

MINUTES OF THE
EAST BRUNSWICK TOWNSHIP
BOARD OF ADJUSTMENT

May 4, 2023

STATEMENT - Open Public Meetings Act

FLAG SALUTE

ROLL CALL -

PRESENT:

Christine Rampolla, Chair
Amy Papi
Leon Gurevich
Steve Pepe
Chester Brandt
Bonnie Wilson
Drew Weingarth

ABSENT:

Cathy Decker
Deepak Arora
Ivan Wynter
Steve Philips

ALSO PRESENT:

Jay Weiner, Esquire
Aaron Blessing - Zoning Assistant
Sherard Joseph - Zoning Assistant
Keith Kipp - Director of Planning/Engineering
Joseph Kong - Engineer
Kate Keller - Planner

MINUTES

February 2, 2023 - Motion to approve by Mr. Gurevich, second by Mr. Brandt. Minutes approved.

February 2, 2023 Executive Session - Motion to approve by Ms. Papi, second by Ms. Wilson. Minutes approved.

RESOLUTIONS

Application #Z-23-01 - Ramani - Proposed enclosure of existing patio to townhome located at 7 Bennett Court, block 88.30, lot 122, in the VG-III zone. Motion to approve by Mr. Weingarth, second by Mr. Gurevich. Resolution adopted.

NEW BUSINESS

Application #Z-23-05 - Rando - Bulk variance to permit existing shed with required side yard setback located at 47 Mitchell Avenue, block 828 lot 21.03, in the R-3 zone. Mandatory date June 24, 2023. Motion to approve by Mr. Pepe, second by Ms. Papi. Application approved with conditions.

Application #Z-23-08 - Devs Foods 3, LLC - Proposed modification to existing drive-through facility to add second lane located at 1018 State Route 18, block 174, lot 6.14, in the HC-2 zone. Mandatory date July 18, 2023. Motion to approve by Ms. Papi, second by Mr. Pepe. Application approved with conditions.

ADJOURNMENT

Motion to adjourn by Mr. Pepe, second by Mr. Gurevich. Meeting adjourned at 9:30 p.m.

MR. WEINER: Folks, before we start, are you separate? There are two different matters that you're here on, or together? You're separate. Okay, perfect.

THE CHAIRWOMAN: This is the May 4, 2023, East Brunswick Township Zoning Board of Adjustment meeting. In accordance with the Open Public Meeting Law, on December 15, 2022, notice of this meeting stating the time, date, and location was sent to the Home News Tribune, filed with the township clerk, and posted on the bulletin board in the lobby of the municipal building. A copy of this notice will be incorporated in the minutes of this meeting.

The zoning board will not hear any case beyond 10 p.m. with the exception of any hearing in progress at that time and will terminate all testimony at 10:30 p.m.

The chair reserves the right to call any application in an order different from that appearing on the agenda.

The doors outside the courtroom are the exits to be used in the case of an emergency.

If you can, please stand for the pledge of allegiance.

(Flag salute)

THE CHAIRWOMAN: Aaron, can you call the roll.

MR. BLESSING: Yes. Mr. Weingarth.

MR. WEINGARTH: Here.

MR. BLESSING: Miss Wilson.

MS. WILSON: Here.

MR. BLESSING: Miss Decker. Mr. Brandt.

MR. BRANDT: Here.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Here.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Here.

MR. BLESSING: Mr. Arora. Absent. Mr. Wynter. Miss Papi.

MS. PAPI: Here.

MR. BLESSING: Mr. Philips is absent.

So Acting Chair Miss Rampolla.

THE CHAIRWOMAN: Here. Okay. Thank you.

I think I just wanted to say before we start in a quick congratulations to Aaron. I think you're here tonight for the first time as our zoning officer.

MR. BLESSING: Thank you.

THE CHAIRWOMAN: So congrats and thanks for being here.

MR. BLESSING: Of course. Look forward to it.

MR. KIPP: And if I can, I just want to introduce Gerard Joseph. He's going to replace Aaron as our zoning assistant. This is his first week. He just started.

THE CHAIRWOMAN: Welcome.

Okay. First we have two sets of minutes. The first is the minutes of the February 2, 2023, meeting, the public portion of the meeting. Can I have a motion on that meeting.

MR. GUREVICH: Motion.

THE CHAIRWOMAN: Is there a second?

MR. BRANDT: Second.

THE CHAIRWOMAN: Okay. Is there a roll call. I forgot --

MR. WEINER: Any deletions, additions, changes, or is everything acceptable? And if everything is acceptable, we can have a vote.

MR. PEPE: Acceptable.

THE CHAIRWOMAN: Okay, Aaron, can you call the roll.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Miss Wilson.

MS. WILSON: Yes.

MR. BLESSING: Mr. Weingarth.

MR. WEINGARTH: Yes.

MR. BLESSING: Miss Papi.

MS. PAPI: Yes.

MR. BLESSING: Madam Chair Rampolla.

THE CHAIRWOMAN: Yes. Okay. Thank you.

And then also the minutes for the February 2, 2023, meeting, the closed portion executive session.

MR. WEINER: If I may, before we seek a vote, if there are any questions about the minutes or suggested changes, deletions, additions to the minutes, we can just say simply, yes, we want to make a change or erase something, and then the process would be the board would have to go into closed session to discuss them; however, if there are no additions, deletions, changes, modifications to those minutes and the board is okay, there's a motion to vote and approve the minutes as they've been viewed by everyone, then we can have a vote, but the minutes, themselves, are still sealed as minutes to a closed executive session.

Any additions, deletions, changes?

MR. PEPE: No.

THE CHAIRWOMAN: No. Okay, so would anyone like to make a motion on these minutes?

MS. PAPI: I'll make a motion to approve.

THE CHAIRWOMAN: Thank you. Second?

MS. WILSON: I'll second.

THE CHAIRWOMAN: Okay, thank you.

Aaron, can you call the roll.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: I wasn't -- okay, yes to approve.

MR. WEINER: You were. We can just double check.

MS. PAPI: You just voted on them.

MR. WEINER: February 2.

MR. WEINGARTH: Same day as the --

MS. PAPI: The same day.

MR. WEINGARTH: Same day.

MR. WEINER: Same day as the prior one.

MR. WEINGARTH: Same day.

MR. BLESSING: You were present.

Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Miss Wilson.

MS. WILSON: Yes.

MR. BLESSING: Mr. Weingarth.

MR. WEINGARTH: Yes.

MR. BLESSING: Miss Papi.

MS. PAPI: Yes.

MR. BLESSING: Miss Rampolla.

THE CHAIRWOMAN: Yes. Thanks, Aaron.

Okay, next we have a resolution on application Z-23-01, Ramani, a proposed enclosure of existing patio to townhome located at 7 Bennett Court. Can I hear a motion on this resolution.

MR. WEINER: First, before we have a motion, I just want to put on the record I have reviewed the resolution, and it appears to be in order, and unless there's any suggested additions, deletions, or changes by anyone. If not, we can seek a motion.

MR. WEINGARTH: I'll make a motion.

THE CHAIRWOMAN: Thank you.

MR. GUREVICH: I'll second it.

THE CHAIRWOMAN: Thank you.

Aaron, can you call the roll.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: Yes.

MR. BLESSING: Mr. Weingarth.

MR. WEINGARTH: Yes.

MR. BLESSING: Miss Rampolla.

THE CHAIRWOMAN: Yes.

Okay. All right, the first application under new business we have is application Z-23-05, Rando, a bulk variance to permit an existing shed with required side yard setback, located at 47 Mitchell Avenue, block 828, lot 21.03, in the R-3 zone. Is there an applicant here for that application?

MR. RANDO: Yes.

THE CHAIRWOMAN: Do you want to come right up here.

Jay, can you tell us if we have jurisdiction on the application.

MR. WEINER: Yes, Madam Chairwoman, I've reviewed the notices previously on this matter. They are in order, and the board has jurisdiction to hear this application.

THE CHAIRWOMAN: Thank you. Can you tell us -- are you the homeowner?

MR. RANDO: Yes, I am.

THE CHAIRWOMAN: Okay. Can you state and spell your name for us.

MR. RANDO: Sure. It's Francesco G. Rando. I go by Frank, and it's F-r-a-n-c-e-s-c-o R-a-n-d-o.

THE CHAIRWOMAN: Okay, and also, we just need to swear you in, so can you raise your right hand. And do you swear to tell the truth, the whole truth, and nothing but the truth about this application this evening?

MR. RANDO: I do.

THE CHAIRWOMAN: Okay. Thank you. All right, well, why don't you start telling us why you're here before us and why you're seeking a variance.

MR. RANDO: Sure. I'm here today before you not only to present a zoning board with my testimony but also to offer a glimpse into the man and the homeowner who's here requesting the bulk variance to permit the existing shed and on the current location at the northwest corner of my property at 47 Mitchell Avenue to remain within the 5-foot required side yard setback.

I'd like to take this opportunity just to introduce myself briefly, tell you a little bit about myself and growing up here in East Brunswick community for over 35 years. I reside, as I said, at 47 Mitchell Avenue in East Brunswick. I moved here in 1985. My position as an occupation is a chief engineer of a 18-story commercial condominium in Manhattan. I grew up in the neighborhood of Pine Ridge. I was fortunate enough to purchase a home in Pine Ridge in 2012, as well. My daughter Charlotte, 9 years old, and Penelope, 6-year-old, currently attend the elementary school that I attended back in 1985. My wife Fabiana is a finance manager and an active member of the Lawrence Brook Elementary School PTA. In 1994, I graduated East Brunswick High School, and in the same year, I achieved the rank of Eagle Scout at Troop 61.

I had the pleasure of working with Parks & Recreation Department of East Brunswick to complete my voluntary Eagle Scout project at Dallenbach Lake. Within those 35 acres of trails, I installed trees, shrubbery, and identification plaques to improve the trails that I loved hiking as a child.

I'm now prepared to present my testimony as to how the permitting the bulk variance will not

only alleviate hardships for my surrounding neighbors but also to prove the benefits will outweigh the detriment.

On November 11, 2022, an in-ground pool permit was filed for my property with East Brunswick Township. The new pool construction is currently underway, and I'm planning to install a dry well system on the lowest part of my lot located on the northwest corner. The pool company Seasonal World has already confirm that there is significant layer of clay below the superficial layers of dirt throughout my property. As any engineer will tell you, clay is not porous and does not allow for adequate drainage of rainwater runoff.

Moving the 8-by-10-foot shed to the required 5-foot side yard setback will interfere with the proposed installation of the underground drainage system due to newly poured concrete footings, which will be required to keep it level and support its weight.

The existing shed was built of plywood and 2-by-4's in approximately 1977 when the house was constructed and would no doubt be destroyed within the moving process regardless of the location on the property it was to be moved.

The drainage system will be connected to four underground roof downspouts along with a driveway drain and approximately 100 feet of 2-inch channel drains surrounding the pool.

As you can see on the property there on the survey, there's a 12-foot elevation difference between the south property line and the north property line in only a span of 100 feet. Due to the existing poor drainage and poor topography, I feel a major hardship would befall my surrounding neighbors if I was not able to install the dry well system specifically in that location.

Another added benefit would be the collection of overflow pool water from my neighbor's property, which is located directly to the west. The current overflow pool of my neighbor's water flow is -- on his location unknowingly is affecting the soil and the runoff on his own property.

Additionally, my neighbor to the immediate north would also benefit from the dry well system in the northwest corner of my property. This neighbor also has poor topography with more than a 5-foot elevation decrease across their back yard running from east to north -- excuse me -- east to west. The northwest corner of my property is at the

lowest section of multiple surrounding lots and will therefore greatly alleviate the hardship of runoff rainwater flooding the neighbors' properties, grass, lawns, gardens, topsoil, et cetera.

Ultimately, if the variance were permitted, the benefits would outweigh the detriment, and the underground drainage system would definitely benefit my immediate neighbor's runoff rainwater dispersal and avoid any future hardship.

Thank you very much for your time and consideration.

THE CHAIRWOMAN: That was very thorough.

MR. PEPE: Yeah, that was great. That was very good. Better than some of the PE's we have in here.

THE CHAIRWOMAN: Thank you for explaining the hardship and why you can't -- why it would be difficult to move it. How far will the shed be from the fence that you're constructing?

MR. RANDO: It would be in line with it, so the back of the shed would be part of the barrier.

THE CHAIRWOMAN: So it's right up against the fence?

MR. RANDO: Yeah, the existing shed is 1.2 feet, and they said they can put it at approximately 1 foot from the line would be a good number, so that would become the boundary. There would be no fence behind the property -- behind the shed.

THE CHAIRWOMAN: Okay. I just -- was such a small space so I was wondering how you take care of any overgrowth or anything.

MR. RANDO: Yeah, I didn't want to have risk of animals or kids or anyone getting stuck back there, so it would butt right up against to the shed.

THE CHAIRWOMAN: Okay. Do any of the board members have any questions?

MS. PAPI: I don't have any questions. I just wanted to say that, you know, listening to you, I that you were the engineer of the project.

MR. RANDO: Like I said, I'm a chief engineer in Manhattan.

MS. PAPI: Yeah, so you convinced me.

MR. RANDO: Thank you.

MR. GUREVICH: Has the shed been -- I'm sorry, I couldn't see from the front property line but what is the condition of the back of the shed?

MR. RANDO: It's very well kept. I'm

looking to actually do some siding on it to match. I have leftover siding. We just did our home.

MR. GUREVICH: Okay. That answers all the questions I have.

MR. WEINER: Chairman, I just have a couple of points.

Have you had an opportunity to review the memorandum from the East Brunswick Planning Department.

MR. RANDO: I have.

MR. WEINER: I just want to make sure you're aware of what's indicated there about the impervious coverage, that you're at the -- according to our staff, you're at the limit. Mr. Kipp has a comment.

MR. KIPP: If I may, I have not seen the proposed drainage system, and I think that should be a condition that we get to review that prior to any installation. And as well with the calculations, as you were alluding to, that would give you some buffer for impervious cover, but your original proposal did not have a drainage system so you were at 30 percent, but we'll work with you when you submit that to us, and we'll establish, you know, what kind of relief that can grant for any future impervious.

MR. WEINER: Very good. So I'm just putting down drainage system plans to be submitted to township professional staff for approval prior to issuance of --

MR. KIPP: I guess it would be resolution compliance for this variance.

MR. WEINER: Yeah, as -- well, the issue is is you're going to need a permit for this variance, this --

MR. KIPP: That's what my concern is. The pool permit's also been submitted, and we were okay with that other than the shed.

MR. WEINER: But there should be a permit for the shed if the shed was in violation, so before that can be issued --

MR. KIPP: I would imagine he would need an impervious permit, also, just so that we can have that for the record.

MR. WEINER: Okay, prior to issuance of shed permit and impervious permit, that would be a condition. Are we in agreement with that, sir?

MR. RANDO: Agreed.

MR. WEINER: Okay. Then the other comment I had is I just wanted to make sure that you

understood that the variance, should it be granted, for the shed, it's for the shed. So if that shed -- and you mentioned the age of the shed. If for some reason that shed at some point has to come down, even if it's replaced with a new shed, that would require a new variance if it's placed within the setback, even in the same place and it's the same size, to come back before the board because the relief that's granted is for this shed, and it would expire upon the expiration of the shed.

MR. RANDO: Understood.

MR. WEINER: Okay. That was all I had, Chairwoman.

THE CHAIRWOMAN: Thank you. Did any of the other board members have questions? No? Any of our professionals, questions?

MR. KIPP: No. I just want to say that was excellent testimony.

MR. WEINGARTH: East Brunswick resident.

THE CHAIRWOMAN: That was impressive.

MR. PEPE: Can I make a motion?

MR. WEINER: No, not yet.

THE CHAIRWOMAN: We need to open it up to the public.

MR. WEINER: Not yet.

MS. PAPI: All excited.

THE CHAIRWOMAN: Okay, so if there are any members of the public who would like to come up and ask questions of the applicant or have comment for the board.

Seeing no comments, we'll -- seeing no one rise to make any comments, we'll close the public portion. Now we can entertain a motion.

MR. PEPE: I would make a motion to approve.

MR. WEINER: With the condition?

MR. PEPE: With the condition as indicated by Counsel.

THE CHAIRWOMAN: Thank you. Is there a second?

MS. PAPI: I'll second the motion.

THE CHAIRWOMAN: Thank you, Miss Papi. Aaron, can you call the roll on this application.

MR. BLESSING: Mr. Pepe.

MR. PEPE: I vote yes, and you did a great job with testimony showing your hardship, and I feel like you're trying to do the right thing by doing what you're doing for your neighbors and really taking everyone into consideration due to the

fact that you have this topographical issue in the area and that you have issue with the soil content over in that side of town. So for that, I vote yes.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Yes.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: I vote yes.

MR. BLESSING: Miss Wilson.

MS. WILSON: Yes.

MR. BLESSING: Mr. Weingarth.

MR. WEINGARTH: Per the conditions, yes.

MR. BLESSING: Miss Papi.

MS. PAPI: I vote yes, and I'd also like to thank you for remaining as a resident of East Brunswick.

MR. RANDO: My pleasure.

MR. BLESSING: Miss Rampolla.

THE CHAIRWOMAN: I'll vote yes, also. I think you really demonstrated there would be a hardship with moving it because of the need for the drainage system and it being in the way of really wherever you would move it. I think it's good that you're putting in the drainage system. It will be helpful to you and your neighbors. So thank you. It looks like your application passes, so you can keep the shed where it is.

All right. That's it.

MS. PAPI: Congratulations.

MR. RANDO: Thank you everyone.

THE CHAIRWOMAN: Okay. All right, the next application on our agenda is application Z-23-08, Devs Foods 3, LLC, a proposed modification to an existing drive-through facility to add a second lane, located at 1018 State Route 18, block 174, lot 6.14, in the HC-2 zone.

MR. SHAFKOWITZ: Good evening.

THE CHAIRWOMAN: Hello.

MR. SHAFKOWITZ: I should ask Mr. Rando to stay. Maybe he can help us with our application. I'm really worried, really worried. So my client's here, too, which is worse.

MR. GUREVICH: Expected to take just as long (inaudible)

MR. SHAFKOWITZ: Something else you guys have to do tonight, right? Is it all right if I start, Madam Chair?

THE CHAIRWOMAN: Yes, please go ahead.

MR. SHAFKOWITZ: Good evening, everyone. My name is David Shafkowitz. I'm here tonight on behalf of the applicant, Devs Foods 3, which is the

owner and operator of the Burger King located at this site, which is 1022 State Route 18, and located in the township's highway commercial zoning district.

THE CHAIRWOMAN: I'm sorry --

MR. WEINER: If I can just interject quickly.

MR. SHAFKOWITZ: Yes.

MR. WEINER: I just want to put on the record that I reviewed the applicant's notice proofs, and they are satisfactory, and the board has jurisdiction to hear this application. And with that, I'll let counsel continue.

MR. SHAFKOWITZ: Sorry about that. I actually have originals, too.

MR. WEINER: That will need to be submitted to our staff.

MR. SHAFKOWITZ: Okay. No problem.

As I was saying, the particular property, as the board may be aware, is located in the township's highway commercial zoning district. It's currently improved with a 4,100-square-foot give or take existing Burger King restaurant with a single lane drive-through.

The board may know that the Burger King was recently renovated to an updated design. Part of the updated design had into consideration the possibility of this second drive-through that we're going to be proposing tonight, and as part of that, what I think was originally -- and Mr. Patel will be able to confirm -- was about 70-seat restaurant. The new arrangement for Burger King has this particular one go down to 48 seats inside.

As the board is probably aware, this parcel is on about an 82,000-square-foot lot. It fronts on Route 18 on the northbound side.

As noted, the applicant is proposing a second drive-through, and I'm sure, again, it's probably not the first application the board has seen for quick-service restaurants and drive-throughs coming in with the multiple location, one of the byproducts of COVID, unfortunately. Burger King as well as many other fast food restaurants have been pushing these issues. It just seems -- I don't want to say as a matter of survival these days, but it's just a matter of the way this business is now conducted. It's just fascinating how it's changed.

So as part of when Burger King I think was originally approved or when this quick-service

was originally approved there, it was done by conditional use. Because we're making a change to the property, we're here for essentially renewal, so to speak, of some of the conditional use items that may not have been complied with originally, so that's why we're here today for a D-3 variance, which some relief was given then.

I think what you'll hear from the testimony tonight is that the addition of the second drive-through will actually ultimately improve the site. We think that the circulation will improve, the way the site operates will improve, and that there will be no material change that anybody will notice with regard to the items set forth in the criteria.

So having said that, with me is Mike Galante, our site design engineer and planner. Got to -- Patel is also here, who is the owner of Devs Foods 3. Mr. Patel is also an operator of about at this stage 60, 70 Burger Kings in the State of New Jersey. So any operational questions that come up and I know were in the review letters we'll be happy to answer.

Having said that, Mike, we'll have you sworn.

THE CHAIRWOMAN: Do you swear to tell the truth, the whole truth, and nothing but the truth?

MR. GALANTE: Yes.

THE CHAIRWOMAN: Actually, can you spell your name for us.

MR. GALANTE: Yeah, it's -- my name is Michael Galante, M-i-c-h-a-e-l G-a-l-a-n-t-e.

THE CHAIRWOMAN: Thank you, and can you tell us a little bit about your licensure.

MR. GALANTE: Yes, I'm a licensed engineer in the State of Pennsylvania -- Commonwealth of Pennsylvania -- I mean State of New Jersey, Commonwealth of Pennsylvania, and State of Maryland. I'm also a professional planner in the State of New Jersey. I currently serve as municipal engineer for about five municipalities in the Commonwealth of Pennsylvania. I've testified before numerous boards for similar applications for Burger Kings and other use variances and other site plan approvals throughout the State of New Jersey.

THE CHAIRWOMAN: Okay. Is there a motion to --

MR. PEPE: I'll make a motion to approve his CV.

THE CHAIRWOMAN: Okay, to recognize him as --

MR. PEPE: Recognize him as a professional witness.

THE CHAIRWOMAN: Thank you. All in favor? Okay.

MR. SHAFKOWITZ: Mike, maybe before you start -- Aaron, I didn't -- are we able to get the plan on the screen?

MR. BLESSING: Yes. One moment.

MR. SHAFKOWITZ: Okay, cool. Just as a point of reference. That would be great.

MR. BLESSING: This will be the plans that were submitted to the township with the application?

MR. SHAFKOWITZ: Yes, which I think are probably already included as an exhibit.

MR. WEINER: Are there any changes? Is it colored or anything? If it's identical to what was submitted, then you just need to identify it, but it doesn't need to be marked.

MR. SHAFKOWITZ: So, Mike, before you start testimony, just identify the plan.

MR. PEPE: Is it coming in on a drone?

MR. SHAFKOWITZ: So, Mike, as the plan slowly appears before us, do you recognize that as the plan that was submitted with the application?

MR. GALANTE: Yes.

MR. SHAFKOWITZ: Why don't you tell the board a little bit about the neighborhood and then ultimately what's being proposed on the site.

MR. GALANTE: Yeah, so right now you're looking at the cover sheet for the site plan that was submitted. The project is for a new double drive-through on existing Burger King. The project site is located at 1022 NJ State Highway Route 18. It's located in a commercial district. Right now it's conditionally permitted for the drive-through.

And, you know, if we can go to the next existing conditions plan, I can describe -- that's the notes -- but the existing conditions right now. The site takes access off of 18 and provides for two -- you know, you'll see on the site plan right now there's multiple, like, arrows with X's on them because we're going to redo all the circulation on the site. So right now if you're coming into the site, you come off of Route 18. You'd wrap -- you'd loop around. You would make that first right and go into the drive-through lane and circulate the site through a one-way type circulation around the

drive-through. You could also take access off of the side road, and there's two-way circulation.

There currently are 66 parking stalls. We're going to demolish the portion that -- where the existing drive-through is now, and that's going to get reconstructed with the new double drive-through. As part of the project, too, we're also going to upgrade the ADA accessible parking stalls to make sure that they are 100 percent compliant with local -- with the 2010 ADA guidelines, and we are also going to add some lighting and some other incidental improvements that I'll describe when we get to the site plan.

There is also -- the site is adjacent to a residential zone property, and that is discussed within the letters, and as I go through my testimony, I'll talk about the review letters that we received and how we plan to comply with the engineer and planner comments.

Can we go to the next page, please.

Sorry.

So this is the site plan. Very similar to the existing conditions plan. The circulation is --

MR. BLESSING: I'm sorry. One moment.

MR. GALANTE: That is a grading plan.

Sorry. This is the site and landscape plan, very similar to the existing conditions plan with the one caveat. What we've been trying to do when we upgrade these sites, we want to make sure that we minimize the amount of conflicts that you could have within that main driveway area, and you'll see a lot of the Burger Kings, they're designed for multiple modes of circulation up and down the drive-through lane. So what we do is try to keep it one-way circulation going into the drive-through because sometimes you can get queuing, and the one thing we don't want to have is queuing backing up in that main drive lane that takes you out to Route 18 to the north of the property. So what we're doing now is we're keeping everything one-way to make a more efficient mode of circulation so that we can accommodate the double drive-through. And you'll note that the drive-through right now only allows for about one or two cars to stack now. You know, we want to make sure that any time we have stacking, I mean, you've all seen, like, where you'll see a use that has a drive-through, the cars are backing up to the road by doing it -- by having a one-way circulation. Now we have the cars able to stack on

the site rather than going all over the place all throughout the site, and we kind of control that much better. And then with the double drive-through, we can also accommodate more cars and more efficiently serve the customer.

Also, you'll see the upgraded ADA accessible stalls. You'll see additional landscaping proposed around the drive-through area, and also, each of the double drive-throughs has a menu board, and it has an ordering board along with the height limitation bar.

And that's generally what the site plan consists of. And if you could just go back to the existing conditions plan, I'll show you the stalls that are getting removed. If you look where -- to the north of the page, you'll see those parking stalls, they back up into basically that main drive aisle, so they'll not really ideal to have there anyway, and I don't really think they're desirable for someone to park. Maybe an employee parking spot, but for a customer, there's really no clear access to get to the building. The other stalls have sidewalks. There's more -- there's an easier mode for someone to actually walk over and get to the building. So by eliminating those stalls, I don't think we're really losing anything from the site. And also, by reducing the seating, it kind of makes sense, and it accommodates that additional drive-through.

But if we can just go back to the site plan one more time. Yeah, I don't have anything else to discuss on the site plan. I can go through the engineer letters and discuss how we can comply with the professional letters and address how we're going to comply with the comments.

MR. SHAFKOWITZ: Before you start that, one thing I'm noticing on the revised plans is these buffer islands that were created by the drive-throughs.

MR. GALANTE: Yes.

MR. SHAFKOWITZ: Which obviously there was no landscape buffer at all between the drive-through aisles and the residential property boundary now --

MR. GALANTE: That is correct.

MR. SHAFKOWITZ: Just maybe explain a little bit about --

MR. GALANTE: Yeah, so currently you'll see that under the existing condition there were parking stalls between the drive-through ordering

board and the menu board and the adjacent property. Under this scenario, we allowed for additional green buffer for each of the two drive-through lanes that you can see at the north of the page.

And we did receive the review letter from Joseph Kong, from -- say that right, Joseph Kong from T & M Associates, and we actually have no issue with complying with the engineer's comments.

The one note that we wanted to talk about was the loudspeaker because that also came up in the planner letter. So there was a comment from Mr. Kong about no loudspeaker shall be permitted -- and this is actually from the conditional use criteria -- no loudspeaker shall be permitted at properties that abut a residential zone or residential property. The applicant shall provide testimony with respect to noise impacts of the proposed drive-through lanes. We have our owner/operator, Sanjay Patel, who can also testify. We talked about this before the meeting. That the drive-through speakers can be adjusted for noise. So when it gets later at night, if that's really the concern with the residential properties, we can lower that down and almost make it so they have a less decibel level at the adjacent property, and that's typically what you would do in this case.

Is that correct, Mr. Patel? You want to bring him in. I'm sorry, I'm not the attorney this evening.

MR. WEINER: We would need -- before we hear from the gentleman --

MR. GALANTE: We got to swear him in.

MR. WEINER: -- we need to have him sworn in.

MR. GALANTE: So he can testify to that later.

There was also a comment about drive-through windows located within 150 feet of a residential building shall be closed at 11 p.m., And I believe the hours of operation, which will be testified later, I think during the week currently the hours extend above 11 p.m., and with the additional drive-through lane, the hours of operation are going to remain the same, and those hours can be discussed, and we would consider that an existing nonconformity to, you know, with the application. We'll provide more planning testimony on that when I get to the planner letter.

Regarding the other engineer comments, we don't have any other items that we need to

discuss.

MR. SHAFKOWITZ: I just have one question. We talked about how the site or the restaurant component of the site has been changed from 70 something seats down to 48 seats.

MR. GALANTE: Yes.

MR. SHAFKOWITZ: With regard to that number of seats, do you believe that the site -- does the site has compliant parking now?

MR. GALANTE: Yes.

MR. SHAFKOWITZ: Still have compliant parking?

MR. GALANTE: Yes.

MR. SHAFKOWITZ: And how many parking spaces with those being eliminated will be provided; do you know?

MR. GALANTE: There's going to be a total of 58 parking stalls provided. We're eliminating eight.

MR. SHAFKOWITZ: And if I understand correctly, 35 --

MR. GALANTE: Thirty-five is what's required.

MR. SHAFKOWITZ: Okay. So for your -- in your opinion, the provision of 50 seats inside that we'll have sufficient parking on site.

MR. GALANTE: Yes.

MR. SHAFKOWITZ: Okay. If you want to move into the planner letter, that would be great.

MR. GALANTE: Yeah, so --

THE CHAIRWOMAN: Can I just ask our professional. Would you agree with that being sufficient parking for the number of seats?

MR. KONG: Yeah, the site is overparked. I want to revisit comment number 2 regarding the one-way aisle, which currently as it exists is a two-way aisle, and it's fairly wide for it to be one-way. So we would like some more measures to make it more obvious so people don't pull out of those parking stalls and start heading the wrong way. There's a couple options I think we can present, one of which would be to restripe that first row to be angled parking. Would still allow you to have the proper width. Minimum drive aisle width is 18 feet by ordinance, so I think based on the scale, approximately 46 feet or so. So that way that would eliminate some of the conflicts of people maybe heading down the wrong way coming down to the drive-through.

The other -- and it's the last few

stalls that are directly across from where you could be queuing up and pulling in, I can see the potential for during busy times people getting stuck parking there, and since you're overparked and we're changing it to angled parking, I think it would be fine to eliminate the last few stalls over there so you don't have that conflict of people being stuck (inaudible)

MR. GALANTE: I'm not sure I follow the first. I followed eliminating those stalls, creating some green space. I think that's a good idea. I'm not sure I follow the first, angling all the parking stalls on the one-way drive aisle.

MR. KONG: Yes.

MR. GALANTE: And then is there any other -- yeah, I have no issue angling those stalls. Is there any other provision you want to see other than angle -- just to angle them so it's more defined as one-way; is that --

MR. PEPE: Yeah.

MR. GALANTE: Yeah, okay.

MR. KONG: To eliminate people exiting the wrong way.

MR. GALANTE: That's fine.

MR. GUREVICH: I think there were two comments, it was angling and striping to clearly designate the driveway.

MR. GALANTE: Yeah, we can comply with that, yes.

MR. WEINER: Mr. Kong, I just want to -- if you could go over what you would like slowly. I want to get these down because they will be conditions to any potential approval.

MR. KONG: Yeah, I think we can work -- we would like to see angled parking on the first row directly across from the restaurant.

MR. WEINER: Angled parking on first row directly across on the -- what side would that be -- east side? Angled parking.

(Inaudible)

MR. GALANTE: I was going to say that, too. Can we keep the ADA 90-degree just for --

UNKNOWN SPEAKER: (Inaudible) you got enough buffer from where the rest of the --

MR. GALANTE: Okay, good.

MS. KELLER: Yeah, you have (inaudible) in the front. It's not --

MR. PEPE: So leave them non-angled. Leave them perpendicular -- or perpendicular I guess it would be, and then have everything else angled in

that drive aisle.

MR. WEINER: If I may, I just want to make sure I have this correct. Angled parking directly across from the restaurant on the east side. That's excluding the -- excluding the ADA slots.

MR. PEPE: The three ADA.

MR. WEINER: Excluding ADA spots, which shall remain perpendicular or -- shall remain perpendicular to the drive. And then there was a second half of that.

MR. KONG: Also like to eliminate the last two of these stalls.

MR. WEINER: The last two or three -- what are we comfortable with?

MR. KONG: I guess see the layout when it comes in on what it looks like when the angled parking is laid out.

MR. KIPP: We'd have to see that geometry.

MR. WEINER: Okay.

MR. GUREVICH: No stalls directly behind the --

MR. WEINER: I'm just going to write the stalls directly behind the start of the queue -- start of drive-through queue shall be removed and reflected in revised plans to be approved by township professional staff.

MR. GUREVICH: I was going to save this question, but I think it might be relevant to the questions that you're asking over here. I think it would be helpful to understand the flow. I've been to this Burger King a number of times. It's attached to a mall. You know, I've never entered through the entrance that's closer to the Burger King; I've always entered through the mall, driven through the mall, and come around, right, and I'm just curious because the way this is lined up right now, if you were to enter through that entrance, you would drive down that back -- actually, Aaron, if you keep in the same where it was -- so if you were to enter off of 18 in the -- what's it called -- that entrance on the -- that's at the upper left-hand corner over there, then you would come around, and is the idea that you would swing around? I notice that there is a sign that's there that you can enter the two lanes from either side? That's something that was a little bit confusing with the --

MR. GALANTE: I think if you're coming in off -- to clarify, if you're coming off 18, you

would drive down that back, that northern drive aisle, north being top of the page, go all the way down to where the dumpster is. You'd make a right and loop around to go to the drive-through.

MR. GUREVICH: So that's what I would say that, you know, people doing what they're supposed to would do. I guess the question is what prevents somebody who is desperate for a burger to, okay, to come around. My assumption is that is -- like, it says proposed R1-1 and R5-1 signs on both sides, so it's actually inviting somebody if they're reading the sign to just loop into from that side.

MR. GALANTE: Well, the R5-1 is a Do Not Enter.

MR. GUREVICH: Is that what it is?

MR. GALANTE: Yeah.

MR. GUREVICH: Okay.

THE CHAIRWOMAN: That's there already, correct, that Do Not Enter sign? That's one that's already there.

MR. GALANTE: That's on the plan right now.

MR. GUREVICH: That's what it is. Okay.

MR. GALANTE: Because right now you can enter that way. Right now it allows for you to actually make that turn. We're eliminating that so we can keep the queue on our main drive.

MR. GUREVICH: You don't see a, like, a conflict in terms of somebody swinging in other than --

MS. WILSON: I mean, I've had trouble there, and people, like, you're confused as to who is allowed to go first.

MR. GUREVICH: Well, like, you know what, yeah --

MS. WILSON: Having something like that would be helpful.

MR. GUREVICH: And you're the one guy that came in from the other side.

MR. WEINGARTH: So if you're coming from the Old Bridge Turnpike side, right --

MR. GUREVICH: No.

MR. WEINGARTH: No, I'm saying -- I'm adding a mixture to this. If you're now, to your point, it's a large space area, so you're becoming from the Route 18 side, but you now have the option from basically the back section, so if you're coming off of Old Bridge Turnpike, and those of us who are used to entering the Burger King from that way based on this layout, you would need the direction of the

flow of knowing where to enter the queue, so to speak.

MR. GUREVICH: Yeah, I mean, are there other signage -- I guess that was my question is, you know, for somebody who's not initiated to this, given that there is a lot of ways to navigate this, so you have the one big sign, but sometimes people, you know, when it's convenient and you see a lineup on one side, but you're just coming in, I might swing around, right. Like, there's not a lot that's obstructing that. Is there other signage? How do you propose just keeping the traffic going in the way that it should?

MR. SHAFKOWITZ: No, Burger King -- I don't know if they were depict as much on the plan, but they have their kind of painted, not with logos on them, but the signs that look similar that will show drive-through this way, arrows, those types of things, directional signs and those types of things. So we can definitely add those, and, you know, the township staff, we can provide them those details, figure out the strategic places to put them and, you know, get them on the plan and get them installed, as well as some of the other things that Mike already talked about in terms of the Do Not Enter. But, yeah, we agree, because this -- what we find with the fast food is that people who visit the site often know exactly how to travel. Now because we're kind of flipping it, we want to get everybody used to the new circulation pattern. So I think those signs would be a great idea.

MR. GUREVICH: Okay.

MR. SHAFKOWITZ: And we've done those on other sites so I think we should do them --

THE CHAIRWOMAN: Does that become a condition?

MR. WEINER: Yes, I'm jotting that down now. Additional drive-through directional signs to be installed to the satisfaction of township professional staff.

MR. KONG: That's also a comment in our letter already.

MR. SHAFKOWITZ: Okay, good.

MR. KONG: Before additional drive-through signage, directional signage.

MS. WILSON: Madam Chair.

MR. GUREVICH: Do you find it sufficient in terms of the large sign over there?

MR. KONG: We're actually requesting additional signs in our comments.

MR. GUREVICH: Okay.

MR. WEINER: So that's already in your comments.

MR. SHAFKOWITZ: Yeah, so we'll work with --

MR. WEINER: Okay, so we don't even need -- not going to be superfluous and redundant.

THE CHAIRWOMAN: Miss Papi had a question.

MS. PAPI: I also visit Burger King often, I mean, and my question all the time entering, where you'd have to go to the drive-up, I would be so confused because there would be parking, and then that's how I would have to go through that route, and I'd say, let me see, maybe someone is going to pull out and I will get hit. So I am amazed that a decision is being made to correct that because that's like for years and very -- I mean, I have to be honest with you. I would have to hold my kids' hands, wait, wait, don't move. Like, it was so scary each time. So I'm very happy to be sitting here and knowing that you're addressing it. So I just want to say that I was pleased to read what I was reading that was given to me to review that this was being addressed. So I just want to tell you that.

MR. SHAFKOWITZ: Thank you.

THE CHAIRWOMAN: I was going to ask this question later, but since -- of our planner, but since we're talking about what we were talking about, the parking stalls, can you tell us whether the town ordinance for electric vehicle charging stations applies here.

MS. KELLER: Sure. So, you know, as this board knows, we've discussed here before, there are some questions, you know, some vaguenesses in the state statute and that was adopted by the township, but generally, you know, the way that it reads in the township ordinance is that EV stalls are required for new development. And, yes, this is an application for development. This is an application for amended preliminary and site plan, but in my opinion, you know, they are -- they're not adding any floor area. They're actually removing parking spaces. And so in this case, I would take the stance as a planner that this does not apply here.

THE CHAIRWOMAN: Okay. Thank you. That's helpful. Okay.

MR. SHAFKOWITZ: All right, so I think

we got those things resolved. I think what Mike maybe when he went through it too quickly, we just meant to comply with those. So I'm glad we were able to have that discussion.

MR. GALANTE: Yeah, that's what we had the conversation.

MR. SHAFKOWITZ: Mike, why don't we move into the planner comments.

MR. GALANTE: Sure.

MR. SHAFKOWITZ: And then you can do all what you get paid the big bucks for and get through the --

THE CHAIRWOMAN: Just before you go on, did that cover all of your questions, everything you wanted testimony on?

MR. KONG: I think they have agreed to address all the other comments in the letter, and we'll work with the engineer on the revised plan.

THE CHAIRWOMAN: Okay.

MR. KIPP: Because the lighting wasn't brought up, which is one of Joe's point, which is a valid point. We want to see the lighting demonstrated.

MR. SHAFKOWITZ: Yes, definitely.

MR. WEINER: I want to remind the board that should the board that should the board ultimately decide to approve this application with conditions, one of the terms of any resolution -- especially after it has been stated on the record that they will comply with the recommendations and comments of the staff reports, that goes in -- that's a condition of the resolution that goes in there, so it's incorporated by reference. It will actually say, as you're familiar with when you guys vote and look on the resolutions, just to be reminded, it will actually say the applicant agrees to comply with all the comments and recommendations of, and I normally list the reports in there with who wrote them and the dates and so forth, so this way there's no question after the fact as to that.

THE CHAIRWOMAN: You know, actually, I did have one question since you mentioned lighting. I know they're going to submit a plan to you, but the one stand-alone light that is being removed I think and then replaced just outside of the second queue for the drive-through, is that the same height as the stand-alone one that's currently there?

MR. GALANTE: That is the design intent. We do take measurements, but I can also verify that when we do our final design and submit that to the

professional to verify.

THE CHAIRWOMAN: Okay, but it's basically that --

MR. GALANTE: Our goal -- yeah, we generally keep the same height.

THE CHAIRWOMAN: Okay. Thank you.

MR. GUREVICH: Are you guys going to talk a little bit about what's happening in terms of reducing the seat capacity, because you're not changing the footprint, right?

MR. GALANTE: I guess that would be more operational.

MR. GUREVICH: I kind of figured.

MR. WEINER: I just have for counsel another question, as well. When you offered the current witness before as a witness, it seemed to be as an engineer, although he did mention he's a licensed planner. Are you planning on having planning testimony from the same witness? If so, was it your intent to have him qualified as a planner? If so, I would think I would just want to hear a little bit more other than that he has a license, something about the planning side of his credentials, and have the board make sure to consider whether to accept him as an expert as to both.

MR. GALANTE: Sure. My name is Mike Galante. I'm a licensed -- no, I'm kidding. I am a licensed planner in the State of New Jersey. I've been licensed for about -- I'd say about 10 years now. I've testified in use variances similar to this application in various capacities and for -- in various applications. I do serve as zoning officer in one of my towns. And, you know, this is the type of planning testimony that I would typically do for this type of Burger King in the past.

MR. WEINER: Is the board okay with that? If so, you can have a motion just for the record.

THE CHAIRWOMAN: Is there a motion?

MS. PAPI: Motion to accept.

MR. PEPE: I'll second the motion.

THE CHAIRWOMAN: All in favor?

MR. WEINER: It's clear on the record that it was for both because it wasn't to my recollection before set forth.

MR. SHAFKOWITZ: Go ahead, Mike.

MR. GALANTE: So we have the -- I have the planner's letter.

MR. WEINER: That's why I wanted to ask

it now because you said you wanted to move on to the planner's letter.

MR. GALANTE: Thanks. Sorry, this thing's really loud. So I have the planner's letter in front of me. So I don't know if you would want me to go through each of the planning comments or go to the ones that require testimony.

MR. SHAFKOWITZ: Why don't we go through the D-3 conditional use relief that's required because there's certain sections of the conditional use criteria that we're either not complying with for specific reasons for making adjustments to.

MR. GALANTE: Okay.

MS. KELLER: I would just add for the board and also for the applicant, you know, as we recently just had a conditional use for fast food, there's a lot of requirements that apply here, and obviously, this is an existing property. They are, you know, there's some existing conditions that they may have been granted D-3 relief for when it was originally constructed, and there's a few items that are being exacerbated technically or, you know, but it's mostly -- I would say, you know, in large part it's really a technical reiteration of a prior conditional use because it is existing, so I've tried to note where those are the case. So, you know, there's kind of a long list, but there's really I think only a few that really require testimony from the applicant tonight. But feel free to ask any questions.

MR. WEINER: That's a good point that Miss Keller raises because, as she said, we recently -- it was just Chick-fil-A; however, that was a conditional use with a fast food from the ground up, whereas here you're looking at a lot of -- a preexisting restaurant, which other than as internally I think it was indicated that there's going to be a change in seating capacity; otherwise, there's no change to the use, and it's a conditional use that's already approved and permitted here, and any divergence for which relief is done, I believe majority, as Miss Keller said, is already preexisting. So the testimony really what I would say, obviously, focus on everything because the board has to re-decide even the preexisting matters, but specifically take note of the items that may be exacerbated or different than what was previously existing or approved.

MS. KELLER: Yes, and then just one more note on the comparison is that this is also, you

know, kind of a pad site to a shopping center with which it shares access, which really renders a number of the conditional use standards not really feasible, so I tried to note that in the report, as well.

THE CHAIRWOMAN: Okay.

MR. GALANTE: Yeah, I think the town -- the planner, township planner, did a very good job of summarizing the D-3 criteria, and I'll just go through them one by one, kind of reference the letter, and discuss how we're meeting the criteria as a result of the proposed development.

So the first criteria is side and rear yards shall be screened with a solid masonry wall, board-on-board fence at the board's discretion, and minimum of 6 foot in height. This site currently does not comply. There's no masonry board-on-board fence provided on the northern line. It's really not practical as per the planner letter, and, you know, as per the site there's really no room to actually fit in the fence, and since we're in that shopping center, it makes it difficult to put a wall up because then you're going to be blocking sight, the sight lines throughout the site.

The other criteria is 228-176.1(C)(7), that all-season planted buffer strips 10 feet in width shall be provided along the side and rear property lines where the property butts a residence or residential zone. These buffers shall be increased to 25 feet. In areas where existing space constraints, the board may reduce the width with planting berms, plants greater than height of mitigating factors. Generally, we don't comply with this condition, but this is an existing condition. It's an existing site. We're modifying the drive-through. We are adding landscape to the drive-through. And therefore, we feel that, you know, you know, to the, you know, to the extent that this is an existing site getting modified and enhanced for circulation and a drive-through, we feel we meet this criteria as an existing condition.

MR. SHAFKOWITZ: Nevertheless, is the applicant providing some plantings and screening from the drive-through aisles, themselves, even though they may not be the typical buffer?

MR. GALANTE: Yeah, and also, within the planner's comment letter, they reference some additional details on the existing plantings and maintenance, and we can provide that on the plan, and we can provide some backup documentation. We'll

resubmit the plans -- if we were to get approved, we would submit that with resolution compliance.

MR. WEINER: One quick question. This is for Miss Keller. The fact that they're increasing and adding landscaping and buffers elsewhere, does that attenuate in your opinion the preexisting lack of the buffer that would be needed ordinarily to comply?

MS. KELLER: Yes, it does. It mitigates that. And then also, as I noted, there is this, you know, it's not typical situation where the property kind of -- it's kind of hard to see on the plans, but it's -- the houses to the north, they don't back into this. There's a township owned property strip there. And so, you know, that's technically located in a residential zone, so, you know, these things still apply, but I think that, you know, in and of itself also mitigates this. Again, you know, these are technical comments, but yes. I think that it's going to be better than it was before.

MS. PAPI: I think so.

MR. GALANTE: So the next criteria has to deal with circulation and demonstrating that the site has adequate capacity for the circulation proposed, and there's a couple other ones that kind of all tie together. The queue storage minimizes interference pedestrian/vehicular movements. We discussed a lot of these earlier. I'm just going to run through them again very briefly.

Proposed drive-through facility shall be implemented without posing a safety hazard to pedestrian, vehicular traffic. So these three criteria all kind of fall in line with generally what we discussed earlier about how we're going to improve the circulation on the site, and we really got in deep detail when we discussed with the engineer's comment letter about making angled parking stalls, adding the additional green buffer, minimizing pedestrian conflicts, keeping the drive-through lane to the one-way circulation so that we minimize that potential conflict with pedestrians because right now the current condition, a car can come from any which way. Now they have to circulate around and get to the drive-through, which we feel always makes a safer situation throughout the site.

And as far as capacity, providing the additional drive-through lane we feel helps mitigate any capacity issues that would exist, and providing additional queue also helps with capacity throughout

the site.

And, you know, ultimately we will comply with the board engineer's comments and any conditions this evening that we already discussed or may discuss later.

Reserved parking spaces -- and then the next one is reserved parking spaces shall be provided between the drive-through area and the facility's exit. Such parking spaces are intended for use by any drive-through vehicles. So what this criteria is discussing is that if you have someone making a large order and, you know, they're backing up the queue, you want to have a place for them to go park and maybe deliver them their food rather than them holding up the line. So we are proposing to -- I wish -- I usually have the plan near me or I should invest in a pointer. The stalls that are furthest -- if you're wrapping around the drive-through and you're coming around the one-way, there are two or three stalls that are located to the western side of the site that have sidewalk access. We would make them the reserve stalls because we feel like they would be the easiest access for the workers, and also, as you're pulling out and you tell someone to pull up, you can point and say please park in those stalls, and we would sign them so that they are reserved parking to meet that criteria. In our opinion, we feel like two or three would be more than adequate.

THE CHAIRWOMAN: That's the three spots that are closest to Route 18; is that what you're talking about?

MR. GALANTE: No, actually, no, not the ones closest, actually on the opposite, the --

MR. GUREVICH: Six and eight?

MR. GALANTE: Yeah, where 6 is, the three closest to the sidewalk that wraps up around, if that makes sense.

MR. GUREVICH: So just to understand, because I was -- so the exit out of the ordering area is prior to the first pavement window. So you would expect, first of all, those two lanes going to a single lane, so there's only one payment window, one pickup window?

MR. GALANTE: Yes.

MR. GUREVICH: Two ordering lanes.

MR. GALANTE: Yeah.

MR. GUREVICH: So you're saying that the exit to those parking spots, the three that are furthest south on row 6.

MR. GALANTE: Yes.

MR. GUREVICH: You would exit before paying to park over there?

MR. GALANTE: No, you go through --

MR. GUREVICH: Go through, come back, loop around.

MR. GALANTE: And then someone would deliver the food out.

MR. GUREVICH: So that exit is more of just a -- like a --

MR. GALANTE: It's an emergency flush.

MR. GUREVICH: Flush.

MR. GALANTE: Yeah.

MR. GUREVICH: Got it.

MS. KELLER: That's what they call the bail-out lane.

(Inaudible)

MS. KELLER: Yes, which they met, yes, so that's not mentioned in here.

MR. WEINER: The escape hatch.

MS. KELLER: Yes.

MR. GUREVICH: Any other -- you said -- and I realize that the gentleman's not been sworn in, but maybe --

MR. PEPE: Let's swear him in.

MR. WEINER: Why don't we first let the gentleman finish with the planning testimony and then jump back because we may need some operations questions answered, but I'd rather not miss something by jumping around.

MR. WEINGARTH: Just a clarification. So on the designated lanes, parking spots that you're separating, is that interfering with the number -- are you taking away from the number of parking spaces? It's still in the --

MR. GALANTE: Still overparked.

MR. WEINGARTH: We're still overparked.

MR. GALANTE: Yes.

MR. WEINGARTH: Thank you.

MR. PEPE: Always a good thing.

MR. KIPP: I would just request that for those -- to me, two would be adequate, but to sign them properly, you would need bollards, you know, to support the sign so that they're designated properly.

MR. GALANTE: Yes, sir.

MR. WEINER: Which signs are we talking about, Keith?

MR. KIPP: Reserved for (inaudible)

(inaudible)

MR. WEINER: Reserved parking for drive-through area -- reserved parking for drive-through area. Am I writing that correctly?

MS. PAPI: Pickup.

MR. WEINER: For drive-through pickup. Or for pickup area, not for drive-through area.

MR. GUREVICH: Drive-through waiting.

MR. WEINER: Drive-through waiting area.

MR. KIPP: Drive-through standby area.

MR. WEINER: Standby area -- we're getting there -- standby area shall be installed with bollards.

MR. KIPP: Signage.

MR. WEINER: Signage shall be installed with bollards. Okay.

THE CHAIRWOMAN: And they're submitting a signage plan to you anyway. They're submitting a signage plan to you anyway.

MR. WEINER: Yeah, that plan is elsewhere in the reports, but nonetheless.

MR. SHAFKOWITZ: We'll include those signs.

MR. WEINER: And I think we were still going through some testimony as to the planner's comments.

MR. GALANTE: Yeah, so there's three criteria below that I'd like to discuss. The drive-through facility shall operate only when the dining room is open to the public. No loudspeaker shall be permitted at properties that abut a residential zone, a residential property line. And then drive-through windows proposed to be located within 150 feet of a residential building shall be closed at 11 p.m. subject to the following conditions.

These are operational comments. The site in general is not changing. These are preexisting nonconformities that currently exist. We are adding an additional lane. To mitigate the noise from the loudspeaker, we can -- there's options. We can lower the decibel level at a certain hour of the night. We could, you know, to help mitigate that. There's also the hours of operation, which the -- which will be discussed when we talk about the operation testimony. Will be further discussed at how we're operating now. We're not proposing to change the operation. We're proposing to generally enhance the circulation, improve the green space on the site, and also add the double drive-through for efficiency.

MR. GUREVICH: How does it mitigate sound if you now have two loudspeakers instead of one?

MR. GALANTE: Well, that's a very good question. So the -- yeah, we -- the -- in my opinion as a professional planner, they have those comments in the ordinance for when you talk about decibel level, loudspeakers, and noise level adjacent to residential properties, they don't want to have that speaker noise project onto the adjacent property. In this case, we have that existing condition; however, we have mechanisms today. If there's a certain decibel level that we need to stay within or we need to turn it down to a certain level, we would ultimately be able to do that and still operate the site as we currently do under similar to our existing condition.

MR. SHAFKOWITZ: Here's something interesting that I learned myself today is that when you have the double drive-through, only one speaker operates at a time, so you're not going to have two speakers going at the same time.

MR. GUREVICH: Only one operator for both.

MR. SHAFKOWITZ: So one person comes in in lane A will order. The other person in lane B is waiting. When that order is done, then lane B orders, and then it goes back to A.

MR. WEINER: Ultimately, two speakers, but operating only one at a time; therefore, from a practical standpoint, it's not changing the amount of sound or the frequency or loudness of the sound coming out because it's only one at a time.

MR. SHAFKOWITZ: Yeah. It's interesting because I always -- because the other thought would be if they were both operating the same time, then you couldn't hear speaker A if you're standing in aisle B, right, but that would make it really --

MR. GUREVICH: Decibel level couple of times in terms of controlling the decibel level. Is that something that's automated, or is that something that's operator controlled?

MR. SHAFKOWITZ: I think it's both, but I think from what we're hearing tonight is that we could be more than willing to set those decibel levels at a certain time at the lower rates.

MR. WEINER: Does the witness know the answer to that unfortunately because counsel can't testify.

MR. SHAFKOWITZ: I know, I know. He'll

testify.

MR. WEINER: I didn't know if your engineer knew that about the decibel control.

MR. SHAFKOWITZ: We'd rather have Sanjay.

MS. KELLER: I would also just note, you know, that some of these conditions are dated, you know, back a couple decades, and like many other things, I think that drive-through technology and sounds has seen a lot of progress. So, you know, this is, you know, they are just within that 150 feet of the residences, but, you know, you're really upgrading to a, you know, and we'll hear the testimony from the applicant, but in my experience, these have, you know, the upgraded systems are generally easier on the ears.

MR. KIPP: I just also wanted to add that the residential buffer is an extremely steep slope.

MS. KELLER: Yes.

MR. KIPP: So that the sound will travel and would tend to get caught into that slope and would act as a noise wall.

MR. WEINER: I would just ask Miss Keller, other than the items about the operating hours, I think the loudspeaker we still need to hear a little bit more from the operator and the operation times of the drive-through, those three things. Is there anymore testimony that you would like to hear regarding all the other concerns that you raised in your report?

MS. KELLER: All the other notes in my report have either been addressed --

MR. WEINER: As to the conditional use. We didn't get to the bulks yet, obviously.

MS. KELLER: Well, yeah, I mean, I think, you know, we're going -- I'd like the applicant, this witness, just to put on some very brief positive/criteria testimony --

MR. WEINER: Yes.

MS. KELLER: -- but otherwise I'm satisfied.

MR. WEINER: Okay.

MR. GUREVICH: Can I --

MS. PAPI: Thank you.

MR. GUREVICH: Quick question over there of clarification, because I've been to the site a couple of times, and just trying to understand where in the northern back side of the building where you have the freezer, there's an alley over there or

there's another drive over there. I'm assuming that that's where -- not that I saw it at the time that I was there, but that's where deliveries come in, right, so right before the drive-in entrance is also where the truck would park to take those deliveries. If we can hear some testimony, because it seems like there's a lot going on over there. It's actually now three driveways, okay, in a one-way street, which has parking on either side. So when we're talking about, you know, to the points that were made about one, two, and three stalls, I feel like, you know, if you've now have a truck, which typically has to back in, doesn't go forward in, which means it would have to go into the traffic of where the two lanes are and then back in against the traffic that's coming in on one-way, it's a lot going on over there in front of parking, in front of directional. And maybe what you say is we never get deliveries at the time when things are operating. That could be sworn to. And there'll never be a truck during the times when people are in there, but we haven't heard the testimony in terms of the operating hours and when that happens, as well. That is one of my biggest concerns about there with the parking and the congestion of that area with three driveways in essence. I'd like to raise that.

MR. GALANTE: Well, when you go back -- if you go back to the existing conditions plan, where we currently have the new drive-through lanes, there are parking stalls. Those parking stalls have people that are going to park there. They're going to open their cars. They're going to shut their doors. They're going to be making turning maneuvers all throughout that area. So I would argue that this current design is actually -- the intent of this design is to create less conflict and less chaos throughout the site and actually channel it to one location so that we better have circulation throughout the site.

MR. GUREVICH: You brought it to our attention, we can look at it in whole and realize that maybe that was something that should have been looked at at the beginning, right.

MR. SHAFKOWITZ: We'll talk a little bit more about the loading and unloading and how all the timing works with the operations and get you comfortable with the way it works.

MR. WEINER: If I may, I think it -- we may need to hear some of that operations testimony before the planner goes on and wants to sum um

things, I would think he wants to sum up based on the whole package and not do it twice. I think we're kind of -- we should probably be hearing it probably now. I can't tell you what to do, but I can't see how, as Miss Keller said, she'd like to hear positive and negative criteria as to the C -- as to the D-3 as well as the C's.

THE CHAIRWOMAN: Hold off on that --

MR. WEINER: We need some more factual basis on that.

MR. SHAFKOWITZ: No problem. So I'd like to take the opportunity to introduce to the board Sanjay Patel.

Sanjay, can you be sworn.

THE CHAIRWOMAN: Can you state and spell your name for us first.

MR. PATEL: Sanjay Patel.

THE CHAIRWOMAN: And spell it out for us.

MR. PATEL: Sure, S-a-n-j-a-y P-a-t-e-l.

THE CHAIRWOMAN: Do you swear to tell the truth, the whole truth, and nothing but the truth about this application tonight?

MR. PATEL: I do.

THE CHAIRWOMAN: Okay. Thank you.

MR. SHAFKOWITZ: Mr. Patel, before we get into a little bit of details, can you just provide the board with some of your background as an operator in the Burger King franchise system.

MR. PATEL: Sure. I'm in business since 1990, and I ran the restaurants. I was store manager, become franchisee. Now we operate close to 115 restaurants over New Jersey, New York, Connecticut, and Pennsylvania.

THE CHAIRWOMAN: Okay. Do we just recognize him as a fact witness?

MR. WEINER: Yeah, he's only a fact witness, not an expert.

THE CHAIRWOMAN: Okay.

MR. SHAFKOWITZ: So needless to say, you are familiar with the day-to-day operations of your locations.

MR. PATEL: Yes.

MR. SHAFKOWITZ: So why don't we talk a little bit about this location, starting with the hours of operation. How does that work?

MR. PATEL: Sure. We are open daily from 6 a.m. until 12 midnight on weekdays from Sunday to Thursday. Friday, Saturday we're open until 1 o'clock, 1 in the morning.

MR. SHAFKOWITZ: And how long have you operated that way.

MR. PATEL: We have been operating for over 5 years, more than 5 years.

MR. SHAFKOWITZ: And how long has the Burger King been at this location with the drive-through?

MR. PATEL: I believe Burger King is there for more than 20 years.

MS. PAPI: Yeah, it's been there a long time.

MR. SHAFKOWITZ: And are you proposing to change the mode of operation with the additional drive-through?

MR. PATEL: No.

MR. SHAFKOWITZ: So the operations -- the hours of operation will stay the same.

MR. WEINER: So the drive-through will remain open consistent with the store operating hours?

MR. SHAFKOWITZ: I think the store operating hour -- what are the store operating hours? How do you do that now and how will that --

MR. PATEL: Right now --

MR. WEINER: I think you just testified, unless I misunderstood.

MR. PATEL: We open --

MR. SHAFKOWITZ: I just don't want to get confused between the store and when the dining room open and closes and the drive-through remains --

MR. WEINER: The hours of operation, 6 a.m. to 12 midnight, Sunday to Thursday; what operations?

MR. PATEL: Drive-through, and dining room be closed at 10 p.m. every day, seven days a week.

MR. WEINER: Drive-through. Dining room closes at 10 p.m.

MR. PATEL: Ten p.m.

MR. WEINER: Ten p.m. closure of dining room seven days. Okay. And 6 a.m. to 1 a.m. is the drive-through Friday to Saturday. So those are the current hours?

MR. PATEL: Current hours, correct. Those are the winter hours.

MR. WEINER: You're not planning on altering those hours.

MR. PATEL: Those are winter hours. We're looking at to open until 2 a.m. on Friday,

Saturday on summer hours after the, you know.

MR. WEINER: So Friday, Saturday -- when you say summer hours, can you be more specific.

MR. PATEL: Yes. From May 15 until September 1 we open until 2 a.m. Friday, Saturday.

MR. WEINER: So that's going to be a change to later operations than what's currently existing, correct?

MR. PATEL: That has been every season.

MS. PAPI: So nothing's changed.

MR. PATEL: Nothing change, correct.

MS. KELLER: I think it's good to just have all this on the record. It is, you know, part of technically the D-3 variance, but, you know, we have this on the record for the future.

THE CHAIRWOMAN: What's the times that were allowed in the --

MS. KELLER: The requirements are that drive-through facilities shall operate only when the dining room is open to the public, and that's something that is not very common with fast food restaurants anymore, I would say even preCOVID, but especially post-COVID. And the other is that the drive-through windows within 150 feet of residential buildings shall be closed at 11. But I think, you know, I think that we had touched on that when we spoke about the, you know, the loudspeaker and the sound attenuation.

THE CHAIRWOMAN: So does this -- is that a separate variance allowing that additional, that later time after 11?

MS. KELLER: It is -- it's all part of why they need D-3.

MR. WEINER: The way the D-3 variance conditional use is there are certain elements that have to be hit within the ordinance. There's numerous ones. And those two, just for example, are two of them related to the hours that Miss Keller just talked about. So when evaluating whether or not to grant the D-3 conditional use variance, they're coming -- they need the variance because they're not compliant. If they were compliant with those hours and all the other elements that are raised in Miss Keller's point, then they wouldn't be here. It's a conditional use, and it would be permitted by the ordinance, and we wouldn't even be hearing the application. The reason they're here is because they're not compliant with these little elements -- I won't say little elements, but these elements of what's required for the conditional use.

So that's the basis of the relief.

MS. KELLER: And I would just add, you know, as I started off saying, you know, there are a lot of conditions applicable to fast food restaurants, which is a good thing, you know, in the ordinance, and if -- even if a restaurant does not meet one of them, they need a D-3 variance. So, you know, there's a few that are preexisting here. There's a few that, you know, maybe were not approved but are existing, and so, you know, the board -- like anything else, you know, it's whether you don't meet 10 conditions or whether you don't meet one condition, it's still a D-3 conditional use variance, but, you know, when it comes to evaluating it, you know, that's as -- I go over it in the report briefly, but you really look at whether the site can accommodate the deviations that they're asking for.

MR. GUREVICH: You mentioned you operate approximately 115 locations. Is that an operator, owner/operator?

MR. PATEL: Owner/operator.

MR. GUREVICH: Owner/operator. How many other locations have a similar layout to what is being proposed?

MR. PATEL: All of them.

MR. GUREVICH: All of them.

MR. PATEL: No, I said a lot of them.

MR. GUREVICH: A lot of them.

MR. PATEL: Yes.

MR. GUREVICH: Okay. And so this is -- this isn't custom designed to this particular location. This is something that is a standard model structure --

MR. PATEL: For all the fast food, yeah.

MR. GUREVICH: -- for -- by Burger King.

MR. PATEL: Correct.

MR. GUREVICH: Okay.

MS. PAPI: Madam Chair. There's another Burger King on 18 going north. Is that also your --

MR. PATEL: No, ma'am.

MS. PAPI: Okay, because it has similarities of what you are discussing.

MR. PATEL: No.

MR. GUREVICH: Could you also talk a little bit about just the question that I had in terms of how you're planning to reduce the seating capacity without the footprint.

MR. PATEL: We did already, sir. When we remodel restaurants, we took it from 70 seats to

now under 50.

MR. GUREVICH: So it's just placement of actual seats.

MR. PATEL: Correct.

MR. GUREVICH: That's it.

MR. PATEL: Yeah.

MR. GUREVICH: So less tables.

MR. PATEL: Less table, less chairs.

Right now we are averaging 80 percent drive-through, 20 percent dining take out.

MR. WEINER: So the seating capacity is going to be reduced from what to what?

MR. PATEL: We have reduced from 70 seats to about 48.

MR. WEINER: From 70 seats to 48.

MS. WILSON: What's the benefit for you, to clean less and maintain things less?

MR. PATEL: Correct, clean less and better maneuver, better decor package, and better look.

THE CHAIRWOMAN: Have you utilized -- any of your other locations have you utilized what the engineer was explaining about the decibel levels where you could change the volume at a later time at night? Do you do that at any of your other buildings?

MR. PATEL: Yes, we can do it automatically. Right now, like, technology has, you know, has been so change. You can do anything. It's like -- so yes.

MR. GUREVICH: So you have it preprogrammed.

MR. PATEL: Correct.

MR. GUREVICH: That was the question. So it's not operator.

MR. PATEL: No, it's all preprogrammed.

MR. GUREVICH: It's preprogrammed.

MR. PATEL: It's all program from, you know, it works automatically, yes.

THE CHAIRWOMAN: And so but it still -- when you lower the volume, you're still able to -- why wouldn't you keep that lower volume even sort of during the daytime?

MR. GUREVICH: Traffic noise.

MR. PATEL: Any time you have more --

MR. WEINER: The testimony is clear. You're at this location your decibel levels, your proposal is will be preprogrammed to lower the decibel levels in the nighttime hours.

MR. PATEL: Correct.

MS. PAPI: Madam Chair.

MR. GUREVICH: We define nighttime hours after --

MR. WEINER: Do you have a particular window set of time when it's going to be lowered?

MR. PATEL: I believe after 10 p.m., but, you know, we can always adjust, 9 p.m., whatever, you know, is required.

MR. WEINER: Any preference from our staff?

MR. PATEL: And if you want a document, we also have a document showing that, as well. If you want it, we can share with you.

THE CHAIRWOMAN: Like the noise ordinance or like the time that that -- is 10 a standard time?

MS. PAPI: May I ask a question, Madam Chair?

My concern is you've been an owner for 5 years. Have you ever heard of any complaints from the residents or anything regarding this sound, noise?

MR. PATEL: No, never.

MR. KIPP: I would just comment that they have to be in compliance with the noise ordinance. The police can come and enforce that at any time, and they have decibel reading levels that they can ticket based on.

THE CHAIRWOMAN: Okay. Thank you.

MR. GUREVICH: Could you also comment in regards to -- so again, with the three driveways over here, could you comment, forgetting the drive-through two lanes over here, what happens in the -- could we call it a utility drive, because I'm assuming it's a combination of deliveries. Is there any sort of -- because I did see a number of times this is where they take the trash out through the back over there. Sometimes it's in not the best condition. I've seen quite a bit of trash there periodically. I'm trying to remember where the trash cans are, but is there any sort of pickup or other things that are happening, other types of traffic that would have to go through that area of egress, any other types of vehicles that would come in and out, because if you're operating from 6 a.m. till 2 a.m. in the morning, it obviously doesn't give that much time, you know, as a leeway in terms of when deliveries and other types of deliveries or trash pickup or oil pickup or all the other things that might be required to come into the back door of

that restaurant. Could you talk about that.

MR. PATEL: Delivery comes off-peak hour, meaning like any non-operation hours. So we have food distribution comes twice a week, and they pretty much come after we are closed. They have a drop key. So that's pretty much work as a loading zone. So food truck comes in after we are closed and they drop the food off. The trash is right across, if you can see that, so that is not -- it's not in the way, but also, the truck come -- for trash come like 4 or 5 in the morning before we even open.

MR. GUREVICH: That's private trash pickup?

MR. PATEL: Correct, Waste Management.

MR. GUREVICH: Okay, so basically, it's only the employees that have to walk through to --

MR. PATEL: Just for trash, correct. And they don't go, like, every hour, you know. Maybe twice a day they go out and put the trash out.

MR. GUREVICH: For the purpose of the record, I would say it's worth taking a look in that area because I have seen a buildup periodically of trash in that area between that spot and the dumpster, maybe because of the distance, maybe because of the bags, maybe because of, you know, just employees on staff at the time or whatever, but anyways.

MR. KIPP: Yeah, just in regard to that loading area, I think based on prior approvals, that was supposed to be striped with the hatched striping saying No Parking, Deliveries Only. So I think we should ask to have that restored.

MR. WEINER: If you could repeat that, Mr. Kipp. The striping where?

MR. KIPP: In the loading area.

MR. PATEL: Loading zone.

MR. WEINER: Loading area.

MR. KIPP: Hatched striping indicating No Parking, Loading Zone.

MR. WEINER: Have hatched striping stating No Parking, Loading Zone.

MR. GUREVICH: Can I ask the staff. Is there any concerns -- again, I'm just thinking about I'm a truck, I come up, I go past that area, I then have to back up into that area, which means that I'm going, you know, I'm sticking my nose basically beyond the two current driveways in, and then I back up into that. If somebody comes -- recognizing off --

MR. PATEL: The truck does not back up. The truck goes straight.

MR. GUREVICH: The truck goes straight in, nose in?

MR. PATEL: No, no, goes straight, parks straight, and the driver brings the food in the hand truck.

MR. GUREVICH: Oh, so the truck does not pull into the loading area?

MR. PATEL: No.

MR. GUREVICH: So it's not a parking area for the truck.

MR. PATEL: Correct, just a loading for them to bring the food in.

MR. GUREVICH: So they basically -- so what you're saying is they would just block that entire aisle during the time --

MR. PATEL: Off-peak hour when nobody is there.

MR. GUREVICH: When they're delivering it.

MR. PATEL: Correct.

MR. GUREVICH: I want to be clear --

MR. PATEL: It's easy for them to maneuver in and out.

MR. GUREVICH: They know that there is -- so there is no loading, unloading, or parking in that area --

MR. PATEL: Correct.

MR. GUREVICH: -- period.

MR. PATEL: Correct, period.

MR. GUREVICH: Is that a different type of versus what --

MR. KIPP: No, I think that's what the intent of that hatched striping, No Parking, Loading Zone.

MR. GUREVICH: No parking, no loading.

MR. PATEL: No parking, loading.

MS. KELLER: If they're bringing the trucks, you know, they're technically loading there, and I think that, you know, it sounds like that based on the size of the trucks that they're using, the time of day, that this is what works, and they're not having to deal with that tight maneuver.

MR. GUREVICH: Is there any concern just in terms of the structure of -- I mean, that's the one thing I'm not familiar with. Like, when we had the conversation with regard to the parking spots across there, we accounted for the two driveways, and I guess my question is when we made the comment

of removing three spots, we didn't talk about that extra lane over there.

MS. KELLER: Mr. Patel, I may have missed it, but what time did your main deliveries generally come?

MR. PATEL: Sometimes 3, 4 in the morning.

MS. KELLER: There you go. No issues there.

MR. KIPP: As long as they're quiet.

MS. KELLER: As long as they're quiet, yes.

MR. PEPE: So was there a condition to hatch that area or no?

MS. KELLER: Yes.

MR. PEPE: That's fine. That's makes it somewhat --

MS. KELLER: Just in case, you know, no one turns in early, anything like that.

MR. KIPP: And then just for operations, you have two windows. The first window is like a pay window and then the secretary one is pick up the food. Is that how you intend to operate that?

MR. PATEL: No, we close the window, one window already. We only have one windows. When we did the construction.

MR. PEPE: Oh, you removed that first window.

MR. PATEL: Correct.

MR. PEPE: Okay. So everything is done at the second window. That's old school, Keith.

MR. KIPP: It is old school. As to the queuing there, I just think it's more efficient if you have two. Seems to move quicker and you're not queuing as much. Operation works that way.

MR. PEPE: Mr. Patel, is that more common now with the renovations that you remove the two window, or is it operational?

MR. PATEL: Right now we have employee crisis, very hard to find employees. We're short staffed. This, you know, is not easy, so that was a waste. And it's been ongoing so.

MR. GUREVICH: So you're physically removing the window. It's not going to be there.

MR. PATEL: It's not there. We already closed it up.

MR. GUREVICH: One person doing both.

MR. PATEL: Correct.

MS. PAPI: So the order is made and then the one window you're paying and receiving your --

MR. PATEL: Same time, correct.

MS. PAPI: I see.

MS. WILSON: What is like at your highest peak. You're not really experiencing any slowdowns because of that. I go there at 2 o'clock and there's not really people there. So it's just for efficiency.

MR. PATEL: I mean, peak hour is from, like, 11:30 to 2 o'clock. Then peak hour from 5 to 7:30, 8 o'clock in the evening.

MS. WILSON: Okay.

MR. WEINGARTH: Madam Chair.

THE CHAIRWOMAN: Go ahead.

MR. WEINGARTH: Based on your peak hours, how many number of employees would you say is inside?

MR. PATEL: We have peak hour probably six, six plus manager.

MR. WEINGARTH: And based on that, you tell them a special place to park on site to not interfere?

MR. PATEL: Majority of them do not have car. They come on ride from parent drop-off or Uber or so maybe one or two maybe, you know, but they know where to park away, correct.

MR. WEINGARTH: Thank you.

MR. PEPE: Anyone have any other questions?

THE CHAIRWOMAN: Any other board members have any questions?

MR. PATEL: Want to bring one more thing. We did change the plans on the front as per there was a letter I believe you got.

MR. SHAFKOWITZ: Oh, the plantings.

MR. PATEL: Plantings, yes. So there was some dead shrub on the front, so we remove them. We put brand new, and we're going to be maintaining that, as well.

MS. WILSON: It does look nice, a lot nicer.

MR. PATEL: Thank you.

MR. KIPP: I believe that was generated from our code enforcement officer. On that topic, I would just like to say that they have to comply with the prior site plan that had a full landscape plan. I would like our staff to have an opportunity to go through and compare what's there now versus that approved plan on top of what they're adding with this plan just to make sure it's all compliant.

MR. WEINER: Applicant to comply with

prior site plan.

MR. KIPP: Landscape.

MR. PEPE: Landscape site plan.

MR. WEINER: Site landscape, site
landscape plan as --

MR. PEPE: With the addition of the new.

MR. WEINER: -- condition of this
approval together with all newly proposed landscape
modifications, all to the satisfaction of township
professional staff.

And I'm assuming we'd be okay with that,
Counsel.

MR. SHAFKOWITZ: Yes. If the board
doesn't have anymore questions, I don't think we
have anymore testimony from Mr. Patel.

THE CHAIRWOMAN: Okay.

MR. GUREVICH: When is this proposed
change? When are you proposing to start?

MR. SHAFKOWITZ: It just depends on when
all the permits are in place.

MR. GUREVICH: Like ASAP?

MR. SHAFKOWITZ: Yes, so once they're in
place.

THE CHAIRWOMAN: Do we have anymore
questions or professionals have anymore questions
from the owner?

MR. WEINER: My understanding we were
going to hear more planning testimony.

THE CHAIRWOMAN: I just didn't know if
-- you want to take a 5-minute break? Okay. All
right. I have a request to take a 5-minute break,
so we're just going to break for 5 minutes and then
we'll come back.

(Board recess)

THE CHAIRWOMAN: We'll resume. I think
we --

MR. SHAFKOWITZ: We're going to recall
Mr. Galante --

THE CHAIRWOMAN: Yes.

MR. SHAFKOWITZ: -- so we can do
testimony on the D-3 variance.

MR. GALANTE: Yes, good evening. I'm
back. Welcome back.

So there are, you know, right now I'd
like to give testimony on the D-3 variance and
positive/negative criteria. As we discussed
earlier, we went through all the criteria, discussed
all the items that would encompass the D-3 variance,
and for the current D-3 variance, you know, we want
to, you know, the positive criteria is that this

project, you know, is going to enhance the circulation of the site, it's going to increase the green space, and it's also going to improve efficiency throughout the site, and by granting these variances, we would argue that there would be a -- there would be a -- the deviations that we're asking for, which are generally existing deviations, would not have an adverse impact on the site currently, and only -- and with these improvements, we're only going to enhance the project.

And in terms of negative criteria, similar, we are going -- we are asking for relief from various items that we discussed, much like the, you know, existing conditions, like hours of operation, which is not changing, the loudspeakers, which are going to be more efficient, they're going to be -- they're able to be controlled better than what you would -- I like how the planner mentioned, you know -- I wasn't thinking of this because it's been so long, but when they wrote those ordinances, you have that squawking sound that used to come out of the loudspeaker, and now -- it sounded like a robot. Now you can actually hear a human voice and understand who's behind it.

So with all these things combined and the current proposal, we would argue that this project would not have a negative adverse impact to the plan and the zoning ordinance for the township, and that's our positive and negative criteria.

Regarding the final existing nonconformities, there are about three existing nonconformity bulk variances that were identified, and these are existing nonconformities. These are not being exacerbated. And ultimately we're, actually improving a bulk standard by increasing green space, and we're going to further increase that green space through some of the comments that we received from the engineer this evening.

And that is my testimony.

MR. GUREVICH: Can you speak a little bit more about the green space and, like, we have an opportunity here to make this a little bit more attractive. I'm not going to mince words to say that the property right now in certain areas looks run down, like, in terms of some crumbling concrete on curbs where might have been over time where people running over, whatever. If we have an opportunity to change this, I think a lot of that change happens in the area that you're proposing. Can we talk a little bit about other than -- or are

we assuming that the only greenery would be in that two driveways?

MR. GALANTE: We're actually going to go from 72 percent impervious surface to 71.61 under the plan that you see this evening, so that's a 1 percent decrease in impervious surface, which creates more green space, but also, by eliminating the first -- the last three stalls in the proposed one-way drive aisle, that's also going to create more green space throughout the site. Additionally, the applicant is agreeing to -- we're going to add additional plantings for the new green space and also meet the current landscape requirements from the previous approval, which will be note that we add to the plan that we'll comply.

MR. WEINER: You may actually decrease the impervious by more than that 1 percent.

MR. GALANTE: Yes.

MS. KELLER: Based on the testimony.

MR. WEINER: Yes, based on this testimony, yes.

MR. KIPP: And I agree with Leon. I think a lot of the -- although, you know, there are some newer plantings, a lot of the stuff from the original approval is just not there, and I think, to Leon's point, if it is there, this site would look much better.

MR. GUREVICH: Yeah, I think what both of us are saying is, ask if this is -- could be a condition to revitalize existing plantings that may have become deceased through the process.

THE CHAIRWOMAN: I think the condition says is that it would be done to the --

MR. WEINER: Satisfaction of the township staff.

THE CHAIRWOMAN: -- satisfaction of the township staff.

MR. WEINER: Any -- all of that whole landscaping plan in compliance is going to be to our staff satisfaction, so that would cover it.

MS. KELLER: And based on the original approval.

(Inaudible)

MR. GUREVICH: Okay. Perfect.

MR. WEINER: I have a question if that was the last bit of your testimony. This is more for our engineer. I just want to clarify, since you're wearing two hats tonight, Mike. We had another memo from Mr. Potkulski, as well. Was that all incorporated, addressed in your memo, as well,

or is there additional information you'd like to hear addressing that, as well?

MR. KONG: Our engineering comment letter is all inclusive of suggestions made by Greg, so that's already included.

MR. WEINER: Okay, perfect.

THE CHAIRWOMAN: Thank you. Any other memos that we -- did you want --

MR. WEINER: We can go over them either now quickly, or we can do them, you know, after the public, but we can do them now.

There was obviously the memorandum from our code enforcement officer regarding the multiple dead bushes and shrubs. I would think that's going to be addressed with the landscaping being to the satisfaction of our staff. Obviously, any dead plantings you're going to take care of.

MR. SHAFKOWITZ: Yes.

MS. KELLER: He said he already did it I believe.

MR. WEINER: And there was --

THE CHAIRWOMAN: Just a no comment from --

MR. WEINER: No comment from our construction official, no comment from our police department. Those were the only memos. So if there's no more testimony, we can open up to the public.

THE CHAIRWOMAN: Okay. All right. We'll open this application up for any members of the public who would like to come forward, ask questions of the applicant or comments to the board.

Okay. Seeing no one jumping out of their seats, we'll close the public portion.

Are there -- is there any -- are there any other comments that the board would like to make before we entertain a motion on this -- before we hear the conditions actually first? Any other comments? No. Okay, can you go over the conditions.

MR. WEINER: Yes. In addition to the conditions stated in the staff reports from our engineering, our planner, as well as the other reports, I think we've addressed them all, and the applicant has placed on the record that they will comply with all the reports and comments -- all the recommendations and comments, but we did have a few additional conditions that I want to go over.

First, there shall be angled parking directly across from the restaurant on the east

side, excluding the ADA spots, which shall remain perpendicular. Is this agreeable?

MR. SHAFKOWITZ: Yes.

MR. WEINER: If you could just go down with me. Next, the stalls directly behind the start of the drive-through queue shall be removed and reflected in revised plans to be approved by township professional staff.

MR. SHAFKOWITZ: Yes.

MR. WEINER: Reserve parking signage for the drive-through standby area shall be installed with bollards.

MR. SHAFKOWITZ: Yes.

MR. WEINER: Okay. The decibel levels will be preprogrammed and will be lowered at nighttime after 10 p.m.; however, this shall not be construed as waiving any compliance with township noise ordinances in the event of any conflict.

MR. SHAFKOWITZ: Yes.

MR. WEINER: Okay. Next, the loading area is to have hatched striping stating No Parking and No Loading Zone.

MR. SHAFKOWITZ: Yes.

MR. WEINER: The applicant is to comply with the prior landscaping plan as a condition to this approval together with all newly proposed landscaping modifications. All shall be to the satisfaction of the township professional staff.

MR. SHAFKOWITZ: Yes.

MR. WEINER: And then I just want to add that applicant I'm sure will apply with our township's ordinances, including but not limited to the paying of any mandatory nonresidential development fees.

MR. SHAFKOWITZ: Correct.

MR. WEINER: Okay.

MR. SHAFKOWITZ: Maybe I should take the approach of adding one other thing was the additional directional signs for --

MR. WEINER: I thought -- did I not say that one? I did have that here. Hold on one second. That's why it was. I took it out because that was already in Mr. Kong's review letter, which has been agreed to. Let me just take a quick peak at the review letters, make sure there was nothing that I want to particularly highlight. We have that one. Obviously, comply with all other approvals from other agencies and departments having jurisdiction. The plans will be amended to reflect the ADA PROWAG compliance where applicable. And I

think otherwise, complying with the staff reports should be sufficient.

THE CHAIRWOMAN: Can we just go through -- the hours of operation are not changing or the later -- the seasonal hour is the only --

MR. WEINER: The testimony that we have here -- and we can actually add that as a condition to approval, as well -- that the hours of operation for the drive-through are 6 a.m. to 12 midnight, Sunday through Thursday; 6 a.m. to 1 a.m., Friday through Saturday; however, from May 15 to September 1, that those hours for the summer hours will be extended on the drive-through to 2 a.m. The restaurant hours are open at the same time but closed at 10 p.m. for the dining room seven days a week. Also note that all deliveries are after closure of the entire operation, both drive-through and restaurant. I believe the applicant said that they were approximately usually around 3 to 4 in the morning, but as a condition, it should be the deliveries shall be when the restaurant is closed.

And also the -- well, the plans reflect the seating capacity being changed, so that doesn't have to be reflected as a condition.

MR. GUREVICH: There was a comment that was made in terms of lighting. I'm assuming that's --

MR. WEINER: The lighting plan is part of the compliance, yes.

MR. GUREVICH: Exactly. Okay.

THE CHAIRWOMAN: Okay. The applicant's in agreement with all of those conditions. Okay. Okay. Then would anyone like to make a motion on this application.

MS. PAPI: I make a motion to approve with all the conditions mentioned.

THE CHAIRWOMAN: Thank you. Is there a second?

MR. PEPE: I make a second to motion -- to approve.

THE CHAIRWOMAN: Okay. Thank you. Aaron, call the roll.

MR. BLESSING: Mr. Pepe.

MR. PEPE: Yes, I vote yes on this application. I feel that the demonstrated that they're putting some money in to renovate the restaurant and bring it up to speed and investing in the town of East Brunswick, and I appreciate that as a homeowner in the town. I also recognize that this is something that would improve the site for them and potentially help them along. So for that

reason, I vote yes.

MR. BLESSING: Mr. Gurevich.

MR. GUREVICH: Yeah, I vote yes to approve. I think it improves the current situation at that property and with the -- what's it called -- recommendations that were made will improve it even further. So good luck.

MR. BLESSING: Mr. Brandt.

MR. BRANDT: I vote to approve Z-23-08, and I would hope that with the Burger King improvements that it would incentivize the rest of the mall area to maybe follow up and do the same. Good luck. Thank you.

MR. BLESSING: Miss Wilson.

MS. WILSON: I vote yes to approve.

I've noticed the improvements so far. I work right across the street so I go there once a week at least, you know, but I am excited that it's going to be improved more because a lot of places like that seem to be disappearing, so I'm glad we can hang in there and make it better.

MR. BLESSING: Mr. Weingarth.

MR. WEINGARTH: I will also yes to approve, and I'm going to make a really bad joke and say we all get to have it our way with all the positive changes that are coming. And I totally agree, it will majorly improve the site.

MR. BLESSING: Miss Papi.

MS. PAPI: I, too, vote to approve because as a customer of this location of Burger King, I've been long waiting for the changes, and I'm looking forward to it.

MR. BLESSING: Miss Rampolla.

THE CHAIRWOMAN: I vote yes, also. I agree with all my fellow board members and their comments. I appreciate that you're -- that you are enhancing the circulation there. I appreciate the testimony that you both gave.

It looks that your application passes so congratulations, and we wish you a lot of continued success there.

MS. PAPI: Thank you.

MR. SHAFKOWITZ: Thanks, everyone.

MR. BLESSING: No other business.

UNKNOWN SPEAKER: Motion to adjourn.

THE CHAIRWOMAN: The next meeting date?

MR. BLESSING: Next meeting is May 18.

THE CHAIRWOMAN: Next meeting is May 18, so we'll see you then. Is there a motion to adjourn?

MR. PEPE: I make a motion to adjourn.

THE CHAIRWOMAN: Thank you, Mr. Pepe.

MR. GUREVICH: I second that.

THE CHAIRWOMAN: All in favor, say aye.