16 understood the question because I didn't.

17 MR. ROSE: I'll repeat and then maybe
18 clarify it, please.

19 If you have one car drive into that
20 parking area and then it's followed, stacked
21 parking, by four additional cars, we now have
22 five cars there, when cars two through five
23 have to be removed because the first car in,
24 car number one, has to go somewhere, where in
25 the plans are the other cars to go? Curbside

M. KAUKER - 1/20/10

1 parking perhaps? CVS parking lot?

2 MR. RITVO: Where are the other cars

3 supposed to go?

4 MR. ROSE: Thank you.

5 THE WITNESS: Firstly, 95 percent of the

6 time the other cars would be backing out and

7 leaving the site at the end of services.

8 If there was an emergency, if someone had

9 to go to the doctor who was in parking space

10 number one and the managed parking --

11 capability on the site to manage five spaces,

12 which is not a quantum leap or a difficult

13 task, would back out and they would store on

14 the street until such time as car number one

15 backed out and left the site.

16 MR. ROSE: Thank you.

17 CHAIRMAN HODGES: Mr. Harris?

18 MR. HARRIS: Joe Harris, 267 Griggs

19 Avenue. I have to admit I'm confused.

20 THE WITNESS: Good evening.

21 MR. HARRIS: The introduction to your

22 document says that you're asking for a use

23 variance to allow for the use of part of a

24 structural residential structure as a synagogue

25 for prayer services.

M. KAUKER - 1/20/10

1 So as I understand that, your request is
2 for one part of it to be a synagogue?

3 MR. TRAWINSKI: I'm going to object. At
4 the outset of this hearing, and this was
5 belabored last time in an effort to eliminate
6 the confusion that otherwise exists in the
7 record, it was made crystal clear that we're
8 asking for the addition to be used as a house
9 of worship.

10 This is nothing more than an effort to
11 belabor the record.

12 MR. HARRIS: You prepared this plan?

13 MR. TRAWINSKI: There's an objection on
14 the floor, Mr. Chairman. I'd ask the Board to
15 rule before the witness proceeds.

16 CHAIRMAN HODGES: You're right. We've
17 made it clear in the beginning of the hearing
18 today that just the expansion is the house of
19 worship. And in this piece of property and
20 this structure, we have a house of worship and
21 we have an area for a residence. So it's two.

22 MR. HARRIS: So just, please, you say on
23 page four, however, under proposed use, "The
24 applicant is seeking approval to utilize an
25 existing portion." And then you go on to say,

M. KAUKER - 1/20/10

1 "The house will also serve the congregation for
2 Jewish High Holidays."

3 So my question is: If the house, meaning
4 the entire house, is to be used for Jewish High
5 Holidays, is that also part of the application?

6 MR. TRAWINSKI: The same objection.
7 That's why we clarified this at the outset of
8 the hearing.

9 MR. RITVO: Is there any question but that
10 the only use to be used by the synagogue is as
11 described, the 1200-square-foot room, the
12 vestibule, the restroom, and the kitchenette.

13 Is there any question about that?

14 MR. TRAWINSKI: There's none. That's why
15 we represented that at the outset of this
16 hearing.

17 MR. RITVO: Mr. Harris, that's what's
18 proposed.

19 MR. HARRIS: So this is not accurate then?

20 MR. RITVO: Correct. If you read house to
21 mean the entire structure, that's not correct.

22 MR. HARRIS: Thank you.

23 Have you ever experienced in your work
24 when you are -- on page one in the
25 introduction, you said that you have been

M. KAUKER - 1/20/10

1 retained by the applicant to evaluate their
2 application for the requested variances.

3 Have you ever had the experience of being
4 misled by an application?

5 MR. TRAWINSKI: I'm going to object. It
6 assumes facts not in evidence. And I'd like to
7 know where --

8 MR. HARRIS: Wait a minute.

9 MR. TRAWINSKI: -- where the questioner is
10 reading from in the report.

11 MR. HARRIS: Page one, introduction. Top
12 paragraph, first paragraph.

13 MR. TRAWINSKI: The applicant, 554 Queen
14 Anne Road, has submitted an application to be
15 retained to evaluate their application for the
16 requested variances.

17 MR. HARRIS: Has been retained by the
18 applicant to evaluate their application.

19 MR. RITVO: Let me help move this along,
20 if you might. Please indulge me for a minute.

21 Have you ever been misled by any client of
22 yours when you prepared a report?

23 THE WITNESS: Not to my recollection. It
24 has nothing to do with my direct testimony,
25 respectfully.

M. KAUKER - 1/20/10

1 MR. RITVO: Do you have any belief that
2 your client in this case has misled you in any
3 way?

4 THE WITNESS: No, I do not.

5 MR. RITVO: Go ahead.

6 MR. HARRIS: Based upon what we have heard
7 here tonight with the number of questions about
8 the use of the synagogue for morning services,
9 do you feel that the fact that you were not
10 told about this as a use of a synagogue misled
11 you so that you are unable to write a proper
12 report?

13 MR. TRAWINSKI: I'm going to object to the
14 form and the substance of the question. There
15 have been no questions about the issue of the
16 use. The testimony last time was clear. My
17 client, on page 43 of the transcript, testified
18 that there was no present intention to use the
19 synagogue for Sundays -- for weekday services.

20 They did reserve the right in the future
21 if there was, that they would come back to this
22 Board and seek the appropriate relief. There
23 have been no questions tonight to suggest that
24 that's what the weekday use is.

25 This witness testified that he didn't know

M. KAUKER - 1/20/10

1 the answer to that question. This is
2 cross-examination of this witness and it's
3 limited to his direct testimony.

4 CHAIRMAN HODGES: You have to keep your
5 questions either to the direct testimony or to
6 what's in the report.

7 MR. HARRIS: Is it your understanding,
8 sir, that the Board approves variances for the
9 existence of a synagogue and that the synagogue
10 has to come before a Board afterwards to get
11 approval for when it holds services?

12 MR. TRAWINSKI: Object to the question.

13 MR. RITVO: It's a legal question. Please
14 ask your next question. We'll deal with it.
15 You can ask the Board when it's your turn, but
16 this is not a lawyer, he's the planner.

17 MR. HARRIS: I would like to say I'm sorry
18 that you are in the position that you are.

19 MR. CAMPEAS: Rif Campeas, 258 Griggs
20 Avenue. I just wanted to get a clarification.

21 You said that weekly Wednesday classes?
22 Because last month we were told there would be
23 once a month.

24 MR. RITVO: We can't hear you.

25 MR. CAMPEAS: I'm sorry. You said that

M. KAUKER - 1/20/10

1 there were weekly Wednesday classes. I believe
2 last time we were told it was once a month. If
3 that could just be clarified. Thank you.

4 THE WITNESS: That was my recollection,
5 weekly.

6 MR. TRAWINSKI: The witness's recollection
7 on this topic is incorrect. We said that
8 the -- Mr. Ehrlich testified that there would
9 be occasional classes.

10 CHAIRMAN HODGES: Right. And the planner,
11 so the planner was incorrect?

12 MR. TRAWINSKI: That's what I said. The
13 witness's recollection is incorrect.

14 MR. CAMPEAS: Am I permitted to ask what
15 "occasional" is?

16 CHAIRMAN HODGES: Well, he didn't testify
17 to that. You can ask when Mr.~Ehrlich gets up.

18 MS. McKEON: My name is Leslie McKeon, 130
19 Copely Avenue, M-C-K-E-O-N.

20 When you speak of these variances, the
21 observers of their synagogue, you speak of them
22 not having an undue burden on the local
23 community.

24 I'd like to ask you whether when you speak
25 of an undue burden on the community, whether

M. KAUKER - 1/20/10

1 there are specific criteria that you are using
2 or whether this is just your subjective opinion
3 on how this impacts on the community?

4 THE WITNESS: First of all, I didn't use
5 the word "undue burden." That's a phrase
6 that's been mentioned from time to time during
7 the evening, but it was not given by me. My
8 direct -- my phraseology was "no substantial
9 impact." And I believe if you had been
10 listening in the entirety of the meeting, you
11 might be able to recall that I had a factual
12 basis upon which to make those particular
13 statements.

14 It's not a subjective foundation that I
15 utilized in arriving at my opinion. It's based
16 upon facts before the Board that I described
17 during the course of my testimony. The level
18 of activity, the fact that there would be very
19 little, if any, overflow parking. The fact
20 that there is additional activity going to and
21 from a given structure within this zone. All
22 intents and purposes is an impact factor that
23 this township considered when they chose to
24 permit as a conditional use houses of worship
25 throughout the community.

M. KAUKER - 1/20/10

1 So that those impacts were taken when the
2 zoning ordinance and the master plan were
3 crafted.

4 MS. McKEON: Thank you.

5 CHAIRMAN HODGES: Any other questions by
6 members of the Board?

7 MR. TRAWINSKI: Mr. Chairman, members of
8 the Board, at the outset, I indicated I had two
9 other witness. But because of the questions
10 about strollers coming up, I actually have very
11 briefly one witness and the only way that this
12 witness would be able to present this testimony
13 is through me questioning her since she is a
14 member of the synagogue.

15 So with the Board's indulgence, I'd like
16 to call Sarah Klayn.

17 MR. RITVO: Spell your name for the
18 record.

19 THE WITNESS: Last name is K-L-A-Y-N.

20 MR. RITVO: And Sarah with an H?

21 THE WITNESS: Yes.

22 S A R A H K L A Y N,

23 called as a witness, having been first duly sworn,
24 was examined and testified as follows:

25 EXAMINATION BY

S. KLAYN - 1/20/10

1 MR. TRAWINSKI:

2 Q. Mr. Klayn, you're a member of the

3 synagogue in question?

4 A. Yes. Yes.

5 Q. Talk into the mike and address the Board.

6 And from time to time, do you have

7 occasion to attend services at the synagogue?

8 A. Yes.

9 Q. And do you go with a stroller?

10 A. Yes.

11 Q. Would you ever put your stroller in a

12 position that it would block a doorway or jeopardize

13 the children which you brought to the synagogue with

14 the stroller?

15 A. No.

16 Q. Do you think any mother would ever do

17 that?

18 A. I hope not.

19 MR. TRAWINSKI: I have no other questions.

20 CHAIRMAN HODGES: Ms. Klayn, you currently

21 go to synagogue on a regular basis?

22 THE WITNESS: Yes.

23 CHAIRMAN HODGES: How many strollers are

24 there?

25 THE WITNESS: Depends on the week, who's

S. KLAYN - 1/20/10

1 around. It would vary week to week.

2 CHAIRMAN HODGES: How many is the most

3 you've ever seen?

4 THE WITNESS: Ten, maybe 12. I'm

5 guessing. I don't count them.

6 CHAIRMAN HODGES: Ten or 12. And last

7 weekend, how many did you see, if you can

8 remember?

9 THE WITNESS: I haven't the slightest

10 idea.

11 CHAIRMAN HODGES: Where do they put the

12 strollers right now?

13 THE WITNESS: On the property next to the

14 house. Like not in the street or in the public

15 areas. In the driveway.

16 CHAIRMAN HODGES: Is it on the grass area?

17 THE WITNESS: Partly on the driveway,

18 partly in the back next to the fence.

19 CHAIRMAN HODGES: Next to the driveway?

20 THE WITNESS: Yeah, I guess. It's mostly

21 paved and there's some areas not paved.

22 CHAIRMAN HODGES: So it's next to the

23 driveway and next to the fence that's there; is

24 that correct? Am I understanding you

25 correctly?

S. KLAYN - 1/20/10

1 THE WITNESS: Yeah, because the driveway
2 is not used.

3 CHAIRMAN HODGES: There's no cars in the
4 driveway? There's just strollers at this time?

5 THE WITNESS: Just strollers.

6 MR. RITVO: Can I ask a question,
7 Mr. Chairman?

8 Mr. Trawinski, would you consult with your
9 client and make a recommendation that there be
10 a nondriveway sidewalk area designated for
11 stroller storage?

12 MR. TRAWINSKI: We would defer to the
13 Board's preferences to that location, but
14 absolutely yes.

15 MR. RITVO: It may sound foolish, but this
16 has been a problem at other sites where -- as
17 families grow, it becomes a burden to people
18 passing by or traffic burden and just to avoid
19 that, if the applicant could consider a place,
20 that might help with this issue.

21 MR. TRAWINSKI: Absolutely.

22 CHAIRMAN HODGES: Any other members of the
23 Board have questions?

24 MR. MULLIGAN: With your placement of
25 stroller, would weather conditions dictate

S. KLAYN - 1/20/10

1 possibly them being placed on other areas?

2 THE WITNESS: No, we all have plastic

3 covers for the strollers.

4 MR. MULLIGAN: So rain or shine, snow,

5 that's the where they're going to be?

6 THE WITNESS: Yeah.

7 CHAIRMAN HODGES: Do we have any other

8 questions for this witness?

9 Members of the Board, any questions?

10 Members of the public?

11 Seeing no questions, thank you.

12 MR. TRAWINSKI: Mr. Chairman, that

13 concludes our presentation.

14 CHAIRMAN HODGES: At this point what we're

15 going to do is -- there's only ten minutes left

16 on the tape. What I'd like to do is we need to

17 plan for another date for a special meeting.

18 The next available date is February 17th.

19 MS. ABBOTT: As an ex-member of the Board

20 of Education, the buildings are closed that

21 week.

22 MR. TRAWINSKI: Mr. Chairman, in planning

23 the special meeting, can I just confirm one

24 thing.

25 Since the direct testimony and the

S. KLAYN - 1/20/10

1 cross-examination of our two expert witnesses
2 has been concluded, my intention would be not
3 to bring them back, both in the interest of
4 cost savings and because their testimony and
5 their cross-examination has been concluded.

6 Assuming that's the case, then I don't
7 need to take into account their schedules if
8 that's the Board's desire. And then I just
9 need to take into account Mr. Ehrlich's
10 schedule.

11 CHAIRMAN HODGES: What we're going to do
12 is since we do have the possibility that we
13 can't use February 17th, we're going to carry
14 this application to the next regular meeting on
15 February 4th, just to set a date.

16 MR. TRAWINSKI: Understood.

17 CHAIRMAN HODGES: February 4th, we're
18 going just set a date when and where the next
19 meeting will be at. And at that point, any
20 time after that, anyone that would like to have
21 the hearing can contact Ms. McLean to find out
22 the exact location of the next meeting.

23 MR. RITVO: We should get some dates from
24 Mr. Trawinski when he's available and --

25 MR. TRAWINSKI: Are we talking

S. KLAYN - 1/20/10

1 predominantly about Thursday evenings or
2 Wednesday evenings?

3 CHAIRMAN HODGES: Wednesdays and
4 Thursdays.

5 THE BOARD SECRETARY: Wednesdays mostly
6 because the Thursdays are Board of Adjustment
7 and Planning Board regular meeting dates. So
8 it'd most likely be a Wednesday.

9 MR. TRAWINSKI: May I just confer with my
10 client for one moment?

11 (A discussion was held off the record.)

12 MR. TRAWINSKI: Mr. Ehrlich is generally
13 available. I lose my experts as we move
14 forward, but I don't think it's necessary to
15 bring them if I can confirm that. Since that's
16 done, I think it will make it a lot easier.

17 The other thing is, the first and second
18 Wednesdays, I have regular appearances as a
19 Board attorney in Hasbrouck Heights and
20 Boonton. So they would preclude me.

21 But third and fourth Wednesdays and
22 virtually any Thursday is possible.

23 And other than that, I will be as
24 accommodating as my schedule requires as
25 Mr. Ritvo takes a look at what the possible

S. KLAYN - 1/20/10

1 dates are.

2 CHAIRMAN HODGES: So the third or fourth

3 Wednesday of February you're available?

4 MR. TRAWINSKI: Yes, I am.

5 MR. RITVO: Mr. Ritvo is not available

6 February 24th.

7 CHAIRMAN HODGES: It leaves us with the

8 third Wednesday.

9 THE BOARD SECRETARY: We will have a date

10 on the 4th.

11 CHAIRMAN HODGES: On the 4th, we'll set

12 the date.

13 We'd like to ask for a transcript of

14 the --

15 MR. TRAWINSKI: I'm going to discuss that

16 with my client a second, if I might.

17 We're trying to evaluate cost and it

18 actually depends in part, not to be

19 obstreperous on whether or not we have to pay

20 our experts to come back or not.

21 So I'm not making preconditions. But

22 their testimony was concluded,

23 cross-examination was concluded, so ...

24 CHAIRMAN HODGES: We don't need your

25 experts again.

S. KLAYN - 1/20/10

1 MR. TRAWINSKI: We will purchase
2 transcript. If we will be granted an extension
3 of time to the --

4 MR. RITVO: March 15th.

5 MR. TRAWINSKI: Just in case -- meeting.
6 If there's further extension needed because of
7 scheduling, I'll represent to you --

8 THE BOARD SECRETARY: Audience, could you
9 please be quiet so we can get this schedule
10 straight.

11 MR. TRAWINSKI: I will do my best to
12 accommodate that schedule as well. My
13 intention would not be to seek an automatic
14 approval.

15 MS. BRAHVER-KEELY: Motion to carry this
16 application to the meeting of February 4th to
17 set a date only with extension and time granted
18 through March 15th and no further notice.

19 MR. MEYER: Second that.

20 CHAIRMAN HODGES: That is going to
21 conclude our hearing for tonight.

22 MS. BRAHVER-KEELY: Motion to adjourn.

23 CHAIRMAN HODGES: Second.

24 (Time noted: 10:33 p.m.)

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CERTIFICATE

I hereby certify that the proceedings herein are from the notes taken by me in this matter of the aforementioned case; and that this is a correct transcription of the same.

ANGELA M. SHAW-CROCKETT
Registered Professional Reporter
Certified Court Reporter
License No. XI102184

