

March 2, 2023

Sent by electronic mail only to: rmclean@teanecknj.gov

Rosiland V. McLean
Planning Board Secretary
Township of Teaneck Planning Board
818 Teaneck Road
Teaneck, New Jersey 07666

Re: Transcript of January 26, 2023 Planning Board Hearing

Dear Ms. McLean:

We have reviewed the transcript of the January 26, 2023 Planning Board hearing that is posted on the website of the Township of Teaneck. Presumably, the transcript is proposed to be the official record of the hearing. We compared a portion (pages 96-98) of the transcript, which we understand was prepared by the Applicant's court reporter, to a private audio and video recording of the hearing. We found that portion to be replete with incomplete and missing statements, and erroneous information. Attached is a corrected transcript of pages 96-98 of the hearing (as well as a mark-up showing the needed corrections to those pages).

The serious flaws that we found on pages 96-98 suggest that there are numerous additional flaws in the remainder of the document. In our view, this raises serious issues as to whether the Planning Board has a valid record of the hearing. We respectfully submit that the Planning Board should have the entire transcript compared to the private audio and video of the hearing and corrected accordingly.

We reserve our right to supplement and amend the information presented in this correspondence and the attachments at any time, including at all Public Hearings scheduled for the Applications. Please place this correspondence in the Board's file, and forward an electronic copy of this correspondence to Board Chairman Bodner, all Board members and professionals, the Board's counsel, the Applicant, the Applicant's counsel, and the Objector's counsel, as it should be considered as part of the record of the Applications.

This letter is not to be deemed a waiver of our challenges, claims, rights, and remedies, all of which are hereby reserved. We thank the Board for its consideration and look forward to hearing from the Board as soon as possible concerning the issues raised in this letter.

Respectfully submitted,

Arlene Eis
Arthur Eis
Ira Friedman
Ayelet Hirschhorn
Yaron Hirschhorn
Ezra Katz
Alan Rubinstein
Elana Samad
Malcolm Samad
David Schlusell
Marc Schlusell
Rena Donin Schlusell
Shorana Schlusell

CHAIRMAN BODNER: Excuse me. I just want to get an understanding. If you think that you need the notice because of the houses need it, et cetera, then we'll do it. It's a simple thing. I don't really understand the point you're trying to make here.

MR. SIMON: The point is that

CHAIRMAN BODNER: If there is lack of notice, then they'll make notice on it. If we have to give variances for it, we'll give it.

MR. SIMON: So the point being is that I'm cross examining the witness to ascertain whether variances that we believe should have been called out were not called out. That's what I'm trying to get to.

CHAIRMAN BODNER: So the point I'm trying to make to you is just determine that they're not, and they'll notice for the next meeting and they will be and they will add it to their list. I mean we're not going to spend an hour going through all of this to do that. If you think that's an issue, then it will be brought it up as an issue. Let's move on.

MR. SIMON: I think all of these are issues, absolutely. With regard to –

CHAIRMAN BODNER: Excuse me, Wendy. Do you have any comments back to that?

MS. BERGER: All I was going to say is the chart notes all of the variances that this expert believes were required for this application and –

CHAIRMAN BODNER: Tell me in English. What expert are you talking about?

MS. BERGER: As well as the reports from your

zoning officer and experts note all the variances as may be required. If they determine there are existing other variances that are required our notice provided, that any and all other variances that may be determined by the Board and its expert as being required as part of the application, we're requesting, but as of everyone's review so far, no one has determined that they are required.

CHAIRMAN BODNER: Right now you have an attorney pointing it out. Are you willing to notice? That's what he said.

MS. BERGER: We're willing, if

CHAIRMAN BODNER: If it's determined that it's appropriate.

MS. BERGER: If it's required, we'll request that.

MR. KELLY: He's saying it's required. And he's asking the question of your witness.

CHAIRMAN BODNER: Your witness is saying it's required? Or tell me that it's not.

MS. BERGER: My expert says that, he, based upon his review so far, he has not determined that it was required.

MR. KELLY: Has he not determined or it's not required? It's a big difference.

CHAIRMAN BODNER: It's not an I don't know. If you want to take time to talk to him.

MR. KELLY: If he has considered it, that's valid.

MS. BERGER: He has not considered it.

MR. KELLY: It's not up to our experts to flag your variances which I think is the point Mr. Simon is trying to make.

MR. LAMOTHE: But it also be considered an existing nonconformity.

MR. KELLY: But regardless it's not in the zoning table which is the point counsel is making. So

MS. BERGER: I agree. The point that counsel is making it's not on the zoning table. He had not considered it. If they want, they would like the zoning table revised to note that, the expert can do that for the next hearing

CHAIRMAN BODNER: Mr. Simon would that be satisfactory?

MR. SIMON: It's their application. I'm just trying to point stuff out that's all.

CHAIRMAN BODNER: No. That's not what we're trying to do. We're trying get this talked about and resolved. So you brought up an issue let's talk about it and resolve it.

MR. SIMON: I would love it if the applicant amended.

CHAIRMAN BODNER: You just want to give them a hard time.

MR. SIMON: I'm not trying to give them a hard time. I'm doing my job. I'm trying to identify that.

CHAIRMAN BODNER: Your job is to ask questions and give me a straight answer.

MR. SIMON: The straight answer is that I would love it for them to amend their application to identify all the variances, exceptions and waiver relief that they actually need. Good luck. I'll move on.

CHAIRMAN BODNER: They messed up. It's not because they tried not to do it. They might have made a mistake and missed something, and you want to point it out, point it out. They'll take notes and [inaudible].

MR. SIMON: I got it. Okay. With regard to, Dan, you just made a comment that, Oh, it may be a preexisting nonconforming use. What does that mean?

CHAIRMAN BODNER: Excuse me. I just want to ~~ask. You get an understanding.~~ If you think that you need the notice requires because of the houses need it?, et cetera, then we'll do it. It's a simple thing ~~because,~~ I don't really understand the point you're trying to make here.

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MR. KELLY: It's not up to our experts to flag your variances which I think is the point Mr. Simon is trying to make. ~~Regardless of Mr. Simon's argument, I think~~

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