

1 SYCAMORE TOWNSHIP BOARD OF ZONING APPEALS

2 TOWNSHIP ADMINISTRATION BUILDING

3 8540 Kenwood Road

4 Monday, August 19, 2019

5 6:30 p.m.

6

7 BOARD MEMBERS

8 Jim Eichmann, Chairman

9 Ton Scheve

10 Ted Leugers

11 Jeff Heidel

12 Steve Scholtz

13 Julie Glassmeyer

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1 (A sworn oath was administered.)

2 CHAIRMAN EICHMANN: Our next case for the
3 evening is SYCB190010 out of Archbishop Moeller
4 High School, 7745 Kennedy Lane and 7755 Kennedy
5 Lane. It's for a conditional use. Our same
6 procedure will be used as we used in the last
7 case. So mute your phones or turn them off
8 again if you haven't done that.

9 MR. SCHEVE: If I could just raise a
10 preliminary issue. Mr. Barrett the attorney
11 for Moeller, has raised the issue as to whether
12 or not I should recuse myself and he wrote a
13 letter to Mr. Miller, the law director,
14 suggesting that because we have had over the
15 years, four decades, that we've had a number of
16 cases where we have been on opposite sides.
17 And some have been very contentious and some
18 have not. And Mr. Barrett is suggesting or
19 asking that I may not be impartial in this
20 case. I don't know, Mr. Barrett, do you want
21 to add anything to that before I decide whether
22 to recuse myself or not?

23 MR. BARRETT: If you want me to.

24 MR. SCHEVE: Well, that's up to you.
25 Don't say anything really defamatory about me.

1 MR. BARRETT: I'm C. Francis Barrett. Law
2 firm of Barrett and Weber. My address is 1201
3 Mercantile Center, 120 East Fourth Street
4 Cincinnati, Ohio 45202, and I, of course,
5 represent Archbishop Moeller High School,
6 Archbishop Cincinnati Trustee and 7745 Kennedy
7 Lane, LLC. And I had spoken with -- I spoke to
8 Doug Miller two or three weeks ago about the
9 fact that I thought maybe Tom Scheve had a
10 conflict and should recuse himself. Last week
11 he asked me to send him a letter and I did.
12 I'd like to just read this for the record.
13 It's addressed to R. Douglas Miller, Esq. Law
14 Director of Sycamore Township c/o Donnellon,
15 Donnellon & Miller, LPA, 9079 Montgomery Road,
16 Cincinnati 45242-7717. And it references
17 Archbishop Moeller High School, Sycamore
18 Township, Board of Zoning Appeals, Case No.
19 SYCB190010.

20 It says, "Dear Doug, I am sending this
21 letter to you as you requested concerning my
22 belief that Tom Scheve should be recused from
23 participating as a member of the board of
24 zoning appeals in the above captioned case in
25 which I represent Archbishop Moeller High

1 School. This is not to impugn his integrity in
2 any matter. However, because of the fact that
3 I have had many adversarial cases over the past
4 four decades including the present time in
5 which I represented property owners and which
6 Mr. Scheve represented government, I do not
7 believe that he could objectively participate
8 in a case where I represent a client property
9 owner. I understand Mr. Scheve has an
10 obligation to represent his clients vigorously,
11 but due to the adversarial nature of our system
12 and due to the fact that he's always been on
13 the opposite side and further that a number of
14 these cases have been very contentious, I do
15 not see how he can completely fair, impartial,
16 and unbiased with hearing a case that I
17 presented to the board of zoning appeals where
18 he is a sitting voting member. I understand
19 that Sycamore Township has a process for
20 alternates where such conflicts arise. I
21 believe the best course of action would be for
22 an alternate to sit in Tom Scheve's place on
23 this case. It would certainly avoid the
24 appearance of a conflict. If you need any
25 additional information please do not to

1 hesitate to contact me. Thank you for your
2 attention in this matter. Sincerely, Barrett &
3 Weber. Fran Barrett, C. Francis Barrett
4 attorney for Archbishop Moeller High School."

5 MR. SCHEVE: We'll put a copy of the
6 letter in the record for you.

7 MR. BARRETT: Okay.

8 MR. SCHEVE: You know, you're aware
9 obviously that Moeller High School came in, I
10 guess, whatever it was, two or three months ago
11 with the plan that this board denied it three
12 to two. And I made a motion to deny it.

13 Is your interest in having me step aside
14 in anyway related to the fact that the first
15 time around I voted against the plan?

16 MR. BARRETT: Absolutely not.

17 MR. SCHEVE: Well, is there any other
18 reason that you think I would not be fair
19 merely because we both have been doing our duty
20 and vigorously representing our client's
21 interest? I think that we've been you said
22 four decades, we've been nothing but cordial.
23 You've been nothing but professional to me in
24 all those 40 years and I think I've done the
25 same to you. You have a good reputation and I

1 think I do as well. I don't think because you
2 and I have been on opposite sides that affects
3 my ability to judge the merits of your client's
4 case. Even assuming I had some ill feelings
5 towards you, which I don't, that wouldn't
6 affect my judgment on your client's case.

7 So given that, as much as I'd like to go
8 home, I'm not going to recuse myself, but I
9 appreciate your effort, Mr. Barrett. I don't
10 hold it against you in any way. We'll do so in
11 the future.

12 CHAIRMAN EICHMANN: And I assume you
13 didn't let me swear you in because you're an
14 attorney and you always tell the truth. You
15 don't have to be sworn in.

16 MR. BARRETT: That's correct.

17 CHAIRMAN EICHMANN: Thank you very much.

18 MR. MILLER: If he's not sworn in, his
19 presentation is to be considered argument not
20 evidence before the board. I'm sure he'll have
21 other witnesses to testify.

22 CHAIRMAN EICHMANN: This information
23 included you're saying.

24 MR. MILLER: Pardon?

25 CHAIRMAN EICHMANN: This information

1 included, this exchange?

2 MR. MILLER: Yeah. It's part of the
3 record, but it's not bearing on the merits of
4 the appeal.

5 CHAIRMAN EICHMANN: Okay, thank you.

6 UNIDENTIFIED SPEAKER: I sent a letter --

7 CHAIRMAN EICHMANN: I'm sorry, it's not a
8 time for the public comment yet.

9 UNIDENTIFIED SPEAKER: I sent a similar
10 letter to the trustees. I did not know I
11 needed to send it to Doug Miller. And I asked
12 that all the people that went to Moeller that
13 are on this board and continue to support
14 Moeller excuse themselves and that alternatives
15 be brought in. So I'm just putting this out
16 there for the record. I did not know I needed
17 to send it to Doug. And if it needed to be, I
18 would assume your trustees would have sent it
19 to Doug.

20 MR. HEIDEL: I went to Moeller and I don't
21 feel as if I'm one way or the other.

22 MR. MILLER: For the record, as did I.

23 CHAIRMAN EICHMANN: She's not recognized
24 yet, but I don't why we should recognize that.

25 MR. SCHEVE: So I didn't. So the people

1 in favor went to Moeller are on and people
2 opposed to it went to Xavier and Sycamore
3 people are not.

4 MR. SCHOLTZ: I'm not from Cincinnati. I
5 went to high school in other places.

6 MR. MILLER: Then you don't get it.

7 MR. SCHOLTZ: You're right.

8 CHAIRMAN EICHMANN: I'll make this
9 statement and hear the case first. We live in
10 Sycamore Township. We are on this to represent
11 the people who live here and we know everybody.
12 I knew half a dozen people in the previous
13 case. We're sitting here as representatives of
14 the public. We don't report to the Township.
15 We're the only committee on the Township that
16 doesn't report to the trustees. We are
17 appointed by trustees. We don't report to
18 them. We are here for the residents to hear
19 your concerns and your needs as property owners
20 and properly address that because you're
21 usually here because you disagree with an
22 ordinance or you disagree with one of the rules
23 of the committee. So I'll state right up
24 front, we all have impact and knowledge and
25 participate in everything -- everybody that's

1 here, I think, half the cases at least. I've
2 either lived near these people, worked with
3 them, know them personally. We're in meetings
4 together. A couple of people are in the rotary
5 with me that were in the last meeting, it
6 happens all the time. So we are trying to be
7 as impartial as we can and honest as we can and
8 that's how we represent ourselves. So I think
9 Tom's statement is fair. My statement's fair.
10 Your statement's fair. We would and have in
11 the past recused ourselves if we had a personal
12 commitment or connection to cases.

13 The company I worked for was in here and I
14 thought I was totally impartial in dealing with
15 that. Moeller's been here before and we've all
16 voted impartially in that before and we changed
17 some of the things that people who we know and
18 see everyday are part of. So I think we're
19 doing a really -- as best the job we can to
20 represent you and that's who we represent. We
21 don't represent the trustees. Trying to
22 represent the resolutions as they exist with
23 the conditions we're given. But in no way are
24 we -- if we were going to have trouble, we
25 would have recused ourselves before we got to

1 this meeting. So hopefully that.

2 MR. MILLER: Ma'am, could we have your
3 name fore the record since you're.

4 MS. ENGELHART: I'm Linda Engelhart. I
5 live at 9015 Shadetree Drive.

6 CHAIRMAN EICHMANN: Thanks very much.
7 Back to where we were. We've sworn in
8 everybody we could. We've approved the
9 minutes. And now we're back to the Moeller
10 resolution or the Moeller applicant of Moeller
11 High School for conditional use. So, Harry,
12 that's all yours.

13 MR. HOLBERT: Thank you. So the case in
14 front of you tonight is SYCB190010 for 7745 and
15 7755 Kennedy Lane. The request is for a
16 conditional use. The applicants are 7745
17 Kennedy Lane, LLC, Archbishop of Cincinnati
18 Trustee. The locations are the same. 7745
19 Kennedy Lane and also 7755 Kennedy Lane. The
20 current zoning is B single-family residential.

21 Zoning compliance issues. So per Section
22 17, it requires schools and related accessory
23 uses to be conditional uses. Conditional use
24 for the proposal in front of you tonight, the
25 applicant is requesting approval of two

1 conditional uses. The first request to convert
2 a portion of a residential property, 7755
3 Kennedy Lane, into a parking lot for
4 institutional use.

5 The second request is to convert a vacant
6 residential property 7745 Kennedy Lane into a
7 parking lot for institutional use. The total
8 land area proposed is 1.7482 acres. That would
9 be used to install a new 117 parking space
10 parking lot with surrounding landscaping, fence
11 and Bollard lighting.

12 Conditional use. The letter C means that
13 this use is permitted in the indicated zoning
14 district provided it lists in Table 17-12 in
15 Chapter 17. Also in Table 3-2. The table of
16 permissible use or any other part of this
17 resolution with a conditional use zoning
18 certificate issued by the office the zoning
19 inspector certifying the following items: A,
20 approval of the proposed conditional use by the
21 board of zoning appeals pursuant to the
22 standard and procedures set forth in Chapter 17
23 and that the plat and plans for the proposed
24 use comply with all other applicable provisions
25 as of the Sycamore Township Zoning Resolution

1 including all conditions of approval.

2 So basically what I'm showing here is this
3 is -- Table 3.2 is listed above showing
4 schools, you basically take that chart over to
5 the zoning district, in this case AA through C,
6 D falls right in between there. It shows all
7 of these based on any of the intensity levels
8 all would be under conditional use approval.

9 So outlined in green is the partials in
10 question. They are zoned residential. Also
11 here showed outlined in green and an overview
12 of the site showing the main athletic and
13 academic facility Moeller High School.

14 Now, I want to just go back a step just to
15 refresh the board's memory. The first site
16 plan that was submitted for the Moeller parking
17 lot expansion for a conditional use was 130
18 parking stalls. The new proposal is for 117
19 parking stalls. In addition, the foot candle
20 chart that was provided at that point based on
21 the fixtures that you see here, they were all
22 still met the code requirements of zero foot
23 candles at the property line. The proposed
24 which actually shows Bollard type lighting as
25 indicated on the plans, since the fence is

1 taller than those, the foot candle doesn't get
2 outside of the fence itself. So it's all
3 contained on site.

4 The previous boundary buffer. In this
5 case staff did review this as a side yard where
6 a boundary buffer would be required between
7 adjoining properties. So here's the previous
8 plan. Here's the proposed plan. So just to go
9 back. So as you look at some of the areas,
10 they basically broke it down into trees and
11 shrubs. They've got a legend here. Basically,
12 the previous one exceeded the zoning
13 requirements for boundary buffer. As you go to
14 the proposal in front of you now, there's
15 actually an excessive amount of landscaping.
16 They've also added some areas here for gravel.
17 They've added this fence and revised it to
18 8-foot tall to the 6-foot tall and they've
19 landscaped as you can see all around the site
20 itself and some additional interior landscaping
21 in this area.

22 So basically the applicant did provide
23 some colored renderings on what the proposed
24 parking lot would look like from the outside.
25 So when you look at the north the view from the

1 outside of the parking lot, the north, the
2 south, showing the trees, the evergreens, same
3 thing from the view from the outside of the
4 parking lot in this elevation. Basically this
5 is just a color rendering of the proposed black
6 and white landscaping -- landscaping plans you
7 saw previous. Again, locating the flowering
8 trees, the earth berm, security webcams, and so
9 on and so forth. So they've broken it up
10 giving you a full indication of what their
11 intent it. Eight-foot tall fence as I
12 mentioned before. They also indicate the
13 property line on this plan.

14 As far as the plant and landscape
15 elements, they also provided colored
16 photographs of those. The Bollards itself have
17 a light included in them and then the fence is
18 an 8-foot tall vinyl wood grain type texture.

19 So the general consideration was for a
20 conditional use under Chapter 17. You're
21 referring to 17-6 A, B, C, and D. The spirit
22 of intent. No adverse affect. Protection of
23 private interest. Consistent with adopted
24 plan. So for the first one, spirit and intent,
25 is a proposal used within the spirit and intent

1 of the zoning resolution in the district
2 proposed; yes. Adverse affect proposed use of
3 the development shall not have an adverse
4 affect on the adjoining properties for the
5 public health, safety, morals, and general
6 welfare. Based on the applicant's submitted
7 drawings, the applicant is proposing to
8 minimize any adverse affects on the proposal.

9 Protection of public interests. The
10 proposed use and development shall respect to
11 the greatest extent practical by nature scenic
12 and historical features of significant public
13 interest. The applicant is proposing to
14 outline their properties with a tremendous
15 amount of landscaping, an eight-foot tall
16 privacy fence, and Bollard type light fixtures
17 and install a storm water detention system.
18 Consistent with the adopted plans, the proposed
19 use of the development shall applicable and
20 consistent with objectives, policies, and plans
21 related to the land use adopted by the board of
22 trustees. The proposed two lots and their use
23 if approved will be consistent with the
24 existing 13.08 acres site to the south.
25 Basically Moeller High School.

1 Also, in addition to that specific
2 criteria pertaining to conditional use under
3 17-7. In addition to the general consideration
4 contained in 17-6, each condition used is
5 subject to one or more of the following
6 criterias as identified in Table 17-12. The
7 following list contains all of the specific
8 criterias with each proceeded by a number and a
9 reference in Table 17-12.

10 So basically in 17-12, there's a list of
11 items that pertain to specific conditional use
12 applicants. One would be a school. Another
13 would be a government facility and so on. So
14 they each have specific items that the review
15 is based on. In this case we have Item 12,
16 Item 15, 15-A. This one's 15-C and then 19.
17 So measures shall be taken to minimize the
18 impact of a potential nuisance such as noise,
19 odor, vibration, and dust on adjacent
20 properties. Applicant has provided a detail
21 plan addressing watershed, buffering, and
22 lighting. Landscaping shall be installed in
23 accordance with one of the following buffers as
24 described in detail in Chapter 14. In this
25 case A Boundary Buffer A shown in Figure 14-A.

1 And then also streetscape shown in Figure 14-C.
2 The applicant has met and exceeded the
3 requirement of the township's boundary buffer
4 requirements were applicable.

5 Signage shall be regulated as follows:
6 One sign permitted at a maximum of 32 square
7 feet. The applicant has requested no signage.
8 All exterior lighting shall be directed away
9 from the adjacent residential property. The
10 applicant has met these requirements.

11 So just some additional comments on those
12 two reviews. So refer to the previous slides
13 regarding general considerations for
14 conditional use also a specific criteria
15 pertaining to conditional use and zoning code
16 review. So that's how I did the total review
17 of this. So there's actually three things. So
18 in reviewing this, like I said, staff
19 considered this application as a side yard and,
20 therefore, no streetscape is required. There's
21 no street to be considered. Also in staff's
22 opinion there's no need to provide interior
23 landscaping due to the site being totally
24 enclosed surrounded by a fence and landscaping
25 materials. So the whole intent with interior

1 landscaping is the break up these sea of
2 landscaped areas from the public. In this case
3 this is a closed site and a 8-foot tall privacy
4 fence with landscaping around it.

5 Additional items to be considered by the
6 BZA. So this is based on staff's review of the
7 plans. Reduce the parking stalls to
8 16-and-a-half feet with a minimum and
9 obstructed overhang area of 3 feet. So right
10 now they have 19-foot deep stalls with an
11 in-graded curve. The code allows them to go
12 16-and-a-half feet and to overhang 2-and-a-half
13 feet of their vehicles into that area. That
14 area that they have here is actually gravel.
15 So as long as there's not landscaping up
16 against the vehicle, then they're allowed to go
17 that 2-and-a-half feet. That's just one.

18 Landscaping areas be required to have a
19 sprinkler system installed and maintained.
20 Yearly cleaning of all landscaped areas
21 proposed in this application. Yearly review of
22 drainage areas to insure proper function. The
23 inter-stalls to be a minimum of 19-foot deep by
24 9-foot wide. And let me just clarify that for
25 the board. So as you look at the outer parking

1 stalls. Those are the ones that I was talking
2 about where you can go 16-foot deep because it
3 overhangs into the gravel area. These are the
4 interior stalls which I'm speaking of in
5 regards to being 19-foot deep because you don't
6 want to have an overhang if they're going to
7 abut car to car. So it's important that we
8 have at least that 19-feet there.

9 MR. SCHEVE: Where's Kennedy Avenue on
10 this?

11 MR. HOLBERT: Kennedy is up here. The
12 entry drives to the new parking area to have
13 existing landscaping removal within 20 feet of
14 each site or modify the area to be shrubs and
15 ground cover. Basically, this is what we would
16 refer to as a site triangle with any new
17 development. As you go in and out of there, we
18 don't want any landscaping to be in the way of
19 the driver coming out onto approaching traffic.
20 Directional signs being installed. For
21 example, those would be entrance and exits. No
22 cell or communication towers on the campus
23 site. So in case the campus site would be all
24 of Moeller not just these two that are looking
25 at the conditional use, but Moeller in general.

1 And that includes the following that the
2 following lots be consolidated with this
3 application. So I've listed all of the
4 miscellaneous lots that are part of Moeller in
5 addition to the two that you're looking at now.

6 CHAIRMAN EICHMANN: In reference to your
7 earlier notes, their landscaped areas and the
8 sprinkler and the yearly cleaning, you're
9 talking about around the outside of the fence?

10 MR. HOLBERT: Correct.

11 CHAIRMAN EICHMANN: Is that right?

12 MR. HOLBERT: Uh-huh.

13 CHAIRMAN EICHMANN: And that is all on
14 Moeller's property?

15 MR. HOLBERT: It is as far as I know in
16 looking at the plan.

17 MR. HEIDEL: What's the distance of the
18 fence to Kennedy?

19 MR. HOLBERT: I'll refer that to the
20 applicant.

21 MR. SCHEVE: Could you tell me what the
22 basic differences are between the original
23 plan, what I call the first plan and the second
24 plan? You've told us that they're reducing the
25 parking spaces from 130 to 117, smaller spaces

1 and they proposed extra landscaping and reduced
2 lighting, right?

3 MR. HOLBERT: Correct.

4 MR. SCHEVE: Are those the main changes in
5 the plan or are there others as well?

6 MR. HOLBERT: Let's go back here. Those
7 are the main changes. As far as the drive
8 aisles, the drive aisles remain the same, which
9 is what code requires. As far as the
10 landscaping material like you mentioned, yes,
11 the landscaping material has been increased.
12 The number of parking stalls has been reduced.
13 And then the light fixtures have actually been
14 removed altogether and now they've added
15 Bollards. This was something that was done
16 right down the road at the Mercedes Benz. And
17 what the Bollards do is they provide
18 illumination and safety for the parking lot
19 itself once you remove any type of overhead
20 type lighting. So they're still able to
21 provide security, I think, or at least
22 illuminate the area where the students are
23 parking. And also in looking at it's going to
24 be less evasive for the residents altogether
25 because they shouldn't see any lighting whether

1 it's a vehicle coming into the site or these
2 lights here, one is an eight-foot tall fence.
3 Most projections from a vehicle go straight.
4 They're not angled off and they don't bounce
5 over fences. So it should be direct in and
6 direct out.

7 MR. SCHEVE: What is the status of the
8 first plan. Is that currently in litigation?

9 MR. HOLBERT: It is.

10 MR. SCHEVE: So this is probably more of a
11 legal question to Mr. Miller or Mr. Barrett.
12 How do we proceed on the second plan while the
13 first plan is in litigation? Somebody want to
14 tell me that?

15 MR. MILLER: Well, they submit an
16 application -- before we get to that can I
17 verify one thing because I can't remember.
18 Harry, I know you were because I saw you raise
19 your hand and say it, but you were sworn in
20 before any of your testimony; is that correct?

21 MR. HOLBERT: I was.

22 MR. MILLER: It's difficult. We have the
23 first application is under appeal. I argued to
24 the court who I had filed a motion for a
25 declaratory judgment in that action requesting

1 that the court declare that the second
2 application be Res Judicata -- that's a whole
3 law school class, I'm sorry for the
4 non-attorneys in the room. The judge in the
5 course of our discussion back and forth said
6 that she did not feel she had jurisdiction to
7 issue that in the first case since this was a
8 separate appeal and that that was an issue for
9 the board of zoning appeals to first decide.

10 MR. SCHEVE: She wants us to decide if
11 it's Res Judicata?

12 MR. MILLER: You can, yes. There are
13 cases where the board of zoning appeals has
14 determined that the case is Res Judicata.

15 MR. SCHEVE: So she wants five non-lawyers
16 and one semi-lawyer to decide if the case is
17 Res Judicata?

18 MR. MILLER: It's been done. I understand
19 the issue that it's, like I say, it's a law
20 school class at least to understand. And I'll
21 let Mr. Barrett if he has anything to add to
22 that also.

23 MR. SCHEVE: Let me ask you this. As you
24 saw in the first case in Sycamore, they came in
25 originally with a plan that we didn't really

1 like and we didn't vote on it, we continued it
2 and came in with a plan that we did like and
3 approved it.

4 This case we voted down a plan that three
5 of us didn't like, and they appealed it, and
6 now they're coming in with a second plan. And
7 it may be that we like the second plan, but
8 let's say hypothetically we approve the second
9 plan, what affect does that have on the
10 litigation currently before the court of common
11 pleas?

12 MR. MILLER: Well, it could potentially
13 render it mute except if there is appeal of
14 your second decision approving the plan. Now,
15 we have two appeals in the common pleas court,
16 one of which the township is, well, we're
17 defending both decisions, but we're arguing
18 against the parking lot in one case and for it
19 in another. Quite honestly I don't know where
20 that leaves me.

21 MR. SCHEVE: So why -- when Mr. Eichmann
22 read the first minutes, we continued the Ryan
23 case, which is in litigation. We continued
24 that over and over. We haven't taken any other
25 action on it because it's in litigation. Why

1 shouldn't we just continue this case until the
2 first case is decided by the court?

3 MR. MILLER: Well, that's up to the board.

4 MR. SCHEVE: The court could decide we
5 were wrong. It was three to two and it was
6 pretty hotly contested as I recall and the
7 court could reverse it. So let me ask you
8 another question: What if the court reverses
9 the first decision and we approve the second
10 plan, then we have an approval for the first
11 plan and the second plan, what are you going to
12 do then?

13 MR. MILLER: I don't know.

14 CHAIRMAN EICHMANN: Can a nonlawyer ask a
15 question?

16 MR. SCHEVE: Preferably.

17 CHAIRMAN EICHMANN: So we're really being
18 challenged to determine if this is really a
19 different plan. In layman's terms, we have to
20 decide --

21 MR. MILLER: I think that is an issue --

22 CHAIRMAN EICHMANN: If this is a different
23 plan.

24 MR. MILLER: I think that is an issue for
25 the board to decide --

1 CHAIRMAN EICHMANN: If this looks like
2 it's going to be a different plan to all of us,
3 we could hear this plan.

4 MR. MILLER: -- if you consider that there
5 this is not substantial changes from the first
6 plan, then you've already made a determination
7 on this. Some people might argue that it is
8 not. Obviously the school would argue that it
9 is. But that's the first hurdle that you have
10 to get over.

11 CHAIRMAN EICHMANN: It's still a parking
12 lot. It's still on the same piece of property.
13 It's just defined differently by spaces,
14 fences, lighting, buffering.

15 MR. MILLER: As I see it and, again, I
16 will let them supplement, but the difference
17 being fewer parking spaces from 130 to 117,
18 that's a 10 percent reduction. I think higher
19 fence in different locations, more landscaping,
20 and the lights are now Bollard lights versus
21 light poles. But the concept of parking in the
22 residential area is the same.

23 CHAIRMAN EICHMANN: Is that something that
24 maybe we could decide on a vote before we have
25 the hearing to determine if -- of the majority

1 of the feelings on this case?

2 MR. MILLER: I think you can do whatever
3 you want to do in this case. I think if you're
4 inclined to do that, you should probably hear
5 from Mr. Barrett on the other side.

6 MR. SCHEVE: Well, I think we should
7 probably hear from the applicant as to the
8 proposed plan and then we can decide whether
9 the proposed plan is significant.

10 MR. MILLER: And that's the thing. There
11 may be additional evidence that comes out that
12 they would like to present.

13 CHAIRMAN EICHMANN: Make it be --

14 MR. MILLER: That might change -- show
15 some other change.

16 CHAIRMAN EICHMANN: So we could table that
17 vote that I just asked about until after we
18 hear at least Mr. Barrett.

19 MR. MILLER: You never a made a motion to
20 have the vote in the first place so technically
21 you're not tabling it, but you could hold it in
22 abeyance until you hear the evidence before
23 you.

24 CHAIRMAN EICHMANN: Tom, I'm sorry, go
25 ahead.

1 MR. MILLER: The other option that you
2 have as Mr. Scheve said -- I mean, you've got
3 about four or five options here. You can deny
4 it. You can approve it. You can determine
5 it's Res Judicata in which case you never get
6 to the actual merits of whether you like this
7 plan or not because you've already made a
8 decision on the plan. And you can continue it
9 until in progress until you get a result on the
10 first case.

11 MR. SCHEVE: Well, I just don't see how
12 we're going to say something's Res Judicata.
13 Like you said it's a law school question. Ask
14 me what the elements of Res Judicata, I'd be
15 hard to tell you right now, but I think we
16 should hear from Mr. Barrett's client about
17 what the plan is, how it differs, and then
18 maybe you can address my concerns, Mr. Barrett
19 as to --

20 MR. BARRETT: Let me try and answer all
21 the questions that you raised.

22 CHAIRMAN EICHMANN: So I'll come back to
23 my original question, should you be sworn in?

24 MR. BARRETT: You can swear me in if you
25 want to, but I don't think it's appropriate as

1 an attorney.

2 MR. MILLER: He's arguing.

3 MR. SCHEVE: He's an attorney.

4 MR. MILLER: Whatever he says is not
5 evidence. He's presenting his argument on
6 behalf of Moeller.

7 MR. BARRETT: I got involved in this case
8 over a year ago, it was actually I think it was
9 June of last year when the first plan was
10 turned down. And when I got involved I looked
11 at the record and I looked at some of the
12 issues. And it was apparent to me that major
13 changes were made in the plan that could be
14 acceptable. I tried to withdraw the
15 application so we could submit a revised plan.
16 I was told I could not withdraw the application
17 because it already had been acted upon. So I
18 had no choice to protect ourselves, to protect
19 the school, but to appeal that decision in
20 court.

21 When it got to court, I even asked the
22 court to remand the case back to Sycamore
23 Township Board of Zoning Appeals for us to
24 submit an amended plan but there was opposition
25 to that, from Mr. Miller and others. So

1 notwithstanding that, we embarked on a course
2 of trying to come up with a much better plan.
3 If the issue which is going to control, we will
4 gladly dismiss the first case and go with the
5 better plan on the second case that should not
6 be an issue.

7 But to address the major point of what
8 changes have been made, and, again, as a matter
9 of policy, my experience of doing this for
10 many, many, many, years, communities oftentimes
11 will turn someone down and say we would have
12 approved it if you had done A, B, and C, bring
13 us back another plan. They don't say, no
14 matter what you come back with we're not going
15 to approve it. Many times there's specifics
16 whether it's a shopping center, whether it's a
17 subdivision, whether it's an office park, or
18 whatever, many times the zoning boards, BZA's,
19 so forth, have issues and say we're going to
20 have to turn this plan down. You bring back a
21 better plan and we'll consider it and here's
22 our concerns.

23 Anyway, we made major -- eight major
24 changes material changes in the plan. First
25 one was we reduced the number of parking spaces

1 from 130 to 117 spaces which is a reduction of
2 13 spaces or 10 percent.

3 Number two, the implementation of an
4 eight-foot high perimeter border fence
5 increased from the previously proposed six-foot
6 high perimeter fence. This fence will be
7 constructed of sound absorption material.
8 That's another change. It is recognized that
9 an eight-foot high fence will be part of the
10 variance with an additional 2 feet. This
11 higher fence is proposed strictly for the
12 benefit of the neighboring properties.

13 Number three. Increase the buffer on the
14 west side of the site, that's the sensitive
15 side, from 10 feet to 20 feet which is an
16 increase of 100 percent along the entire
17 western property line to protect the closest
18 residents from any impact.

19 Number four. Implementation of enhanced
20 landscape plantings on the perimeter to include
21 additional trees and shrubs.

22 Number five. Implementation of a
23 staggered fence line on the perimeter to
24 accommodate increased landscape plannings on
25 the exterior of the fence and to provide

1 enhanced esthetics for the benefit of the
2 adjoining properties.

3 Number six. Use of mounding on the
4 perimeter for increasing the height of the
5 fence and for providing additional screening
6 all for the benefit of the neighboring
7 properties.

8 Number seven. Reduction in the height of
9 the proposed lighting fixtures from tall light
10 posts, 25 feet to low level Bollard lights, 4
11 to 6 feet.

12 Number eight. Implementation of an
13 improved drainage system for the benefit of the
14 neighboring properties. Including the use of a
15 french drain system that involves a subsurface
16 perforated drainage system on the perimeter to
17 improve stormwater control which will alleviate
18 stormwater problems in the vicinity.

19 Those are the eight major changes. And,
20 again, I would say that it's not Res Judicata
21 if you make material changes. The purpose of
22 the Res Judicata. It's called administrative
23 res judicata not traditional res judicata.
24 Administrative res judicata which applies to
25 boards of zoning appeals, is to prevent

1 somebody from coming back with the same plan
2 over and over and over again hoping that the
3 same plan somehow might get approval. The
4 purpose is to prevent that.

5 Conversely, if an applicant is sensitive
6 to the concerns that the BZA expressed is
7 sensitive to the concerns of the neighbors and
8 brings back a much improved plan, that's a
9 material change that the board can consider.
10 So that's our position.

11 MR. SCHEVE: Are you saying that you're
12 willing to dismiss the pending appeal in the
13 court of common pleas?

14 MR. BARRETT: We will dismiss it as soon
15 as we get approval for the current plan. The
16 reason I can't dismiss it -- I don't know
17 what's funny about that. The reason we can't
18 dismiss the court case right now is because of
19 this issue that's hanging out there that that
20 would be Res Judicata. I don't have any
21 problems dismissing it at the appropriate time.

22 MR. SCHEVE: Well, if you dismiss the
23 first case and we approve this, the issue --
24 who would raise the issue of Res Judicata other
25 than a potential intervener?

1 MR. BARRETT: That's correct. That's
2 exactly correct. And there is an intervener in
3 this case.

4 MR. SCHEVE: Well, in the first case -- in
5 the case pending there's an intervener there?

6 MR. BARRETT: Yes.

7 MR. SCHEVE: So they could conceivably
8 intervene in this case?

9 MR. BARRETT: Yes.

10 MR. SCHEVE: As I understand the appeal,
11 you and Mr. Miller meet with the judge and the
12 judge like every judge says why can't you
13 settle this case and stop bothering me, right?

14 MR. BARRETT: Yes.

15 MR. SCHEVE: And the trustees have the
16 authority to enter into some compromise as to
17 what we did the first time. So if this is a
18 good plan, the trustees think it's a good plan,
19 why couldn't the trustees and you in an effort
20 to compromise your original appeal and just
21 agree to that and it will go away. And as I
22 said in the first case, if the residents didn't
23 like what the trustees did, they can change
24 them at the next ballot.

25 MR. BARRETT: If that would work that

1 would be workable.

2 CHAIRMAN EICHMANN: Sounds like we have a
3 variance to deal with though. It's a
4 conditional use but a variance on the fence.

5 MR. MILLER: The matter is actually, the
6 magistrate who's handling this and what happens
7 is when you have an administrative appeal, it
8 goes to the common pleas court and they assign
9 a magistrate and a judge to the case. The
10 magistrate always hears all of the matters
11 first, trying to keep the judge's docket down.
12 So we have had several hearings in front of the
13 magistrate, one of which was on their motion to
14 remand. And I will just correct one thing that
15 at the time the motion was filed there was not
16 a second plan and that's why the township
17 opposed that in particular because we didn't
18 know what they were asking to remand and that
19 was early on in the case before they had come
20 up with this plan.

21 Be that as it may, the magistrate at the
22 last hearing that we had on a number of motions
23 had indicated that she would like to see the
24 parties take this case to mediation which we
25 have scheduled for a week from Thursday, I

1 think it is. So there may be something come of
2 what you're saying. I don't know.

3 MR. SCHEVE: Do you have an independent
4 mediator?

5 MR. MILLER: Yes, Carl Stich.

6 MR. SCHEVE: So he's a former judge. So
7 you both would go to him and he would probably
8 try to talk sense into both of you.

9 MR. BARRETT: He wouldn't have to with me.

10 MR. SCHEVE: I'm just troubled by deciding
11 a second case when a first case is still
12 pending.

13 MR. MILLER: And what happened was I think
14 that hearing when the magistrate was very happy
15 when we said we would mediate it occurred, that
16 was in June, I think, Mr. Barrett. We had a
17 difficult time getting dates and a mediator.
18 Moeller had agreed, they were originally
19 supposed to be in here in July. And they had
20 agreed to push it off to August figuring we
21 would probably have that mediation out of the
22 way at this point and we do not.

23 MR. SCHEVE: So not to give away your
24 bargaining position, the trustees are willing
25 to do something, I assume, in order to resolve

1 the pending case or you can't say?

2 MR. MILLER: It's going to be difficult.
3 If there's an agreement arrived at, it's going
4 to be very difficult.

5 MR. SCHEVE: So the mediation may not be
6 very successful though. You don't know -- you
7 don't know until it happens.

8 MR. MILLER: You never no.

9 MR. SCHEVE: I know. I've been through
10 those. You think there's no end in sight and
11 all of a sudden you agree on something. The
12 floor's your, Mr. Barrett. Sorry.

13 MR. BARRETT: We'll go ahead and present
14 our case if that's okay. Let me say something
15 on a preliminary note.

16 MR. MILLER: Are we done with the
17 preliminary stuff because I actually had some
18 questions for Harry and I didn't know if
19 Mr. Barrett had questions for him.

20 MR. BARRETT: Go ahead, Doug.

21 MR. MILLER: Harry, can you go back to
22 that screen where you had the four
23 considerations? So you have an answer to all
24 four of these questions. Is that in your
25 opinion?

1 MR. HOLBERT: Correct.

2 MR. MILLER: Now, consistent with adopted
3 plans. The property is zoned residential; is
4 it not?

5 MR. HOLBERT: It is.

6 MR. MILLER: Is there any plan that shows
7 an institutional use on this property? Land
8 use plan.

9 MR. HOLBERT: Basically it shows that it's
10 all residential. And the whole intent with
11 making a school conditional use is so it can be
12 in a residential neighborhood.

13 MR. MILLER: But the plans that are at the
14 township show residential?

15 MR. HOLBERT: Correct.

16 MR. BARRETT: Doug, that classification
17 conditionally allows a school.

18 MR. MILLER: I understand. I'm just
19 saying there are plans that the township that
20 also show institutional uses on them, correct?
21 The Jewish Hospital property?

22 MR. HOLBERT: I don't recall if that's
23 zoned institution or not. I think that's
24 actually office Double OO.

25 MR. MILLER: Okay, that's all.

1 CHAIRMAN EICHMANN: Mr. Barrett.

2 MR. BARRETT: Yes. I just want to say
3 that over the years I have represented all
4 types of property owners, everything from
5 single-family homes to very intensive
6 industrial uses. I've also represented a
7 number of institutional uses: Schools,
8 hospitals, places of worship, of all multiple
9 denominations, athletic complexes, playfields,
10 golf courses, cemeteries. I can say
11 confidently that you will never find a finer
12 institutional citizen than Moeller High School.
13 I'm extremely pleased to represent Moeller.
14 Virtually all the cases I handle are referrals
15 typically from other attorneys, other
16 developers, civil engineers, consultants, and
17 there's no greater honor than when a fine
18 institution like Moeller High School is
19 referred to me. So I'm extremely pleased and
20 proud to represent them.

21 I would also note that when I got involved
22 in this case I felt that there were a lot of
23 legitimate concerns that the neighborhood had
24 and recommended they retain the services of a
25 highly skilled registered landscape architect

1 and they proceeded to do that and he's made
2 major changes in the plans. And I can't think
3 of a single parking lot anywhere in greater
4 Cincinnati which has greater buffering than
5 this parking lot would have.

6 And, again, a school is a conditionally
7 permitted use in this district. This is an
8 accessory use to a permitted use or to a
9 conditionally permitted use. It is not a
10 principal use. It's a accessory use. It's
11 about a passive a use that a conditional user
12 could make of the property.

13 I mentioned all the major changes that
14 have been made. And, again, I think not only
15 are those significant in material, but they
16 legitimately address every concern. The one
17 concern we can't address is I just don't want
18 it. Some people have expressed to us I just
19 don't want it and there's no way to deal with
20 that. Objectively we would ask you to look at
21 the objective criteria. I think the staff
22 report has identified conclusively that we meet
23 all of their criteria for conditional use
24 approval. I would reference the application we
25 submitted, the revised application was

1 submitted by the cover letter is dated May
2 13th. It was received here in the township on
3 May 14th and we submitted a complete
4 application. A complete application for the
5 zoning certificate. We paid the fee. The
6 letter of the intent which I'll get to in a
7 second. We listed the eight major changes in
8 the site plan. We indicated the statement
9 explaining the requirements of Archbishop
10 Moeller High School for additional parking.
11 And we submitted multiple drawings. There are
12 11 sets of detailed drawings. Everything from
13 site plans to landscape plans to building
14 elevations, again, all to show how sensitive
15 the school has been in trying to address their
16 concerns.

17 With respect to the -- our detailed letter
18 of explanation which is in your materials, I'd
19 just like to reference some of the key points.
20 And, again, the purpose of this is to provide
21 needed parking for students. Many students are
22 forced to park off campus. Have to walk to and
23 from school under very undesirable unsafe
24 conditions. And they need to do resolve that
25 in doing so does promote the general welfare.

1 Again, as far as uses are concerned, this is
2 about a passive as a use as you can find.

3 As far as the zoning code itself is
4 concerned as I've noted, a school is a
5 conditional use. And this property is zoned B
6 Residence. It's a conditional use and B
7 Residence district. And a parking lot is an
8 accessory use to that conditional use, so it's
9 even less of an intensive use than a pure
10 conditional use. Under the general standards,
11 general considerations for additional uses
12 which are mentioned in the staff report, the
13 first one is the spirit and intent. And,
14 again, this meets the spirit and intent of the
15 zoning district as it is an accessory use to
16 the conditionally permitted use of a school.
17 The zoning resolution recognizes that the
18 school and accessory is a complete parking area
19 is conditionally permitted in this subject
20 zoning district and the school has undertaken
21 every effort to ensure that all beneficial
22 elements to the neighbors have been
23 implemented.

24 No adverse affect. And, again, there is
25 no adverse affect at all. With the increased

1 buffer, the reduced heights of the lights, the
2 increase of the fence, the adding of the
3 mounding of the fence even higher. As Harry
4 explained there is excessive landscaping.
5 There is no adverse affect. And, again, the
6 general welfare of the public safety are
7 promoted by allowing school children to have
8 safe access to and from school and not be
9 required to walk extended distances.

10 The protection of public interest. Again,
11 this developer respects to the greatest extent
12 practical, all of the issues with regard to
13 land use and planning. Again, as the landscape
14 architect will explain to you, you'll never
15 find a finer landscape plan than this one.

16 Mr. Miller raised the issue of consistency
17 with adopted plans. I would note, again, that
18 the property is zoned B Residence. A school is
19 a conditionally permitted use in the B
20 Residence district and the parking lot is an
21 accessory use to that conditionally permitted
22 use. The Sycamore Township Land Use Plan
23 references this property as being in the area
24 designated, quote, Montgomery Road Corridor,
25 unquote. And within this area which is noted

1 as the Montgomery Road Corridor, it's dominated
2 by, quote, public semi-public institutional,
3 unquote, primarily south of the subject
4 property. To the east of the subject property,
5 the proposed land use is mixed-use
6 transitional. The subject property itself is
7 within a proposed land use area designated
8 transitional residence. So, again, I would
9 submit that this very passive parking is fully
10 consistent with that.

11 In terms of the specific criteria with
12 regard to a specific conditional use, those are
13 referenced in our letter of explanation.
14 Criteria 12 states, quote, measures shall be
15 taken to minimize the impact of potential
16 nuisances such as: Noise, odor, vibration, and
17 dust on the adjacent property, end quote. And,
18 again, those have been almost fully mitigated.
19 There should be no noise, odor, dust,
20 vibration, which would negatively impact any
21 property in the area.

22 Criteria 15A refers to the boundary of
23 buffer. As Mr. Holbert has explained, the
24 buffer's actually excessively mounded,
25 landscaped and planted. The fence being 8-feet

1 high as opposed, it certainly exceeds all
2 necessary elements. 15C is called streetscape
3 buffer. Since the property is not adjacent to
4 any streets, no streetscape buffer is required.
5 Criteria 16C permits us to have one sign of 32
6 square feet. No signage is permitted
7 whatsoever. Criteria 19 which is the last one
8 says, quote, all exterior lighting shall be
9 directed away from adjacent residential
10 properties, end quote. Not only is it directed
11 away, it's not even visible with these low
12 level Bollard lights only 4 feet or 5 feet in
13 height below the mounting below the 8-foot
14 fence. As Mr. Holbert said lighting is
15 completely invisible to the neighbors.

16 So having made those points, just want to
17 note that Moeller High School has been at this
18 location literally for about 60 years. It's
19 doors opened in September of 1960. It was in
20 the planning stages before that. And it's my
21 perspective a tremendous neighbor, a tremendous
22 aspect to the community. This is a needed --
23 this is not an unnecessary request. This is a
24 needed request for the safety of school
25 children. Nothing's more important or

1 paramount to parents and administrated and
2 teachers than the safety of the school children
3 and the current conditions really have resulted
4 in very unsafe conditions.

5 And I noted from looking at the record
6 last time some of the neighbors who were in
7 opposition said there's no safety beat because
8 no students have been hit by a car as of yet,
9 no accident reports. Well, there's the old
10 maximum, an accident waiting to happen. You
11 don't want unsafe conditions to lead to an
12 accident before you take action. My fear that
13 this situation is not rectified, there will be
14 accidents especially with the improvements
15 which the City of Montgomery and department of
16 transportation is proposing a roundabout at the
17 intersection of Montgomery Road and Cross
18 County Highway.

19 So with those preliminary comments, I'd
20 like to ask the president of the school,
21 Marshall Hyzdu, to come forward and make a very
22 brief presentation on behalf of the school
23 emphasizing the need for this parking and
24 explaining the current conditions. Marshall,
25 if you'd come up here.

1 MR. MILLER: Fran, while he's doing that
2 can we clarify one thing that it's in your
3 letter here and I think you might even agree
4 with me on this. It says, the subject property
5 is to the west of the offices fronting on
6 Montgomery Road in your location section, but
7 there's actually a residential parcel in
8 between those.

9 MR. BARRETT: That's correct. We are to
10 the west of that. We're to the west of
11 Montgomery Road. We're to the west of the
12 offices including your office.

13 MR. MILLER: Right. But it's not abutting
14 those offices.

15 MR. BARRETT: No, it is not.

16 MR. MILLER: There's a residential
17 property in between.

18 MR. BARRETT: Right.

19 MR. HYZDU: Good evening. My name is
20 Marshall Hyzdu. I'm president of Moeller High
21 School and my address is 8100 South Clippinger
22 Drive. So presently there are approximately --

23 MR. MILLER: Wait a minute, you've been
24 sworn in, Marshall?

25 MR. HYZDU: Yes, sir, I have. Presently

1 there have been approximately 390 parking spots
2 on the school's campus. We need to accommodate
3 the parking needs of our 870 students plus our
4 faculty, staff, administrators, visitors, and
5 guests. Hence, there is present demand and
6 immediate need for 150 to 200 more parking
7 spots than we currently have. And on the area
8 proposed for additional parking north of the
9 school, 130 spaces were shown this number has
10 now been reduced to 117 in order to provide
11 additional setbacks, separation, landscaping,
12 and related improvements for the benefit of our
13 neighbors.

14 Also as requested by the neighbors as well
15 as this group, we pursued further the
16 possibility of using All Saints Church property
17 to our south to accommodate our parking needs.
18 In the year since the last time we met, they
19 have denied that request three times,
20 unfortunately.

21 As a consequence, we need to pursue our
22 request for additional parking because it is
23 needed and we must eliminate the present unsafe
24 and undesirable circumstances of our students
25 parking off campus and having to walk to the

1 school from those locations. More than a
2 hundred of our students are parking off campus
3 on a daily basis and then having to walk to
4 school. It is neither safe nor desirable for
5 students who park in downtown Montgomery then
6 walk to and from school along Montgomery Road
7 and have to negotiate the interchange of
8 Montgomery Road and Ronald Reagan Highway. It
9 is also not desirable to have our students
10 parking at business locations in the general
11 area and then walking substantial distance.
12 Moreover, it is not desirable for our students
13 to be parking in the neighboring residential
14 subdivisions where the homeowners and residents
15 do not want what they consider to be an
16 intrusion in their neighborhood and use other
17 streets by outsiders.

18 They best and only solution is additional
19 parking on campus and after taking into
20 consideration and concerns expressed by our
21 neighbors, on one hand, but also realizing the
22 importance and necessity of this additional
23 parking for our school, on the other hand, we
24 retain the services of a highly skilled
25 landscape architect to redesign the parking to

1 make it fully compatible with the neighborhood.

2 MR. BARRETT: I have a handout here that
3 I'll ask Mr. Hyzdu to explain.

4 CHAIRMAN EICHMANN: Is there any questions
5 for Mr. Hyzdu?

6 MR. SCHEVE: Well, if I could after
7 Mr. Barrett passes out his things. Yeah, this
8 is sort of what I wanted to get at. You said
9 you need 150 more spaces, but you're now only
10 asking for 117. So even if we gave you what
11 you're asking for, would you come back next
12 year and say we need more -- you say you need
13 150, but you're only asking for 117. But then
14 you said, reduce it from 130. More than a
15 hundred students walk to school. So if you had
16 more than hundred walking to school that would
17 need a place to park. You say you need 150,
18 but you're only asking for 117. Aren't you
19 going to be in the same predicament that you
20 are now even if we do approve it? You won't
21 have enough parking.

22 MR. BARRETT: Well, first of all, it will
23 reduce the impact --

24 MR. SCHEVE: That was a question.

25 MR. BARRETT: I'm going to explain it.

1 MR. SCHEVE: I know, but I asked the
2 witness the question.

3 MR. HYZDU: So what it will do it will
4 reduce the amount of parking that we have or it
5 will reduce the amount of students walking from
6 downtown Montgomery and hopefully it will be
7 the majority of that problem. If we can solve
8 the entire problem we would do that, but we
9 don't have plans for that.

10 MR. SCHEVE: So matter what we do you're
11 still going to have a problem, right? How are
12 you going to solve the problem entirely without
13 doing something else?

14 MR. HYZDU: Well, we're going to continue
15 to look at all of our options. We're going to
16 continue to talk to All Saints as a potential
17 option there. But, again, this is the best
18 option that we have. We've looked at several
19 different options including property across the
20 street. We're going to continue to look at
21 options.

22 MR. SCHEVE: Why has All Saints not been
23 cooperating? Can't the Catholic institutions
24 get along better?

25 MR. HYZDU: I could ask you to talk to

1 Father Jaspers on that one.

2 MR. SCHEVE: What has he told you why?
3 He's, I guess, afraid of his grade school
4 students being hit by cars?

5 MR. HYZDU: No, not all. What they're in
6 the process of doing -- they're in the process
7 of creating a strategic plan for their own
8 school. And so instead of committing up front
9 to converting part of their green space to
10 parking lots, they want to refrain from doing
11 that until they understand what the strategic
12 plan is.

13 MR. SCHEVE: Mr. Barrett?

14 MR. BARRETT: Yeah, Mr. Scheve, we had an
15 open house back on February 27th and the
16 neighbors asked us to pursue vigorously
17 permission from All Saints to require land from
18 them to park on. And Mr. Hyzdu made numerous
19 efforts and was not successful. If the
20 township could bring the pressure on All
21 Saints, that would be fine with us. But we've
22 exhausted the school --

23 MR. SCHEVE: How would we do that?

24 MR. BARRETT: You indicated that someone
25 should get along. And if you had the ability

1 to persuade Father Jaspers, we would be very
2 pleased if you could do that.

3 MR. SCHEVE: I haven't seen Father Jaspers
4 in 50 years. I'm not sure if he'd remember me.
5 Go ahead.

6 MR. HYZDU: So the document that you have
7 in front of you that first page, really just
8 kind of lays out that we currently have 390
9 spaces. 113 of them were for faculty and
10 staff. Currently 275 of them are for seniors
11 and juniors and we have two visiting spots.
12 Currently have about 180 students. 660 of them
13 are of driving age of the sophomores, juniors,
14 and seniors. And then the need is 140 to 200.
15 About 140 for the sophomores. And then seniors
16 and juniors, we estimate potentially an
17 additional 50 students as well as visitors of
18 10 parking spots.

19 MR. SCHEVE: So the driving age is still
20 16; is that right? So freshman and sophomores
21 would be -- you'd have some sophomores driving
22 at that age?

23 MR. HYZDU: Yes.

24 MR. SCHEVE: Not freshman. They wouldn't
25 be old enough?

1 MR. HYZDU: Correct. The second sheet on
2 here is a map. We actually presented this last
3 time. This shows you where the dark blue areas
4 are. Shows you where we have found our
5 students to be parking off campus. Everywhere
6 from across the street to down Kennedy Lane, to
7 some businesses all the way down to public
8 parking in Montgomery.

9 And then the final four pages are
10 renderings of the roundabout. The first one is
11 the end solution for Montgomery. In this
12 situation what you're actually going to need is
13 if a student parks, say at Awakenings or in
14 public parking in Montgomery on the west side
15 of the street, they're going to have to cross
16 Montgomery Road at the crosswalk near
17 Awakenings. Walk up the sidewalk on the east
18 side of the street. Eventually when they get
19 to the roundabout, cross the roundabout,
20 continue to walk down the sidewalk. And then
21 at Kennedy Lane cross where there's a red light
22 currently.

23 And so that is the final stage of this.
24 The other three pages kind of show you the
25 transitions; Pages I, II, III, as well as IV

1 and the difficulty of these.

2 So in Phase I, it will actually be very
3 similar to the situation now which students
4 would have to cross the intersection of Cross
5 County Reagan Highway and Montgomery Road both
6 people getting on the highway as well as
7 getting off.

8 Phase II. This is when additional work is
9 being made. The students will have to walk
10 around on the east side of the street. If you
11 see that blue line walking around and then
12 eventually they're going to have to cross again
13 at Kennedy Lane at the red light.

14 Phase III is a similar situation where
15 they continue to have to walk around on the
16 east side of the street and cross at Kennedy
17 Lane.

18 And then Phase IV, they're going to have
19 to actually walk through the work area, again
20 walking around this with these dotted lines
21 they say is going to be pedestrian during that
22 time, but walk through two different work areas
23 and they cross the street at the red light. So
24 not only is this dangerous today, it will be
25 certainly dangerous over the next year and a

1 half, two years of the construction of the
2 roundabouts. And then certainly once the
3 roundabout is here it will become even more
4 dangerous for our students.

5 MR. MILLER: Why is it more dangerous?

6 MR. HYZDU: More dangerous; when it's
7 completed.

8 MR. MILLER: Have you seen the -- how old
9 is this drawing?

10 MR. HYZDU: A few weeks.

11 MR. MILLER: Have you seen the pedestrian
12 rendition on the Montgomery website?

13 MR. HYZDU: So the city manager walked us
14 through this a few weeks ago so this was the
15 latest rendering that they had for us, so I've
16 not seen that but this is what --

17 MR. MILLER: Harry, did you bring that
18 drawing?

19 MR. HOLBERT: Which drawing?

20 MR. MILLER: Off of the Montgomery
21 roundabout when it's finished.

22 MR. HOLBERT: I don't have that.

23 UNIDENTIFIED SPEAKER: Excuse me, I have
24 that.

25 MR. MILLER: All right. Then we'll get to

1 it later. Off the website? I don't believe
2 this is accurate, but we'll find out.

3 MR. HYZDU: Yeah, I'll go with the city
4 manager on that.

5 MR. BARRETT: Any questions for Mr. Hyzdu?

6 CHAIRMAN EICHMANN: Took the words right
7 out of my mouth.

8 MR. HEIDEL: How about the property
9 between the fence and Kennedy? What's that
10 going to be used for? How close is that or how
11 far is it?

12 MR. HYZDU: So there's currently two
13 houses on those properties on the north side of
14 those -- where the parking lot is and so
15 there's no changes.

16 MR. HEIDEL: Stay there as houses?

17 MR. HYZDU: Stay there.

18 CHAIRMAN EICHMANN: No other questions.

19 Thank you very much.

20 MR. BARRETT: I'd like to call Peter
21 Kimener.

22 CHAIRMAN EICHMANN: Do I recall you being
23 sworn in too, sir?

24 MR. KIMENER: I was.

25 MR. BARRETT: Peter, will state your full

1 name and spell your last name?

2 MR. KIMENER: Robert Peter Kimener,
3 K-I-M-E-N-E-R.

4 MR. BARRETT: Your address?

5 MR. KIMENER: I live at 6612 Madeira Hills
6 Drive, Cincinnati.

7 MR. BARRETT: And what is your
8 relationship to Moeller High School?

9 MR. KIMENER: I had two sons graduate from
10 there. I'm on the board and I am the chair of
11 the facilities committee.

12 MR. BARRETT: What is your relationship or
13 understanding with regard to properties
14 proposed for the parking area? Can you give
15 the board a historical perspective?

16 MR. KIMENER: As the facilities chairman
17 on the board, my job is to provide for the
18 maintenance and upkeep of the facilities as
19 well as trying to allow the facilities to
20 accomplish Moeller's mission to educate the
21 young men that go there. So it's dependent on
22 the facilities that are up-to-date or underway
23 with the project right now to increase the
24 classrooms there so that the academics can be
25 accomplished in a better environment.

1 Historically, I was on the facilities
2 committee back in 2012 and I was sitting in the
3 principals office at the time, Blane Collison
4 and he took a call from Margee Clarke who owns
5 7765. And Margee offered and wondered if
6 Moeller would be interested in buying her home.
7 And I just ironically happened to be there with
8 Blane when that call took place. And he turned
9 to me and said, "What do you think?" And I
10 said, "Absolutely. We'd love to talk to Margee
11 about buying her residence." So we went over
12 and met with her and ended up with an agreement
13 with her to buy her home and.

14 MR. BARRETT: What use did you have
15 proposed for her property?

16 MR. KIMENER: We were going to transfer
17 the brothers and priests that live in the
18 institution on the north wing to a beautiful
19 home that Margee owns. We were going to
20 remodel it and we commissioned an architect
21 before we actually closed on the property
22 because we have a time constraint with doing
23 other things with the north wing. So in
24 preparation for the closing, we commissioned an
25 architect to remodel the space that the

1 brothers and priests were in in the school.
2 And the priests and brothers wanted a chapel in
3 Margee's home and some other things, which we
4 spent time and money for him to do in
5 preparation for the closing and the possession
6 of Margee's home.

7 MR. BARRETT: And what happened?

8 MR. KIMENER: Within a couple of weeks of
9 the closing date that we had, Margee called
10 Blane and Bill Hunt and, I think it was Bill
11 Hunt at the time, the president, and said she
12 changed her mind and she didn't want to sell
13 the home. And that, needless to say, created a
14 quite a stir for us because we had these plans.

15 MR. SCHEVE: What year are you talking
16 about?

17 MR. KIMENER: 2012.

18 MR. SCHEVE: 2012.

19 MR. KIMENER: So we spent a lot of money
20 with an architect. Maybe we shouldn't have.
21 We should have waited, but we didn't because we
22 had a timeline to meet. So Margee had her own
23 reasons to do that. We were friends. We
24 became friends over the negotiations and still
25 are today.

1 But she did agree to sell the adjacent
2 property at 7755 and we did close on that. My
3 wife and I bought that home. And we rented
4 that home. And the last renter was Dave
5 Broxterman who rented it for about a year and a
6 half and wanted to buy it. So he came to us to
7 buy the home. And since things had changed, we
8 decided to sell the home, but he didn't want to
9 pay the price that we had paid for it. So in
10 order to allow him to buy the home, we chopped
11 off the back half of the property. So that
12 transaction could be more amenable to him and
13 he could buy the home and we took the back
14 parcel and donated it to Moeller High School
15 for their future use. And when I did that I
16 talked to David because he asked me about what
17 would be the use of that back half that you're
18 going to donate. And I said, "Well, if I
19 donate it, I don't have a use. It's not mine
20 any more." But some of the conversation was
21 with a botany faculty member to turn it into a
22 greenhouse. There was tennis courts mentioned
23 and possibly parking. And he went ahead with
24 us selling him the home with that kind of
25 information which was sketchy at best because

1 there were no plans.

2 So he bought the home. We donated the
3 property. And then David and Peggy Schlueter
4 at 7745 decided to sell their property and we
5 bought that through an LLC I formed with
6 another partner. And we own 7745.

7 MR. SCHEVE: You rent that property as
8 well?

9 MR. KIMENER: I do.

10 MR. BARRETT: And what happened after
11 that? How did the plans from the parking lot
12 then come into fruition?

13 MR. KIMENER: Well, the need for the
14 parking is way beyond time. In trying to find
15 it, I was part of the effort to try to find
16 space. Issues like trying to buy Daniel Motors
17 if they were going to sell their property and
18 actually move some place else. All sorts of
19 avenues had been pursued to try to get
20 additional parking for Moeller. The neat part
21 about this was -- this was adjacent to
22 Moeller's parking lot. That's really
23 convenient. You're not talking about kids, a
24 hundred kids walking through neighborhoods from
25 the community, the business community. You're

1 talking about kids that are parking there and
2 walking right to school.

3 So convenience won't win the day here with
4 you, but it is and it's much more safer.

5 MR. BARRETT: What are the plans for the
6 two existing residences at 7745 and 7755
7 Kennedy Lane?

8 MR. KIMENER: I can speak for 7745, not
9 for 55. I don't know what Dave would plan. It
10 looks like because he has a young family and he
11 likes living there that he would stay there for
12 as long as he can. We intend to continue to
13 own the home that faces Kennedy Lane.

14 MR. BARRETT: Are you concerned about
15 having a parking lot developed the sensitivity
16 towards the neighborhood buffering and things
17 like that?

18 MR. KIMENER: Yes, of course. And I knew
19 David for the last couple of years and I know
20 Margee. So I don't know the other neighbors,
21 but I've owned other properties. I own other
22 properties and I'm sensitive to that issue.

23 MR. BARRETT: Is it important to you
24 personally as well as to the school to do this
25 in the most sensitive manner possible?

1 MR. KIMENER: Of course.

2 MR. BARRETT: Anything else you want to
3 say? Any questions?

4 CHAIRMAN EICHMANN: Thank you. Any other
5 questions? Thank you.

6 MR. MILLER: Can I interrupt a minute
7 because I think I owe Marshall an apology.
8 This is an accurate drawing. I looked it up on
9 the website. It doesn't show the pedestrian
10 route on there. So just wanted to point that
11 out to the board.

12 MR. BARRETT: We accept your apology,
13 Doug.

14 MR. MILLER: Trying to be accurate. It's
15 not showing the pedestrian route that they
16 have.

17 CHAIRMAN EICHMANN: Do you have other
18 people you want to call?

19 MR. BARRETT: Yes. I'd like to call David
20 Beiersdorfer.

21 MR. BEIERSDORFER: My name's David
22 Beiersdorfer. I live at 4281 Babson Park Place
23 in Batavia.

24 CHAIRMAN EICHMANN: And were you sworn in?

25 MR. BEIERSDORFER: Yes, I was.

1 CHAIRMAN EICHMANN: Thank you.

2 MR. BARRETT: And what is your
3 relationship to Archbishop Moeller High School?

4 MR. BEIERSDORFER: I wear many hats for
5 Moeller. I am an alumni '97 grad. I currently
6 work at the school as the facility director and
7 I also have a son that's a senior there at the
8 school, so I'm also a current parent.

9 MR. BARRETT: Are you aware of the issue
10 that came up at the prior hearing a year ago
11 that was suggested that maybe students should
12 be carpooling to alleviate the parking
13 problems?

14 MR. BEIERSDORFER: Yes.

15 MR. BARRETT: Did you look into that
16 issue?

17 MR. BEIERSDORFER: I did and that's --
18 that's something that's changed over the past
19 few years. In 2015 Ohio changed its law and
20 implemented new law for new drivers. Within
21 the first 12 months of a new driver under the
22 age of 17 getting their license. They are only
23 allowed to drive in a vehicle with one other
24 nonfamily member besides a guardian. So when
25 we were going to school, we could carpool with

1 as many as three or four or five or however
2 many we could fit in the car. Students now are
3 only allowed to drive with one other student.
4 So it has compounded our parking lot problem
5 since 2015 when this law has changed. It's a
6 great law. I'm glad they did it. I have a son
7 and a daughter that are both driving. I think
8 it's very important. It improved teen driving,
9 but it's something that has definitely forced a
10 lot of our students out into more public areas.

11 MR. BARRETT: Let me hand -- David, while
12 you're speaking, let me hand the board copies
13 of Ohio Revised Code Section 4507.071 entitled,
14 quote, Probationary Licenses Restrictions,
15 unquote. We've highlighted Paragraph A on the
16 first page and Paragraph B4 on the second page.
17 Is this the section you're referring to, David?

18 MR. BEIERSDORFER: Yes, sir.

19 MR. BARRETT: And is this information on
20 the website of the Ohio Bureau of Motor
21 Vehicles?

22 MR. BEIERSDORFER: Yes.

23 MR. BARRETT: David, can you explain your
24 observations with regard to students that have
25 to park off campus?

1 MR. BEIERSDORFER: Yeah. Number one job,
2 I mentioned some of the other things that I do
3 for Moeller. I was a general contractor for 20
4 years and I built a lot of things including
5 things around this area. Well, I was part of
6 the contractor that built the Montgomery Safety
7 Center and the Sycamore Junior High additions.
8 I've got a lot of familiarity with this area.
9 And I drove from a very long distance to where
10 I grew up out in Pleasant Plain which is near
11 Blanchester, 45 minute drive to school, as a
12 lot of our students do. And we did the same
13 thing. We had to park in other areas trying to
14 get to school. And since we've been trying to
15 come up with solutions for our kids, I spent
16 time observing how they get to school, where
17 they park in the public areas, and what paths
18 they take from those public areas to get to
19 school.

20 It's quite shocking if you're out there
21 actually watching them trying to cross over the
22 cross county Ronald Reagan on ramp and exit
23 ramp. There's no real traffic signals or any
24 kind of signage or any stops for those
25 motorists. So it's really up to the motorists

1 to stop and up to our boys to gain their eye
2 attention before they can cross those paths.
3 And when they do, several cars behind them will
4 begin to back up while three or four boys will
5 cross those on ramps and exit ramps. And once
6 they go, then all the cars will go again. But
7 about every three to four minutes, we'll see
8 those cars stop and let our boys go. So
9 sometimes when they're -- depending on when the
10 sun comes up, it's dark when they come to
11 school in the mornings and it can be a very
12 dangerous situation.

13 MR. BARRETT: Are you familiar with the
14 subject property?

15 MR. BEIERSDORFER: Yes.

16 MR. BARRETT: And did you have any
17 interest in trying to protect the neighbors
18 around this property?

19 MR. BEIERSDORFER: Yeah, of course. I
20 think the eight items that we highlighted
21 earlier specifically address a lot of the
22 neighbor's concerns. I think we made an effort
23 to go out after the last hearing to try to
24 improve the plan in a way that directly
25 benefited them. As the person that will build

1 this if passed, I can see a major significant
2 cost that Moeller would take on just to
3 implement those additional things, and it will
4 be an additional cost to maintain that as well,
5 but it's things that Moeller is willing to do
6 to keep the boys as safe as possible. The
7 entire goal with this is to get them on our
8 property and allow us to take care of them.

9 I know that neighbors don't want them
10 walking through their back yards and I know
11 that business owners don't want them parking in
12 their spaces. To me this is the best possible
13 solution to allow the boys to park on our
14 property adjacent to our property where we can
15 maintain all things that are associated with
16 them. We'll be aware of the things that
17 they're doing in this lot versus when they're
18 offsite. We can better maintain some of the
19 safety items, the discipline that may happen.
20 We can monitor this with cameras. We'll know
21 everything about what's going on with our boys
22 when they're here versus somewhere off site.

23 One of the biggest things that I do for
24 the school, it's kind of three parts. One, is
25 all the general construction that we do there.

1 Two, is trying to maintain what we do have.
2 And, three, is the safety of our students. We
3 have put in a lot of time and effort and energy
4 in several projects including door security,
5 camera systems, all kind of upgrades over the
6 last few years since I've started with the
7 focus on taking care of our students as one of
8 the top priorities of the school. And this is
9 a serious issue that we've had, that we're
10 trying to solve. We've looked into several
11 avenues and it's important that we figure out a
12 way to keep these students as safe as possible.

13 MR. BARRETT: Any questions for Mr.
14 Beiersdorfer?

15 CHAIRMAN EICHMANN: Thank you, sir.

16 MR. BARRETT: Like to ask Jerry Beitman to
17 come up here, please.

18 CHAIRMAN EICHMANN: You've been sworn in,
19 sir?

20 MR. BEITMAN: Yes.

21 MR. BARRETT: Jerry, will you state your
22 full name and spell your last name?

23 MR. BEITMAN: Yes, sir. My name is Jerry
24 Beitman. It's B-E-I-T-M-A-N.

25 MR. BARRETT: What is your address?

1 MR. BEITMAN: 8336 Country Oaks Station,
2 West Chester 45069.

3 MR. BARRETT: What is your occupation?

4 MR. BEITMAN: I do the security and
5 parking for Archbishop Moeller High School.

6 MR. BARRETT: How long have you done that?

7 MR. BEITMAN: Be starting my fifth year
8 this coming Wednesday.

9 MR. BARRETT: What did you do prior to
10 that?

11 MR. BEITMAN: Prior to that I was in law
12 enforcement. I worked for the City of
13 Montgomery Police Department for just shy of 31
14 years.

15 MR. BARRETT: What were your
16 responsibilities with the police department of
17 the City of Montgomery?

18 MR. BEITMAN: Obviously when I first
19 started I was a patrol officer. And years
20 later promoted to sergeant and I retired. My
21 last 13 years as the assistant police chief.

22 MR. BARRETT: Are you familiar with the
23 issues concerning this parking lot?

24 MR. BEITMAN: Yes, sir.

25 MR. BARRETT: Are you familiar with issue

1 regarding the students safety walking to and
2 from the parking lot?

3 MR. BEITMAN: Oh, absolutely, yes.

4 MR. BARRETT: Relate to the board your
5 observations and concerns there.

6 MR. BEITMAN: Much like Dave Beiersdorfer
7 said, part of my job is obviously the safety of
8 our students. And a number of them as, Mr.
9 Hyzdu mentioned, we have upwards to a hundred
10 that will park up in the public parking in
11 Montgomery. So periodically I do go up there.
12 I keep an eye on our students so they're
13 behaving correctly. And I observe them walking
14 to and from the public parking in Montgomery
15 and I do have some serious concerns about their
16 safety as Mr. Beiersdorfer mentioned. Crossing
17 over Cross County. The two areas, the on ramps
18 and the exit ramp, that concerns me. Yes,
19 maybe no accident has ever happened, but I'm
20 afraid we're pushing our luck on that.

21 MR. BARRETT: Are you familiar with the
22 plans for the roundabout at the intersection of
23 Montgomery Road and Cross County Highway?

24 MR. BEITMAN: Yes, sir.

25 MR. BARRETT: Explain to the board your

1 understanding of those plans?

2 MR. BEITMAN: My understanding is they
3 will start in April and be done in four phases.
4 We met with the city manager and the assistant
5 city manager about a month ago to go over those
6 plans. They were trying to keep us updated,
7 because it's obviously going to effect our
8 students as they come -- if they are still
9 parking up in the public area. And the City of
10 Montgomery knows they park up there. So we sat
11 down and talked to them. And I have concerns
12 about when they start construction, our
13 students still walking from the public parking
14 area to school.

15 MR. BARRETT: How long will that
16 construction phase last?

17 MR. BEITMAN: I believe, it's going to be
18 a year and a half to two years.

19 MR. BARRETT: And after the construction
20 is completed what problems, if any, do you
21 foresee?

22 MR. BEITMAN: Well, Mr. Miller you
23 mentioned -- actually, I sent those plans to
24 Mr. Hyzdu so I thought they were the latest and
25 it sounds like they are. But they actually

1 will be crossing over, if I'm reading it right
2 and after our meeting with them, they still
3 will cross in three, maybe four different
4 areas. They said they're going to put a
5 crosswalk down by Awakenings. They'll cross
6 over. They'll travel north on the south side
7 of Montgomery Road. Go behind the roundabout
8 or at some point they'll actually cross behind
9 the roundabout. Then walk up towards Kennedy
10 and cross back over towards Kennedy and then
11 cross over Kennedy, so I believe that is --
12 it's going to be four crossings.

13 MR. BARRETT: Will you be responsible as
14 part of your duties for Moeller High School for
15 this parking lot once it's implemented?

16 MR. BEITMAN: Yes, sir, I will.

17 MR. BARRETT: And what will those duties
18 involve?

19 MR. BEITMAN: I do the -- basically the
20 students apply for parking and then I have to
21 sort through it all. I won't bore you with
22 those details, but I end up assigning all the
23 parking tags. And I can tell you just from a
24 personal standpoint if this happens, I can get
25 some parents off my back.

1 MR. BARRETT: What assurances if any can
2 you give the board for the conditions the
3 neighbors who are adjacent to this parking lot?

4 MR. BEITMAN: I patrol our lot frequently.
5 I'm all over the place everyday. That's part
6 of my job is to make sure. I can't be
7 everywhere at one point -- all the time. But
8 my job is to make sure they behave themselves
9 while they're out in the parking lot. I'm not
10 always successful I will tell you that, but
11 that's going to be part of my duties.

12 MR. BARRETT: Are you familiar, with all
13 your experiences with the City of Montgomery
14 and law enforcement, safety and security of
15 those parking lots?

16 MR. BEITMAN: Yes, sir.

17 MR. BARRETT: Have you ever seen a parking
18 lot that's better proposed than this parking
19 lot?

20 MR. BEITMAN: Never. Never.

21 MR. BARRETT: Any questions?

22 MR. SCHEVE: I have one. Is the parking
23 lot limited to certain hours of the day? The
24 proposed plan would that be limited to students
25 who can only park during school hours or would

1 it be opened to anybody?

2 MR. BEITMAN: I think that may be a
3 question better posed to Mr. Hyzdu, not to put
4 it off to him, or our principal. I've not
5 heard any discussion on that.

6 MR. SCHEVE: Because I'm just wondering if
7 it would make any difference if -- to the
8 neighbors that students can only park there
9 during school hours as opposed to going there
10 for dances or sporting events in the evening.
11 I don't know. So maybe Mr. Hyzdu can answer
12 that.

13 MR. HYZDU: Yeah. So the reality is is
14 our students are there from morning to the
15 evening and it's going to be student parking
16 that is going to be proposed there. The realty
17 also is is that this is the most inconvenient
18 parking that we have. It's the furthest away
19 from the entrances.

20 MR. SCHEVE: So you don't want to park
21 there?

22 MR. HYZDU: Correct. So if there's other
23 parking, people are going to park elsewhere so
24 this will be the last parking choice.

25 MR. MILLER: Can I ask a question? You're

1 the one that patrols the parking lot, how late
2 do you work?

3 MR. BEITMAN: I'm there normally till 3:00
4 or till basically the lot, for the most part,
5 clears out.

6 MR. MILLER: So it would be unpatrolled
7 after school?

8 MR. BEITMAN: There are still, you know,
9 obviously there's still --

10 MR. MILLER: Oh, I know. Brother
11 Flaherty's riding his bike around the whole
12 time.

13 MR. BEITMAN: I am there. There is -- and
14 we've had some discussion with Mr. Hyzdu about
15 actually bringing on security in the evening
16 after my day ends, bringing maybe somebody on
17 and that's strictly talk. Having somebody
18 there in the evening hours, cause frankly, our
19 building's in use from 6:30 in the morning to
20 10:00 at night.

21 CHAIRMAN EICHMANN: Thank you, sir.

22 MR. HYZDU: Can I add something? So while
23 Mr. Beitman won't be there after 3:00 p.m. or
24 so, we do have security cameras which we
25 monitor on a daily basis.

1 MR. MILLER: Yeah, I know.

2 MS. GLASSMEYER: That was actually going
3 to be my question. You said there's a security
4 camera, is that monitored in real time or is it
5 reviewed later?

6 MR. HYZDU: We have several people that do
7 have it. We have one station in our
8 information technology center that does have it
9 up all the time it's being monitored. I don't
10 think that person's dedicated to watching it in
11 real time 24/7, but it is always up. And then
12 we've got several other people. I'll tell you
13 it's probably more of a reactionary where if
14 something did happen, we would review it and
15 then discipline the students accordingly.

16 MR. BEITMAN: I keep it up on my desk when
17 I'm there, but, again, I'm out frequently.

18 CHAIRMAN EICHMANN: Thank you, sir.

19 MR. BARRETT: Like to ask Mr. Gary
20 Meisener to come to the table, please. Gary,
21 will you state your full name and spell your
22 last name for the board?

23 MR. MEISENER: Gary Meisener,
24 M-E-I-S-E-N-E-R. My office as a planner and
25 landscape architect is 1888 Pendleton Street in

1 Cincinnati.

2 CHAIRMAN EICHMANN: Were you sworn in,
3 sir?

4 MR. MEISENER: Yes, I was.

5 CHAIRMAN EICHMANN: Thank you very much.

6 MR. BARRETT: Will you tell the board your
7 experience, background, and history and
8 planning as a landscape architect?

9 MR. MEISENER: So I've been a landscape
10 architect licensed in about six, seven states
11 for 40 years plus. I know I don't look it.
12 But I served my first job was as city design
13 administrator in Akron, Ohio, where I
14 supervised a staff of 20 of landscape
15 architects, engineers, and inspectors and
16 architects. And we reviewed every development
17 proposal that came into the city. I was there
18 seven years. Hundreds of development proposals
19 where we looked at landscape buffer, parking
20 lot design, put a lot of red ink on our
21 drawings, criticized them.

22 But since then, I've been in Cincinnati
23 and worked for 35 plus years on many
24 development projects around town. Things like
25 Procter and Gamble Gardens, Museum Center,

1 Union Terminal, Garfield Park, parts of the
2 Riverfront on both sides of the river and
3 numerous commercial, retail, and institutional
4 projects, a lot of hospitals, too. I had parks
5 and other developments related to landscape
6 architecture.

7 MR. SCHEVE: Is a landscape architect is
8 that something the state licenses you to be?

9 MR. MEISENER: Yeah, it's a license with a
10 board.

11 MR. SCHEVE: So the qualifications become
12 what's called a landscape architect; is that
13 right?

14 MR. MEISENER: Yes. You have to have a
15 degree. Go through an internship. Go through
16 a national exam just like attorneys.

17 MR. SCHEVE: So not just anybody, some kid
18 cutting the grass can't call himself a
19 landscape architect?

20 MR. MEISENER: Occasionally they try to.

21 MR. SCHEVE: But you have special
22 qualifications.

23 MR. MEISENER: I do. In some states my
24 license allows me to do civil engineering.

25 MR. SCHEVE: Sorry for the interruption.

1 MR. BARRETT: What professional
2 designations do you hold?

3 MR. MEISENER: Landscape architect.

4 MR. BARRETT: Explain how you got involved
5 in this property and what was your role and
6 what did you do?

7 MR. MEISENER: About a year ago I was
8 asked by Fran and Marshall to take a look, a
9 fresh look at this parking lot. They didn't
10 really talk too much about it other than to say
11 there was a need for safety for the kids and
12 parking improvements could be the solution.
13 They explained that it was rejected in a
14 previous hearing, but to look at the code and
15 look at the site and so I did that. Take a
16 look at the site, looked at all the existing
17 conditions. Noticed that there was a lot of
18 ground water that the older trees were
19 declining. Kind of the crowns of trees were
20 showing that they're dying because of a super
21 saturated water table there which was validated
22 later when we met with some of the neighbors.

23 I suggested that we meet with the
24 immediate close-by neighbors and talk a little
25 bit about it before I put some drawings

1 together. And we did that with Kathy Willis.
2 We tried to meet with all the other adjacent
3 neighbors. And, eventually, did have a small
4 neighbor -- adjacent neighbor meeting where we
5 talked about issues. Showed what we thought
6 was an approved plan, which is depicted on some
7 of the drawings that we're shown earlier and we
8 have plenty of boards here if you want to look
9 at them.

10 MR. BARRETT: When you got involved in
11 this project, what concerns if any did you
12 have?

13 MR. MEISENER: Well, the residents
14 directly to the west, the Willis residence was
15 the most impacted by this proposed parking lot.
16 And there was only a 10-foot wide buffer in the
17 earlier plan. We said, well, gee let's
18 increase that by a 100 percent to 20 feet.
19 Let's look at more intensive landscaping.
20 Let's look at trying to solve the stormwater
21 issue which is apparently became illuminated by
22 Kathy and some other neighbor's high water
23 table. So that led us to some of the
24 improvements, the eight improvements that we
25 talked about or were presented earlier by Fran

1 to deal with stormwater runoff.

2 We looked at the visual environment and
3 said, hey, we actually understand this is a big
4 change from what exists and tried to propose
5 both landscape buffer and a sound attenuating
6 fence to absorb sound inside the parking lot.
7 So the fence went up from 6 foot to 8 feet. A
8 mound was created around the perimeter of the
9 site. A french drain created around the
10 outside of all of the parking lot to tie into a
11 stormwater detention facility that would meet
12 the Hamilton County code for stormwater
13 management. And we looked at the lighting and
14 said, hey, these 25-foot high lights are not
15 the right solution. Let's use bollards. We
16 talked about all this and did increase the cost
17 quite a bit and I'm still getting a few
18 comments on the cost, but it seemed to be a
19 better solution when you look at the proposed
20 improvement from -- through the eyes of the
21 neighbors.

22 MR. SCHEVE: The last time we were here I
23 can't remember the lady's name, it was probably
24 Mrs. Willis, and her complaint was the parking
25 lot was going to be 8 feet from her bedroom

1 window which I think that had sort of
2 significant impact on our decision. But you're
3 saying now that, I'm assuming that was
4 Mrs. Willis, I can't remember who it was. But
5 you're saying now the parking lot won't be
6 within 8 feet of someone's bedroom window.
7 You've actually moved it.

8 MR. MEISENER: Absolutely not, right.

9 MR. SCHEVE: So how far back will it be
10 now?

11 MR. MEISENER: So there's a 20-foot wide
12 buffer.

13 MR. SCHEVE: 20 feet.

14 MR. MEISENER: And then there's a little
15 patch of area around the parking lot. So it's
16 20 plus feet away from. Plus you've got the
17 eight-foot high screen fenced sound attenuation
18 and lots of plants in between.

19 MR. SCHEVE: That was, as I say, that was
20 her, as I remember, which I'm not sure I'm
21 exactly accurate, but as I recall that was her
22 principal complaint. That she would be looking
23 in her bedroom window from the parking lot and
24 you've alleviated that problem?

25 MR. MEISENER: Yes.

1 MR. BARRETT: Mr. Meisener, you prepared
2 11 drawing boards. Can you just walk the BZA
3 through each of those?

4 MR. MEISENER: With a really short
5 explanation. You've seen some of these
6 previously.

7 MR. BARRETT: Start with the area context,
8 the aerial photograph.

9 MR. MEISENER: Right. So you've seen this
10 site. It's north of the school. Am I blocking
11 your view?

12 MR. MILLER: You are, but I know what it
13 looks like.

14 MR. MEISENER: He lives right there. So
15 that's the site. That's enlarged.

16 CHAIRMAN EICHMANN: That's fine.

17 MR. BARRETT: Number 2 should be the site
18 aerial photograph?

19 MR. MEISENER: Correct. So that's an
20 enlargement of that.

21 MR. BARRETT: Number 3 should be the high
22 altitude aerial photograph?

23 MR. MEISENER: Yeah. This shows not all
24 of the surrounding area, but shows the parking
25 lot through a normal schoolday being filled to

1 the maximum.

2 MR. BARRETT: Number 4 should be the site
3 layout plan.

4 MR. MEISENER: Yes. The site layout plan.
5 Harry showed it. This is the plan with
6 dimensions. But it also shows drain inlets
7 throughout the parking lot, subservice
8 stormwater detention area in the parking lot,
9 similarly to what was previously designed. But
10 there's also the french drains that tie into
11 the system. And part of that, too, is cleaning
12 up an inlet that's actually on the adjoining
13 residence that doesn't seem to be working. So
14 we thought while we're out here improving the
15 stormwater improvements, we ought to just
16 connect. And then that all connects and goes
17 out to Montgomery Road and the existing storm
18 sewer system.

19 MR. BARRETT: Next one. Number 5, should
20 be the landscape plan.

21 MR. MEISENER: So the landscape plan shows
22 an extensive amount of landscape around the
23 parking area. It's a combination of shade
24 trees, flowering trees, a double row basically
25 of evergreen tree shrubs. They actually will

1 grow taller than the shrub. And a lot of low
2 level native plants. And things that are going
3 to take the drought period we have and most of
4 them are regional natives.

5 MR. BARRETT: Mr. Meisener, Mr. Holbert's
6 staff report mentioned a plant list. Do you
7 have a plant list?

8 MR. MEISENER: I do.

9 MR. BARRETT: Can you hand those out,
10 please. Give them to the chairman and he'll
11 pass them out for you.

12 CHAIRMAN EICHMANN: We'll pass them out
13 for you. Thanks.

14 MR. MEISENER: So that's the plant list.
15 Actually, all the plants are listed on the
16 drawing if there's any questions about that.

17 MR. BARRETT: In layman's terms just
18 explain the plants. What's the effectiveness
19 of this type of planting?

20 MR. MEISENER: Well, it visually it's
21 going to offer -- you can see there's an
22 exhibit over here that's kind of a birdseye
23 perspective of looking southeast from up above
24 the adjoining subdivision. So as the plans
25 mature, they're basically even though you have

1 a fence there, it's going to be a solid green
2 wall of plants. And we could actually even add
3 some vines initially to the sound fence. It
4 would be almost within a year or two all green.
5 But that's currently the landscape plan.

6 MR. BARRETT: Number 6, should be the
7 illustrative site plan.

8 MR. MEISENER: Right. One thing I might
9 mention is on the inside mostly we have a
10 variable width of rock mulch area, so it takes
11 the debris from the winter and snow plowing, it
12 could be officially on the side there.

13 MR. BARRETT: Number 7, should be the
14 birdseye perspective.

15 MR. MEISENER: So that's over here. Maybe
16 you've seen it. So the school's in the
17 backdrop. The fence is shown. Parking stalls.
18 We have major trees in the corners. Lots of
19 evergreen, shrubs, and trees surrounding. Do
20 you want me to talk more about it?

21 MR. BARRETT: That's all right. Number 8,
22 should be the outside elevations.

23 MR. MEISENER: Right.

24 MR. SCHEVE: Excuse me, on Number 7, do
25 any of those trees exist now?

1 MR. MEISENER: None of them do. We did
2 look and we brought in some arborists to take a
3 look at the existing trees. Initially asking
4 if there was anyway we can save trees. But
5 whenever you're doing pavement over the feeder
6 roots, which are the top 6 to 12 inches around
7 the tree and have older trees, it's almost
8 impossible to save any of those trees. Plus
9 they're already impacted by the high water
10 table and many of them are declining.

11 MR. SCHEVE: If we approve the plan,
12 you'll be cutting down trees?

13 MR. MEISENER: Correct.

14 MR. SCHEVE: How many are you going to cut
15 down?

16 MR. MEISENER: All of those within the
17 footprint of the parking lot.

18 MR. SCHEVE: How many is that?

19 MR. MEISENER: I'd say there's 12.

20 UNIDENTIFIED SPEAKER: More like 70.

21 MR. MEISENER: I don't know about 70. But
22 there is -- maybe some shrubbery trees along
23 the outside. You can see from the aerial.

24 MR. SCHEVE: You're going to cut down 12
25 trees and replace them with how many?

1 MR. MEISENER: There's a total of 64:
2 Evergreen trees, flowering trees, and shade
3 trees. So we did these elevations from the
4 north, looking south from the west, looking
5 east and from the east looking west. So that
6 you get a sense of how this would look
7 initially from all three sides of the
8 neighbors.

9 MR. BARRETT: Explain which each side is
10 here.

11 MR. MEISENER: So C is looking south from
12 the north side.

13 MR. BARRETT: That would be from the rear
14 of the home on Kennedy Lane?

15 MR. MEISENER: Correct. D is the east
16 side of the property looking west. You can see
17 shade trees, flowering trees, evergreen trees.
18 And then E is looking east from the west side
19 of the property.

20 MR. BARRETT: That would be where Kennedy
21 Cove is, correct?

22 MR. MEISENER: Correct.

23 MR. BARRETT: And then look at Number 9 is
24 the plant landscape elements?

25 MR. MEISENER: Sure.

1 MR. BARRETT: Can you explain that?

2 MR. MEISENER: Sure. So the plant list
3 that was handed out has mostly these plants
4 Bayberry a salt resistant shrub that grows up 6
5 feet or so. Air wood viburnum 4, 5, or 6 feet,
6 depending on the situation. Gro-Low Sumac which
7 is a lower 2-foot high ground cover plant that
8 takes all kinds of abuse. A lot of Eastern Red
9 Bud Trees. I'm sure you've seen those around.
10 There's Ginkgo Trees. They are often used in
11 really tough draught situations. And then we
12 have a few where there's more space white oaks
13 to try to replace some of the larger trees that
14 were Oak trees or very large trees.

15 MR. BARRETT: Let's look at Number 10 hard
16 scape elements.

17 MR. MEISENER: Sure. So Harry did show
18 this as well and this is -- we've been looking
19 at a number of fences. I actually reviewed
20 some with the neighbors. This is a wood
21 texture vinyl fence that has some sound
22 attenuation qualities in it. And this is the
23 current version of a Bollard which would sit on
24 a little pedestal. If we're looking at light
25 distribution at 4, 5, 6 feet, we're just kind

1 of playing around with that. But the thought
2 is that all of that light would be focused
3 downward and the top of the Bollard wouldn't
4 even be close to the top of the fence.

5 MR. BARRETT: Let's look at Number 11, the
6 illustrative lighting plan.

7 MR. MEISENER: Right. So this shows
8 approximately a half foot candle circle around
9 each of the Bollards. We looked at adding a
10 few more here and there. But the amount of
11 night views at this parking lot we talked about
12 is very limited. So that's the current version
13 of the lighting plan.

14 MR. BARRETT: In layman's terms, what is
15 the impact of that lighting plan?

16 MR. MEISENER: Very, very modest. It's
17 actually not up to the electric engineering
18 standards, but this isn't really intended to be
19 a retail shopping center with lots of late
20 night parking. It's kind of the end of day
21 parking.

22 MR. BARRETT: In layman's terms, what is
23 the affect on the neighboring residential
24 property?

25 MR. MEISENER: Zero.

1 MR. LEUGERS: Is there any motion lights
2 planned for it?

3 MR. MEISENER: We haven't talked about
4 that, but you know sometimes those are set off
5 by deer, too. But we do have some webcams that
6 we have located throughout the parking lot so
7 it could be monitored.

8 MR. MILLER: Gary, on those the ones that
9 are interior --

10 MR. SCHEVE: Yes.

11 MR. MILLER: -- the lights --

12 MR. MEISENER: Yes.

13 MR. MILLER: -- are those on an island?

14 MR. MEISENER: Those are set on a little
15 pedestal so we don't actually show the pedestal
16 here. But there would be a 30-inch high
17 pedestal and then 3-foot Bollard sitting on top
18 of that. And that's to give a little bit of
19 protection from car bumpers.

20 MR. MILLER: And that was my question.
21 But so you're talking about 30 inches and
22 36 inches. So they're now 5 feet.

23 MR. MEISENER: Five and a half feet.
24 Yeah, I think they put on there 4 to 6 feet.
25 We're still kind of looking at the height.

1 MR. MILLER: Well, it says 3 feet.

2 MR. MEISENER: So those are in the corner
3 of parking spaces, but some are in the actual
4 green areas of the school and the corners of
5 the parking lots.

6 MR. BARRETT: Mr. Meisener, I understand
7 over the years, over many years, you've been
8 involved in multiple parking lots at multiple
9 locations; is that correct?

10 MR. MEISENER: That's correct.

11 MR. BARRETT: Is there ever in your
12 experience been a parking lot that's been
13 better buffered by residential property?

14 MR. MEISENER: I can't think of any
15 really.

16 MR. BARRETT: Anything else you want to
17 add?

18 MR. MEISENER: No.

19 MR. BARRETT: Any questions for Mr.
20 Meisener?

21 CHAIRMAN EICHMANN: Thank you very much.

22 MR. BARRETT: Mr. Chairman, that includes
23 our formal presentation. I'm sure there's
24 people in the audience that wish to speak in
25 support, but that's our formal presentation.

1 Thank you.

2 CHAIRMAN EICHMANN: Very good thank you.

3 I noticed a lot of people have been taking
4 breaks on their own, which is quite all right.

5 We'll press forward so we can get through this
6 if everybody up here is in agreement with me.

7 I'm trying to do this the same way I did the
8 first case and that's go through the rows.

9 Unfortunately, the guys next to that beautiful
10 plant in the back will have to wait until we
11 get back to the end. Anybody in the front row
12 here? Okay. Come on up. If you wouldn't mind
13 sitting down and tell us your name and address.

14 MS. NAVARO: That's fine. My name is Kim
15 Navaro. I live at 7739 Kennedy lane. Is that
16 all the information you need from me?

17 CHAIRMAN EICHMANN: That's perfect.

18 MS. NAVARO: I do have a PowerPoint
19 presentation. I have a little thumb drive.
20 Who could I give that to to have my PowerPoint
21 seen?

22 CHAIRMAN EICHMANN: Harry.

23 MR. HOLBERT: I'm the only one with a
24 computer.

25 MS. NAVARO: Thank you so much. I

1 appreciate that help. I appreciate this
2 opportunity to talk to the board again. I
3 spoke the last time we were here and I
4 appreciate the chance to talk again. Before I
5 start my presentation though I would like to
6 talk about a couple of things that were brought
7 up in the presentation prior to me speaking.
8 And that would be it was referenced that
9 there's parking in my neighborhood on Kennedy
10 Lane and that's not accurate. There's no
11 parking in that area that I live on Shadetree.
12 There's a bunch of little streets we don't have
13 parking during school hours in those areas.

14 I also heard them mention that they're
15 going to be adding classrooms. I'm wondering
16 if that will increase the student population as
17 well. Something going forward in terms of the
18 parking situation right now. That is a little
19 bit of a concern to me that they're increasing
20 their classroom size which makes me think
21 they're going to address their enrollment.

22 CHAIRMAN EICHMANN: We'll let them address
23 that when you're finished.

24 MS. NAVARO: I'm just wondering and I
25 don't know if you are struck by this at all.

1 But apparently from about 2012, they've noticed
2 an issue with the children or the students
3 crossing Ronald Reagan and Montgomery, the
4 entrance and the exit. And I personally, my
5 son went to school there. I am appalled that
6 they haven't done anything to mitigate that
7 issue. There's no crossing guards. I can't
8 imagine if they're that concerned that they
9 haven't even provided a crossing guard for the
10 morning and the afternoon they probably don't
11 need it, but in the morning when it's dark.
12 Every single person that came up here to talk
13 about how important safety was, nobody, nobody
14 mentioned the fact that they could have easily
15 gotten a crossing guard. I find that
16 appalling.

17 Let's see. The plan, the roundabout plan
18 is actually going to start October of this year
19 and should conclude in the spring of 2021 and
20 that's from the Montgomery website. And I
21 think that's it. Just the comments that I kind
22 of came up with as Moeller was presenting their
23 presentation.

24 A little history since everyone gave a
25 little history of themselves. My son went to

1 Moeller. Our son went to Moeller. He loved it
2 there. He had a terrific education. He's
3 turned into a great guy. He has friends from
4 Moeller. I think that Moeller does create a
5 very great comradery among their students and I
6 appreciate that. I worked at Moeller in their
7 development office and I enjoyed my time there.
8 It was very enjoyable to me. I just wanted to
9 got those comments down.

10 So we can go ahead -- I noticed that I
11 made a mistake, but it really isn't a variance
12 apparently that we're talking about. So I made
13 a mistake on my first slide, but let's go to
14 the second one.

15 There's a situation where they need 880
16 parking blocks. They have 880 students. They
17 think they need a parking spot for every
18 student and faculty, staff, visitors, and
19 guests. I was looking through the old code. I
20 know that you're revising your code right now.
21 And the old code recommends that six spaces
22 would be provided for each student, which would
23 mean 147 spaces were actually required as a
24 minimum. That would leave 240 spaces for
25 faculty, staff, visitors, and guests, which

1 seems sufficient to me. I think that's it. We
2 can go to the next one.

3 This is what I do in my yard. I have
4 parties. I held a wedding reception for my
5 daughter. I held my son's rehearsal dinner
6 there. Margee hosted her daughter's wedding,
7 white tents, beautiful, in our back yard. So
8 we use our back yard. We're out there a lot.
9 We enjoy it. So we can go to the next slide.
10 I think I'm making my point there.

11 I'm not sure that you can see the red
12 area. This I got from actually the photographs
13 that were provided by the architect. As you
14 can see the proposed parking lot is smack dab
15 in the middle of my neighborhood. I'll be able
16 to see that from my back yard. My house if you
17 look is -- the house just adjacent to the area
18 that we're talking about is Kathy's and my
19 house is the next house to the left. So when
20 I'm out in my back yard, I'll be looking at the
21 parking lot. When I'm in bedroom, I can be
22 looking down into the parking lot which I am
23 not really too excited about. In addition, the
24 character of my neighborhood will be influenced
25 we'll be dealing with, noise pollution,

1 particulant pollution -- will be creating a
2 heat area. I'm sorry, a heat island. I didn't
3 even know about these things, but parking lots
4 create heat islands. There's no shrubbery or
5 anything in the middle of that to mitigate
6 that. So it's just going to bake all day long
7 and reflect that heat. All right. That's it
8 for that. Go ahead to the next one.

9 I am the head gardener over at All Saints
10 Church. And with that responsibility, I have
11 to -- I'm in the parking lot quite a bit. And
12 as you may know, Moeller rents I'm not sure how
13 many parking spaces from All Saints. I believe
14 it's around a hundred. I'm not sure, but
15 there's students parked over in our parking lot
16 in the north wing. And because I am the head
17 gardener I'm over there quite a bit. And I can
18 tell you that on a regular basis I have to go
19 around, not with a garbage can, I don't want to
20 overinflate what I'm saying. But I take a five
21 gallon pail and go around and collect lunch
22 bags, wrappers, water bottles, sports drinks
23 bottles, sometimes there's socks in there,
24 sometimes a shirt. But on a regular basis I
25 have to go over there and clean that up. Would

1 I say it's an everyday occasion, I think
2 probably everyday I would collect about a half
3 a five gallon tub.

4 The other issue that I've seen repeatedly
5 is when I'm over there and it's dismissal time,
6 the kids are jockeying to get out. They've got
7 their loud music on. They're honking at each
8 other. They're gunning to get out at the
9 light. They're honking, playing their music,
10 so it is not -- it's not a quiet dismissal.
11 And if this is in my side yard, I really don't
12 want that in my side yard. And kids are kids,
13 they're going to act that way. I'm not saying
14 that they're bad kids. That's what teenagers
15 do. They drive their cars. They make noise
16 and that's just the nature of the kids, but I
17 don't personally want that in my side yard. So
18 you see here, it will be about 75 feet from my
19 yard and it's in the middle of the
20 neighborhood. And we can go ahead and go to
21 the next slide.

22 Here's more of the same idea, squealing
23 tires, loud music, horn blasts, kids yelling
24 out the window at each other. They have
25 tailgating now sometimes on the weekends when

1 they have sporting events and people set up
2 their tents and, you know, they're having a
3 good time, as they should at a sporting event.
4 This parking lot is located quite close to the
5 lacrosse field as you can see on the drawing.
6 So I would imagine that at sporting events
7 people would use that parking lot as they're
8 tailgating spot. So that sums up that slide.
9 So we can go ahead and go to the next one.

10 All right. This is the student pedestrian
11 safety issue and this is what Mr. Hyzdu had
12 mentioned that there's a pressing need at this
13 time. We've already heard that and it's been
14 talked about. Let's go to the next slide if
15 you don't mind.

16 First of all, students are not forced to
17 park off campus. Students and their parents
18 choose to either have their kids -- they choose
19 to park off campus. The parents and children
20 could decide. They could carpool. They could
21 be dropped off, or they could ride the bus. I
22 don't think it's my problem that they have 880
23 kids they feel as though they need to provide
24 parking spots for when there are other options
25 available. Again, the safety of the students

1 is not paramount in Moeller's view. If it was,
2 they would have crossing guards at the
3 crosswalks as I talked about earlier. We can
4 go to the next slide.

5 Approximately, it's a sixth of a mile from
6 downtown Montgomery to Moeller High School. I
7 don't really think that's too far to ask
8 teenage boys to walk. Next.

9 This is Phase II of the roundabout that is
10 on the Montgomery site. As you see, the kids
11 are going to have to walk around the
12 construction site. There will be a crossing
13 walk. I'm not sure that you can see it to the
14 north of that and then they would across again
15 over at Kennedy, which is at the end of my
16 street. And this is going to be -- the
17 construction will start during October. As you
18 already see, they've already started laying
19 some -- digging up the road to lay some sort,
20 I'm guessing some sort of underground piping.
21 I'm not sure what it is. That's not my job.
22 Next one.

23 The pedestrian path. If you can see, I
24 know there was some concern about where they
25 will cross the roundabout. But if you look

1 closely, where they cross the roundabout is
2 actually on the interior of the triangle park.
3 And they will at the time in the morning. They
4 would have to cross two lanes of traffic that
5 will be leaving the triangle park and one
6 traffic line that will be coming into the
7 triangle park. I would imagine that that won't
8 be a big issue, but of course, I don't know. I
9 have talked to the City of Montgomery and they
10 do plan to provide lighting the entire length
11 of the pedestrian walkway so that area will be
12 lit with street lights the entire way.

13 I think that might be it. Let me see if
14 there's one more. Oh, I think there is one
15 more if you wouldn't mind.

16 In my opinion they have not do -- Moeller
17 has not done their due diligence to keep their
18 students safe. And within a year after the
19 roundabout is completed, there will not be an
20 issue with them crossing Ronald Reagan anymore
21 and they will only be crossing at the triangle
22 park entrance and exit there.

23 And I think there's one more slide. Just
24 to make sure. I really am emphatically opposed
25 to this and I find it quite disturbing that I

1 had to come back here again when we have
2 something in Hamilton County still under
3 review. I don't know where the loophole is in
4 the language of the zoning board or how Moeller
5 was allowed to do this. I can't quite wrap my
6 head around that. But I do appreciate this
7 opportunity to speak with each of you and
8 present my concerns.

9 Does anybody have any questions for me?

10 MS. GLASSMEYER: Just curious, is there
11 anything Moeller could do that would make this
12 parking lot acceptable to you?

13 MS. NAVARO: No.

14 MR. MILLER: Did we verify she was sworn
15 in?

16 CHAIRMAN EICHMANN: We did not.

17 MR. MILLER: Were you sworn in?

18 MS. NAVARO: I absolutely was sworn in.
19 This hand was up.

20 MR. MILLER: And then Mr. Barrett should
21 have the opportunity to ask questions.

22 MS. NAVARO: Cross-examine me.

23 MR. MILLER: Yeah.

24 MR. BARRETT: Let me ask you a couple of
25 quick questions.

1 MS. NAVARO: Why sure, Mr. Barrett.

2 MR. BARRETT: I understand that your
3 background abuts Moeller's parking lot?

4 MS. NAVARO: Actually, my back yard abuts
5 the field. It's the -- where they do the long
6 jump or the pole jump or something like that.
7 So it's the field.

8 MR. BARRETT: Is the southeast corner of
9 your rear yard adjacent to the parking lot?

10 MS. NAVARO: Tom, is our back yard --

11 MR. NAVARO: No, it's not.

12 MR. MILLER: We got an aerial. Let's get
13 it on a picture.

14 MR. NAVARO: No, our back yard --

15 MS. NAVARO: No, it just backs up to -- I
16 can show you on this. Would you care if I
17 showed you?

18 MR. BARRETT: Sure.

19 MR. NAVARO: It's very close. But if you
20 want to get technical our back yard is not --

21 MS. NAVARO: This is my back yard.

22 MR. BARRETT: Let's put this board up
23 here.

24 MS. NAVARO: Sure. This is my yard right
25 here.

1 MR. BARRETT: And this is the parking lot
2 right here, correct?

3 MS. NAVARO: The corner -- I'm like this.
4 My kids when they were going to school and the
5 kids in the neighborhood would cross through my
6 yard and cross over here in the parking lot.

7 MR. BARRETT: And this parking lot which
8 exists right here is a lot closer than this
9 parking lot, correct?

10 MS. NAVARO: I don't really know. It
11 appears to be so on there, but that's
12 irrelevant. It's still where I can see it.
13 It's still going to be noisy.

14 MR. BARRETT: Well, you can see this
15 parking lot here, correct?

16 MS. NAVARO: No, I can't.

17 MR. BARRETT: Because?

18 MS. NAVARO: Because my sight line is
19 here.

20 MR. BARRETT: You can't see this parking
21 lot from your house?

22 MS. NAVARO: No.

23 MR. BARRETT: Why can't you see that?

24 MS. NAVARO: Because there's shrubbery
25 there.

1 MR. BARRETT: So you understand there's
2 going to be heavy shrubbery planted along the
3 entire western side of this parking lot?

4 MS. NAVARO: Yes, sir. I understand that
5 you're doing a very nice job with the
6 plantings. However, that does not mitigate the
7 noise and the loud -- what I've witnessed is
8 kids are exiting. They're loud. There's
9 horns. There's tires squealing. They're
10 shouting to each other. There's litter all
11 over the place. Will I look at it, yes. Out
12 my bedroom window, I'll be able to see it.
13 Yes, sir.

14 MR. BARRETT: Those conditions presently
15 exist on this parking lot, which is just
16 southeast of your property line?

17 MS. NAVARO: No, sir. I don't know. They
18 occur mostly at All Saints. I have not
19 witnessed that in the back of my yard, no.

20 MR. BARRETT: And how long have you lived
21 there?

22 MS. NAVARO: Twenty years.

23 MR. BARRETT: Was that a parking lot when
24 you moved there?

25 MS. NAVARO: Yeah.

1 MR. BARRETT: You went to the open house
2 on February 27th, correct?

3 MS. NAVARO: I believe I was there over at
4 Moeller, yeah.

5 MR. BARRETT: And you asked Marshall Hyzdu
6 if he would approach Father Jaspers about All
7 Saints give property to Moeller for their
8 parking, correct?

9 MS. NAVARO: Yeah.

10 MR. BARRETT: Did you talk to Father
11 Jaspers?

12 MS. NAVARO: I did not.

13 MR. BARRETT: That's all I have. Thank
14 you.

15 MS. NAVARO: You're welcome. Anyone else?
16 Thanks again for this opportunity.

17 CHAIRMAN EICHMANN: Thank you.

18 MR. NAVARO: I'm Tom Navaro. 7739 Kennedy
19 Lane. I'm the second lot from the proposed --

20 MR. MILLER: Were you sworn in?

21 MR. NAVARO: I was sworn in. So my
22 presentation tonight is actually some degree a
23 lot like my presentation the previous time we
24 did this. And I can say, Mr. Scheve, thank you
25 for bringing up the issues at the beginning of

1 this meeting, because we all are wondering why
2 are we here. So thank you for bringing that up
3 and I hope that you understand our position
4 that we don't think we should be here. We have
5 already been through this. This has been
6 decided. There's litigation going on. How can
7 it possibly be that we have to go through this
8 again.

9 So with that said, my rebuttal tonight is
10 to basically address one of the cornerstones of
11 Moeller's application which is the safety
12 issue. I am going to read a little bit, so
13 forgive me for reading directly from my notes.

14 Quote, unquote, in the BZA, Moeller refers
15 to the need to eliminate the unsafe and
16 undesirable circumstances of our students
17 parking off campus and having to walk to school
18 from those locations. So I think my first
19 general question is: When did it become unsafe
20 to walk? Walking is a thing that we do all the
21 time. I think my wife pointed out, I didn't
22 actually measure it, but she did, it's six
23 tenths of a mile. When did walking to school
24 become undesirable. I also don't quite
25 understand that. Kids for generations have

1 walked to school. I would venture to say that
2 there's maybe even folks in the audience
3 tonight whose kids still live in those
4 neighborhoods who still walk to Moeller from
5 those neighborhoods. So I don't think we can
6 make blanket statements that walking to school
7 is generally unsafe or undesirable.

8 I think my biggest concern, in fact, has
9 to do with what Moeller hasn't done to mitigate
10 those concerns. Moeller has specifically
11 referenced that it's unsafe to cross the street
12 at the interchange of Montgomery Road and the
13 entrance to Ronald Reagan Highway. We heard
14 that repeatedly last year. We've heard that
15 again tonight. We've had multiple witnesses
16 come up and talk about that interchange, but
17 facts are facts. You can't deny the facts.
18 There has not been a documented accident
19 involving a pedestrian or cars at that
20 interchange in not one, not two, not three, not
21 four, but five years. No documented accidents
22 or even anything worth calling the police about
23 at that interchange in five years. So why do
24 we continue to harp on the fact that that's an
25 unsafe interchange. I've walked that

1 interchange. My family's walked that
2 interchange. I would venture to say that a lot
3 of folks in this room have walked that
4 interchange.

5 CHAIRMAN EICHMANN: I would invite you
6 reiterate anybody that said something about a
7 fact that you're going to go through it again,
8 just say you agree with that and that will help
9 speed it along because I think you're saying
10 you agree with the concept and move onto your
11 next point.

12 MR. NAVARO: I agree with the concept of
13 what?

14 CHAIRMAN EICHMANN: If something's been
15 stated already, I asked in the beginning of the
16 meeting, if something's been stated already
17 just come and say you agree with that statement
18 about that crosswalk.

19 MR. NAVARO: I don't think I've agreed
20 with anything yet, have I?

21 MS. GLASSMEYER: I think you've agreed
22 with a lot of what your wife has already said
23 about the safety issues.

24 CHAIRMAN EICHMANN: I don't mind you doing
25 it. But at this late hour we're trying to get

1 everybody a chance to speak without repeating.
2 So if you agree just state you agree. That's
3 fine.

4 MR. NAVARO: I think to that point I'm
5 going to take it one step further, however,
6 because I actually have documented information
7 from Gary Hietkamp who is the city safety
8 director for the City of Montgomery. Because
9 last year I did ask Mr. Heitkamp to comment on
10 that particular interchange and to find out
11 whether or not Moeller who's expressed such a
12 concern about that particular issue had
13 contacted them, reached out to them, or
14 addressed it in any way. And the answer last
15 year was no.

16 And so then I followed up again this year
17 and I'm quoting from the e-mail from Gary
18 Heitkamp sent on August 16th, at 8:58 a.m. "I
19 will forward your e-mail to the police
20 department to see if there have been any
21 additional pedestrian incidents or, I'm sorry,
22 any pedestrian incidents at the location within
23 the past year. I know I have not heard of any,
24 but I will see if they have on any record.

25 Regarding Moeller High School, city staff

1 has been heavily communicating coordinating
2 with the project with them. I am not aware of
3 them expressing concerns to us regarding the
4 project in terms of student safety, although I
5 am sure they are always looking out for the
6 safety of their students. There will be
7 pedestrian accommodations throughout the
8 construction of the project, we're talking
9 about the roundabout. As it is constructed in
10 a number of phases through 2020 and into 2021.

11 Regarding the pedestrian connection from
12 the city's heritage district to Kennedy Lane
13 and Moeller High School, the sidewalks and
14 crosswalks are designed per FHWA/ODOT
15 guidelines. To maximize safety by reducing the
16 potential locations of pedestrian vehicle
17 conflict, all crosswalks were eliminated around
18 the roundabout except for the east leg, the
19 street that heads into the Montgomery corridor
20 development. This is the safest option as
21 pedestrians heading north or south simply cross
22 Montgomery Road at the signalized intersections
23 of Kennedy Lane and the proposed signal at the
24 Main street split."

25 So I asked him then further is it designed

1 to be safe, are the students going to be safe.
2 And his answer is: "Yes, it is designed to be
3 safe." Then pedestrians and vehicles need to
4 be responsible for adhering to the rules of the
5 crosswalk.

6 So the city safety director is basically
7 reiterating that he doesn't see any undo safety
8 concerns with students transversing the
9 roundabout now or moving forward.

10 So to follow up on that, once again I'm
11 going to point out, has Moeller taken any
12 action with the City of Montgomery to express
13 their concerns. You heard from Gary Heitkamp
14 the answer is no. Has Moeller even contacted
15 the Montgomery City Safety Director about this
16 issue. The answer is no. Have there been any
17 pedestrian vehicle accidents, I already covered
18 that. The answer is no. Since the BZA turned
19 down this request over a year ago, has Moeller
20 made any attempts to put additional safety
21 measures in place to reduce the quote, unquote,
22 unsafe and undesirable circumstances they
23 described and the answer's no. So even after
24 they lost, they didn't take any action to
25 mitigate their safety concerns. So I'm not

1 certain how to read that other than they really
2 aren't safety concerns.

3 What can we conclude from Moeller's safety
4 argument? The argument has always been flawed
5 and without merit. Moeller paraded an army of
6 students, teachers, and sympathetic supporters
7 into the BZA hearing last year to attempt to
8 sway you. That is because student safety is an
9 emotional topic and everyone in this room would
10 agree we want to keep our students safe.
11 However, when you attempt to explore the safety
12 argument for your own narrow interests your
13 argument doesn't stand up to scrutiny. There's
14 no factual data to support the Moeller safety
15 claim. There wasn't data last year. There
16 isn't data this year. It's an overemotional
17 graph that doesn't have merit. To prove this
18 point Moeller even after losing the battle last
19 year, and faced with the possibility of losing
20 this argument did nothing to attempt to address
21 the issue. That's because quite frankly there
22 isn't a safety issue. Next page, please.

23 Continuing on. Moeller, again,
24 incorrectly states that students are parking in
25 the nearby neighborhood and that this is an

1 unwanted intrusion. It simply is not true.
2 There hasn't been a problem with students
3 parking in the Kennedy Lane neighborhood or the
4 Glenover neighborhood since I've lived in the
5 neighborhood for 20 years. There's no parking
6 signs that have been up since I moved into the
7 neighborhood. It is not an issue. I provided
8 last year time dated and stamp dated pictures
9 to prove that those streets don't have students
10 parking on them.

11 Moeller again states that students are
12 parking in retail business lots which is
13 irritating the retail shop owners of
14 Montgomery. This is true for a small
15 percentage of students who park in remote
16 locations. I personally documented on three
17 separate occasions the Moeller student parking
18 situation in the public and private lots off
19 Shelly Lane. The vast majority of those
20 students park legally in the public lot and
21 carpool, which may be now I'm hearing is
22 illegal. But I can't swear that the student
23 who was driving the car wasn't an older student
24 who the law, I believe, only stated that was in
25 your first 12 months of driving that you

1 couldn't carpool. So I can't swear that this
2 was illegal because these might have been older
3 students. And what I observed is that a lot of
4 students come to that lot. They park their
5 cars. They wait in their cars until the guy
6 who's carpooling comes in, picks up three or
7 four kids, they get in that car and they go to
8 school. So actually a lot of students aren't
9 even walking to school, they're jumping in
10 other cars and driving to school. And one
11 person who has a pass at the school is picking
12 those kids up.

13 I did see kids walking. I took pictures.
14 I have pictures of kids walking. I also have
15 pictures of kids who parked in private retail
16 locations. Specifically, UC Health which is
17 there. Awakenings is there as well, but I saw
18 kids, specifically in UC Health, why because UC
19 Health is closest to Moeller. It is the
20 southern most lot before you get to the Ronald
21 Reagan Highway. So you park and you see health
22 and you save yourself an extra three minutes
23 from walking out of the public lot. However, I
24 didn't see the majority of the kids. They were
25 actually -- the majority of the kids were

1 actually parking safely and legally in the
2 public lot.

3 So my summary the permanent change in my
4 neighborhood far outweighs the convenience of
5 having additional on campus parking for
6 students. Once again, my position is there is
7 no safety issue. My position is there is no
8 unwanted neighborhood parking issue. There are
9 minimal retail issues which could be corrected
10 by Moeller by strictly enforcing as a gentleman
11 who is responsible for the parking lot said, by
12 them enforcing, not parking in those retail
13 spots and parking in the public spots. And by
14 the way, there is plenty of parking in that
15 public lot. There is more than enough.
16 Although I never got the count to be anywhere
17 close to a hundred, there's more than enough
18 parking to accommodate a hundred students.

19 And lastly, there's no need to destroy our
20 neighborhood environment. The board voted and
21 felt our opinions strongly enough last year to
22 vote in our favor and we're soliciting that
23 same vote again tonight. Thank you.

24 CHAIRMAN EICHMANN: Any additional
25 questions?

1 MR. BARRETT: Yes. Mr. Navaro, would you
2 agree that it is a safer condition to have the
3 students parking on their own parking lot than
4 it would be to park in the City of Montgomery?

5 MR. NAVARO: What makes it safer?

6 MR. BARRETT: I'm asking you, wouldn't you
7 agree that it's safer?

8 MR. NAVARO: I would venture to say that I
9 don't see a difference between the safety in
10 both of those issues.

11 MR. BARRETT: And wouldn't you agree that
12 the plan that is submitted tonight is
13 definitely better than the plan that was
14 submitted a year ago?

15 MR. NAVARO: I would submit that the plan
16 tonight shows a parking lot and the plan last
17 year shows a parking lot.

18 MR. BARRETT: You wouldn't agree there's
19 any difference, correct?

20 MR. NAVARO: I would tell you that there's
21 differences in landscaping and there's
22 differences in buffering. But I would submit
23 to you that a parking lot is a parking lot is a
24 parking lot.

25 MR. BARRETT: So improvements cannot be

1 made or any issues that you're concerned about,
2 correct?

3 MR. NAVARO: That is correct.

4 MR. BARRETT: And your house is really
5 north of Moeller High School, correct?

6 MR. NAVARO: Yes.

7 MR. BARRETT: And there's a parking lot
8 just to the southeast of your house, correct?

9 MR. NAVARO: That is correct.

10 MR. BARRETT: Does that negatively impact
11 your house?

12 MR. NAVARO: Does that parking lot
13 negatively impact my house? That parking lot
14 has -- I moved there with the understanding
15 that parking lot was already there, so I would
16 venture to say to you that I am not negatively
17 impacted because I knew what I got into when I
18 bought the house.

19 MR. BARRETT: And there's no negative
20 affects related to that parking lot as they
21 exist today, correct?

22 MR. NAVARO: I wouldn't say that.

23 MR. BARRETT: Does it have a negative
24 affect?

25 MR. NAVARO: I would say that there are

1 things about that parking lot that I don't
2 like.

3 MR. BARRETT: Such as?

4 MR. NAVARO: I don't like the noise in the
5 morning. I don't like the lights shining in my
6 yard in the morning. I don't like the noise at
7 night. I don't like the debris that's left
8 behind, a lot of which ends up in our yard --
9 in the woods behind our yard.

10 MR. BARRETT: Did those conditions exist
11 when you bought your house?

12 MR. NAVARO: The landscape and the change
13 in the topography has changed since I bought
14 the house. So they put a field in that
15 extended to the back end of my property, so
16 things are different.

17 MR. BARRETT: For better or for worse?

18 MR. NAVARO: I would venture to say that
19 initially things were better when Mr. Collison
20 promised to make sure that there was clean up
21 around the property, perimeter. That fell by
22 the wayside, so we now end up having trash in
23 the rear of our back yard that comes from
24 Moeller, being adjacent to Moeller.

25 MR. BARRETT: Is it acceptable to you that

1 the students park on Kennedy Lane?

2 MR. NAVARO: Students do not park on
3 Kennedy Lane.

4 MR. BARRETT: Would it be acceptable to
5 you if they did?

6 MR. NAVARO: There's not room to park on
7 Kennedy Lane.

8 MR. BARRETT: When your son walked to
9 school, did he cut through the back yard?

10 MR. NAVARO: He did cut through the back
11 yard and he was still late for school.

12 MR. BARRETT: Thank you, Mr. Navaro.

13 MR. NAVARO: You're welcome. Any other
14 questions?

15 UNIDENTIFIED SPEAKER: Yeah, I'd like to
16 pose this to the gentleman. He keeps saying --

17 CHAIRMAN EICHMANN: You'll get your
18 chance.

19 MR. MILLER: Wait a minute he can ask a
20 question if he's got a question.

21 CHAIRMAN EICHMANN: You weren't sworn in?

22 UNIDENTIFIED SPEAKER: No, I wasn't.

23 MR. MILLER: Wait a minute. Are you
24 questioning or are you making a statement?

25 UNIDENTIFIED SPEAKER: I'm making a

1 statement.

2 MR. MILLER: Well, then wait. You'll get
3 an opportunity. But this would be if you had a
4 question for the witness.

5 UNIDENTIFIED SPEAKER: This statement is
6 relevant to what he was saying. That's all
7 right I'll drop it.

8 MR. HYZDU: Can I address a couple of
9 things that Mr. Navaro said?

10 MR. MILLER: Well, wait a minute. Do you
11 have a question for him? This is time that
12 anybody can ask him any questions that they may
13 have which Mr. Barrett has done. You'll be
14 given an opportunity to address anything after.

15 CHAIRMAN EICHMANN: You want to wait until
16 everyone has spoken.

17 MR. MILLER: Yeah, once everybody has
18 spoken, they can come back and respond however
19 they may.

20 CHAIRMAN EICHMANN: So if there are no
21 other questions.

22 MR. MILLER: I think you're finished, Mr.
23 Navaro.

24 CHAIRMAN EICHMANN: Thanks very much.
25 Sorry about that confusion. Continuing in the

1 first row there's nobody. Second row back
2 here. You were sitting there before. You were
3 next.

4 MS. ENGELHART: I'm just standing here.

5 CHAIRMAN EICHMANN: If you don't mind,
6 I'll let her go first. I thought she left.

7 MS. ENGELHART: I'm deferring to him.

8 CHAIRMAN EICHMANN: All right.

9 MR. ROPP: My name is Bill Ropp and I live
10 at 7336 Timberknoll Drive, that's the red
11 circle on the slide there.

12 CHAIRMAN EICHMANN: I need to have your
13 name and address.

14 MR. ROPP: I just gave it.

15 CHAIRMAN EICHMANN: Have you been sworn
16 in?

17 MR. ROPP: Yes, sir. In follow up to the
18 last meeting, I have four or five points and
19 the first one is why are we here. The second
20 one is I want to rehash the footprint of the
21 lot that I showed in the last meeting where we
22 had the vote. I want to address the safety
23 narrative. I want to talk about Moeller
24 testimonials and I want to talk about property
25 values. So I'm going to come at this at a

1 slightly different angle than some of the other
2 presenters.

3 So, again, why are we here. This has come
4 up several times tonight. The board's already
5 voted against this project. I was kind of
6 amazed to hear the discussion at the very
7 beginning, but if you have a group of residents
8 that are saying, hey, we won. We presented our
9 case. Now, we're voting again.

10 And then you have to understand, I've
11 lived here 16 years in my house. And for 15 of
12 those years, we have been constantly in a
13 position where we had to defend our turf
14 against Moeller. And it's always approached as
15 a zero some gain. Where we give something and
16 Moeller takes something, which is really
17 frustrating for the rest of us.

18 This is the core of my presentation and I
19 want to talk about the footprint. So this
20 shows you, this is an aerial view that shows
21 the entire neighborhood. There's I-71 over on
22 the left. Ronald Reagan up on the top.
23 Montgomery Road on the right. The box shows
24 the proposed parking lot, which is roughly 300
25 feet from the new proposed road.

1 Next slide, please. This is an aerial
2 photograph of the trees that will be removed to
3 build a parking lot. And, again, I had
4 initially counted this as 35 trees. I believe
5 Marshall said there was seven. This is what
6 the neighborhood loses.

7 Next slide, please. We as residents see
8 somewhat of an evolution of a plan. And we're
9 not sure where it's going. We don't know if
10 Moeller knows where it's going, so we're
11 constantly in a situation where we have to
12 guess where is Moeller going. This shows a
13 perspective view Google Earth photograph of --
14 down at the bottom is the adjoining part of
15 Moeller's parking lot. You see the tree lot
16 and then the immediate area of the
17 neighborhood. Next slide, please.

18 Here's what it looks like. This is what
19 it looks like. That's what it looks like when
20 you remove those 70 trees and put in a parking
21 lot. Now, this is my best understanding from
22 looking at the black and white drawings that
23 was posted on the Sycamore Township website.
24 But in realty when you fly a plane over our
25 neighborhood, that's what you're going to see

1 with the existing parking lot. Yeah, there
2 might be a little bit of difference in the
3 buffer zone around the three open sides of it,
4 but that's what you're going to see. Next
5 slide, please.

6 We know that a Moeller booster owns this
7 property here. And we as residents wonder
8 because Moeller hasn't shared a plan with us.
9 We don't know if it's opportunistic or it's
10 just evolving, but we have a fear that this
11 parking lot will eventually join at Kennedy.
12 Next slide, please.

13 We also know and it was interesting that
14 the comment was brought up about Dave
15 Broxterman's property, but I believe Dave said
16 there have again been offers on his property
17 which would constitute that last block. So,
18 again, not knowing if Moeller is going to come
19 back at us again and say we need more spaces in
20 the future, we don't know and that's not being
21 shared with us. We also know that population,
22 student population of Moeller has really
23 remained pretty flat over the years, over the
24 past several years, but now they need more
25 parking spaces, which is something that's

1 interesting to us. Next slide, please.

2 Here's the box and the red box at the
3 bottom that shows the footprint of the current
4 proposed parking lot. The box in the upper
5 left is if you take that property out and
6 adjoin it to Kennedy and the box on the right
7 is if you take -- if you were to purchase
8 Dave's house. That is a massive amount of
9 asphalt in our neighborhood. We've lost tree
10 canopy. We've lost beauty in the neighborhood.
11 We lost our sound buffer. And once again, we
12 all bought into a residential neighborhood. We
13 understand that Moeller is an exclusion to this
14 residential status. So that's what I bought
15 into 16 years ago and that's what I want to
16 keep. Next slide, please.

17 This is just one additional thing. We
18 know this is not Moeller's fault. But if you
19 look at the new roundabout and you look at the
20 parking lot, they're roughly 300 yards apart
21 from each other. But when both of these
22 projects get going, it all adds up to resident
23 headaches. Next slide, please.

24 This and it was mentioned earlier on, this
25 is going to be our life for the next three

1 years if not more. So there's going to be --
2 if you want to put 117 more men and I say men
3 of Moeller because above the sign going into
4 Moeller it says, "Men of Moeller." Doesn't say
5 children of Moeller. It doesn't say boys of
6 Moeller. It says, "Men of Moeller." So we're
7 going to introduce 117 more men, young men on
8 our streets and this is what we're already
9 looking at. Next slide.

10 The safety -- the whole safety issue and
11 several of the speakers have brought it up. We
12 get kind of disturbed when you hear the safety
13 narrative. And, honestly, it's not coming off
14 as being genuine to me. I find it very
15 disingenuous. A lot of times when I go across
16 that bridge into Montgomery, I see a young man
17 of Moeller on his cell phone. I come across
18 that bridge on my bike from one end of that
19 bridge and have the Moeller student on the
20 other end, stop my bike, and sit and wait for
21 him to come and he won't even notice me until
22 he's close enough for me to reach out and touch
23 him. That doesn't sound like somebody who's
24 concerned about their safety. Plus that very
25 same bridge, we have 80-year-old residents that

1 walk across that bridge everyday and ride their
2 bikes across that bridge. So you have to
3 understand this is a two-way street. You're
4 saying you want safety for the men of Moeller.
5 We want safety for residents as well. Next
6 slide, please.

7 And I said this before, why is the safety
8 of Moeller nonresident students more important
9 than resident's safety. This proposal puts 117
10 more teenage men in cars on the streets.
11 They're not children. They're not boys.
12 They're teenage men in cars. What could
13 possibly go wrong. Here's what could go wrong.
14 Males tend to be higher risk takers especially
15 young ones. 71 percent of all traffic
16 fatalities. 70 percent of all pedestrian
17 fatalities. 87 percent of all cyclists
18 fatalities. Marshall, based upon what I've
19 told you last week it's a dangerous situation
20 for a cyclist. And I'm a cyclist with 130,000
21 lifetime miles. I'm not a casual biker, but
22 it's a dangerous situation for somebody to ride
23 their bike around Moeller. And also and I take
24 cyclist accidents very personally. We have two
25 residents of our neighborhood that are sitting

1 with knees that look like grapefruits because
2 they've been hit in cycling accidents. One's a
3 Moeller supporter. One's a supporter of the
4 residents. It didn't happen in our
5 neighborhood, but it happened. Those
6 statistics come from a Kansas State University
7 study done roughly five years ago. Next slide,
8 please.

9 Moeller testimonials. Not knowing what I
10 was going to present against tonight until we
11 saw Moeller's presentation. Going in, and keep
12 in mind, this presentation was done not knowing
13 what I'd have to present against. But for the
14 last meeting when I called in, I'm not sure who
15 I spoke to, but I thought I had to get on the
16 speaker's list and I was questioned as to why I
17 was going to present and was I a resident. I
18 said, "Yes, I'm a resident and I'm a
19 neighborhood resident and I want to present."
20 So then I come to find out when I come to the
21 meeting, Moeller had close to a dozen
22 nonresidents testifying in the last meeting.

23 I also found out that every time a Moeller
24 person testified, they looked at the residents
25 as if we were really bad for just wanting our

1 neighborhood to remain intact which really
2 disturbed me. There was one of those speakers
3 and only one as I could tell lives in our
4 neighborhood. There's only one that was a
5 Sycamore Township resident. So what I was
6 concerned is I left this meeting thinking, gee,
7 a bunch of nonresidents influenced a board
8 vote, a zoning board vote and that really
9 bothered me. I thought if you're going to make
10 a decision it should be based upon the
11 presentations of Moeller and the presentations
12 of the residents counting Moeller's
13 presentation. That's my opinion.

14 The last thing I want to talk about is in
15 the last meeting there was some vague
16 statements made and I can't exactly remember
17 who made them, but they assumed that, well,
18 this parking lot is not going to hurt our
19 property values. Our property appreciation was
20 very strong which is not the case. Next slide,
21 please.

22 And then according to Zillow, my house
23 7336 Timberknoll Drive over the 16 years I've
24 lived there has averaged 2.3 percent. The
25 National Realtors Association says average

1 appreciation is 3.7. Some parts of the country
2 it goes to 6.4. Another exclusion or variance
3 considering this parking lot is not going to
4 help property appreciation. I really don't
5 care about property appreciation. I've lived
6 in seven different states. I've owned five
7 different houses. My wife and I moved back
8 here 20 years ago. We chose this neighborhood
9 to stay in for the rest of our lives.

10 So yes, sir, Moeller's attorney, you're
11 right. We don't want a parking lot in our
12 neighborhood and those are the reasons why.
13 Thank you.

14 CHAIRMAN EICHMANN: Are there any
15 questions for Mr. Ropp? Mr. Barrett, any
16 questions, please?

17 MR. BARRETT: Let me ask just a couple of
18 questions.

19 MR. ROPP: Yes, sir.

20 MR. BARRETT: How far away do you live
21 from the site?

22 MR. ROPP: I've calculated roughly one
23 quarter of a mile.

24 MR. BARRETT: So that would be one quarter
25 of mile to the west?

1 MR. ROPP: Northwest.

2 MR. BARRETT: And would you agree though
3 it would be safer for these Moeller students to
4 be parking on campus as opposed to be parking
5 off campus?

6 MR. ROPP: Based upon what Tom said, I
7 really don't see any difference.

8 MR. BARRETT: You described a condition
9 where Moeller students were walking to and
10 from, they were not paying close attention and
11 you referenced somebody looking at their cell
12 phone, correct?

13 MR. ROPP: Yes, sir.

14 MR. BARRETT: Wouldn't you agree that
15 those people who are walking to and from school
16 when they're parking on campus, that's a safer
17 condition for students?

18 MR. ROPP: I'm sorry, I don't think that's
19 a fair question.

20 MR. BARRETT: And you kept talking about
21 introducing 117 men in your neighborhood.

22 MR. ROPP: Not children. Not boys, men.
23 Because it says, the sign above the entrance to
24 Moeller says, "Enter through these doors enter
25 the men of Moeller." I just want to make sure

1 that we're not trying to convince the board
2 these are children -- these are not children.

3 MR. BARRETT: You understand they're
4 juveniles though; you understand that?

5 MR. ROPP: I understand if they're driving
6 to school they have car licenses which puts
7 them in the driver's seat of a very powerful
8 object.

9 MR. BARRETT: Again, they're juveniles,
10 correct?

11 MR. ROPP: I assume so, but they're not
12 children.

13 MR. BARRETT: And you talk about 117
14 people. There's no increase in student
15 population by having this parking lot, correct?

16 MR. ROPP: I don't understand the
17 question.

18 MR. BARRETT: These 117 people are still
19 going to school at Moeller, correct?

20 MR. ROPP: I don't --

21 MR. BARRETT: Here's my question: You're
22 raising an issue about you're objecting to 117
23 people in your neighborhood.

24 MR. ROPP: Yes, sir. 117 people in cars,
25 young men in cars.

1 MR. BARRETT: But they presently have cars
2 right now, correct?

3 MR. ROPP: I don't know that.

4 MR. BARRETT: They've been parking off
5 campus, correct?

6 MR. ROPP: We don't know that. What I can
7 tell you is that Moeller's a very wealthy
8 school. And when you have wealthy people and
9 they have juveniles, juveniles can drive they
10 buy cars for those juveniles. So as opposed to
11 maybe a place like Sycamore, you may not have
12 the number of students driving because it's not
13 as wealthy a donor base.

14 MR. BARRETT: What I'm trying to clarify
15 is: You understand that 117 people have cars,
16 there's no increase in the number of cars.
17 These kids they park off campus as opposed to
18 on campus.

19 MR. ROPP: Yes, in our neighborhood
20 there's more cars.

21 MR. BARRETT: When you say "in your
22 neighborhood," you're talking about the parking
23 lot, correct?

24 MR. ROPP: No, I'm talking about our
25 neighborhood.

1 MR. BARRETT: They're not on Kennedy Lane
2 are they?

3 MR. ROPP: They're going to be on
4 Montgomery Road.

5 MR. BARRETT: Yes. They're on Montgomery
6 Road presently, correct?

7 MR. ROPP: But once again, you have a
8 group of people here that we're really
9 concerned. We're going to be here another six
10 months or a year with a parking lot that goes
11 out to Kennedy and we've been given no
12 assurance that that's not going to happen.

13 MR. BARRETT: You understand this board
14 would have to approve to?

15 MR. ROPP: And I understand that. But
16 we're also here for a second vote when we won
17 the last time as well.

18 MR. BARRETT: But you understand this
19 board would have to approve access to the
20 Kennedy Lane for that to happen?

21 MR. ROPP: And I understand that.

22 MR. BARRETT: You understand that's not
23 part of this application?

24 MR. ROPP: I understand that, but why are
25 we here when we already had a vote in our

1 favor? Do you understand that?

2 MR. BARRETT: I do understand that. You
3 understand that the application does not
4 request access to Kennedy Lane?

5 UNIDENTIFIED SPEAKER: The next one could.

6 MR. ROPP: The next one could.

7 CHAIRMAN EICHMANN: Let's respect both
8 these gentlemen in this conversation.

9 MR. BARRETT: And you understand this
10 board could be a condition on the approval that
11 there be no access to Kennedy Lane?

12 MR. ROPP: We would have to wait and see.

13 MR. BARRETT: Thank you. Thank you.

14 CHAIRMAN EICHMANN: Thank you. So, ma'am,
15 did you pass your speaking to him or are you
16 going to speak now as well?

17 MS. ENGELHART: It's my turn.

18 CHAIRMAN EICHMANN: You said you passed
19 before. I misunderstood you.

20 MS. ENGELHART: I did. He's finished.
21 It's my turn. I'm Linda Engelhart. I've been
22 sworn in. I live at 9095 Shadetree Drive.

23 MR. MILLER: Can I take care of one
24 housekeeping matter? You getting hard copies
25 of all of these?

1 MR. HOLBERT: I'm keeping everything
2 that's submitted. So everybody knows, if you
3 submit it, I keep it. If you want it back
4 tomorrow, I'll be happy to give it to you, but
5 I'm keeping it until tomorrow. If you request
6 it back, I'll be happy to give it to you.

7 MR. MILLER: Well, we need to have a hard
8 copy or something if they want it back.

9 MR. HOLBERT: Yeah. Oh, I would
10 definitely copy it tomorrow.

11 MS. CLARKE: Since I don't like -- I'm
12 sorry, Harry.

13 MR. HOLBERT: He said it was okay. I'm
14 sorry, I was just finishing. He said it was
15 okay that I had his, but then she said I had to
16 give it back. So I let each applicant speak
17 for themselves.

18 MS. ENGELHART: I just wanted to make
19 certain.

20 CHAIRMAN EICHMANN: Are you both going to
21 speak at this point?

22 MS. CLARKE: Just because I don't like to
23 be up here by myself.

24 CHAIRMAN EICHMANN: Just state your name
25 and address.

1 MS. CLARKE: My name is Margee Clarke,
2 C-L-A-R-K-E. I live at 7765 Kennedy Lane.

3 CHAIRMAN EICHMANN: And we swore you in
4 earlier?

5 MS. CLARKE: Yes, sir, I was sworn in.

6 CHAIRMAN EICHMANN: Thank you.

7 MS. CLARKE: I'm not going into the
8 service though.

9 CHAIRMAN EICHMANN: We didn't swear you in
10 for that reason.

11 MS. ENGELHART: Do you have it open?

12 MR. HOLBERT: I do.

13 MS. ENGELHART: Is it up?

14 MR. HOLBERT: I wanted to make sure you're
15 ready.

16 MS. CLARKE: Before you say something, I
17 need to say something.

18 MR. MILLER: Try not to speak over each
19 other. She's trying to keep track of --

20 MS. CLARKE: Do you mind? I like to see
21 you guys and I can't see behind this board.

22 CHAIRMAN EICHMANN: Just remind you please
23 if you're repeating something --

24 MS. CLARKE: Oh, I don't think I'll be
25 repeating too much.

1 MS. ENGELHART: She's trying to explain
2 that.

3 CHAIRMAN EICHMANN: -- that's already been
4 put in, make sure you tell us you agree with it
5 and move on. We appreciate it.

6 MS. CLARKE: My questions that I have
7 right now at this present moment is that within
8 the application process the second page of
9 signatures where we had the Archbishop of
10 Cincinnati Trustees property owner signature, I
11 don't have a name underneath that line and I
12 would like to know who the trustee was that
13 signed that. Because on the front page there's
14 7745, we have someone that signed it as the LLC
15 and said member. And we have Marshall signing
16 above it and we have Marshall signing again on
17 the other one. But I don't have a name of the
18 person from the Archbishop of Cincinnati
19 Trustee and I'm just curious who that trustee
20 is.

21 MR. MILLER: I'm lost. Where does it say
22 trustee?

23 MS. CLARKE: Right here. I don't have a
24 name underneath there to know who that trustee
25 is. That page.

1 MR. MILLER: It appears to me it looks
2 like the same signature as above it.

3 MS. CLARKE: Exactly. And I never -- when
4 I saw that I thought the same thing so I got on
5 the web page of the Archbishop of Cincinnati
6 Trustee page and I didn't see this gentleman's
7 name as being a trustee for the Archbishop of
8 Cincinnati, so I'm not sure. So I need
9 clarification on that.

10 MR. MILLER: Can you explain that, Mr.
11 Barrett?

12 MR. BARRETT: The Archbishop of Cincinnati
13 holds title as trustee. It's not a trustee of
14 the Archbishop. It's there --

15 MS. CLARKE: There are trustees on the
16 website, excuse me, sir.

17 MR. MILLER: Let's not argue just explain
18 it.

19 MR. BARRETT: The title is in the name of
20 Archbishop of Cincinnati Trustee.

21 CHAIRMAN EICHMANN: You're saying the
22 archbishop is the trustee?

23 MR. BARRETT: Yes.

24 CHAIRMAN EICHMANN: Yes, okay. So that's
25 your answer. Go forward.

1 MS. CLARKE: I'm not really satisfied with
2 it, because when I looked up there are
3 trustees, the archbishop -- there are trustees.
4 There's a whole list of them.

5 CHAIRMAN EICHMANN: He just answered your
6 question.

7 MR. MILLER: No. When real estate is
8 titled into a trust --

9 MS. CLARKE: Yes.

10 MR. MILLER: -- it is actually titled in
11 the name of the trustee. So you wouldn't say
12 the Margee Clarke trust. You would say Margee
13 Clarke trustee of the Margee Clarke Trust.

14 MS. CLARKE: Got it. Thank you for
15 clarifying that. One more thing before you get
16 started. I'll pose this to you. When you put
17 it in the application -- when you posed and put
18 it on the application that the property east of
19 this proposed parking lot went up to the
20 offices on Montgomery Road and you even stated
21 tonight when he said, "It abutted up next to a
22 piece of property."

23 MR. BARRETT: I didn't say that.

24 MS. CLARKE: No, he said he brought it up
25 and you had and said, "Oh, that's just a strip

1 of land."

2 MR. BARRETT: No.

3 MS. CLARKE: Yes, you did say it was just
4 a strip of land.

5 MR. BARRETT: Strip of land between the
6 offices.

7 MS. CLARKE: That strip of land is my
8 home. It's my property and you never said
9 anything about --

10 MR. BARRETT: It's a strip of land.

11 MS. CLARKE: -- 7765. It is more than a
12 strip of land. It is my home. It is where I
13 raised my kids. It's where my grandkids come.
14 It is not a strip of land. It is a piece of
15 property, a residential piece of property and I
16 take highly offense to you calling it, "a strip
17 of land." Now, I'll calm down.

18 MS. ENGELHART: It's not listed properly
19 in the filing. Are we ready?

20 MS. CLARKE: Oh, I'll try.

21 MS. ENGELHART: I know. We're irritated.

22 First page. I just want to go over a
23 little history here. Back in 1958 Moeller was
24 started -- started the ideas of building. At
25 the same time the archdiocese said, "Hey, man,

1 we got way too much land here." We have all of
2 Gardendale Acres which is the place where we
3 live, Gardendale Acres, and you have all the
4 land off of Glenover that got sold to a
5 builder. I'm really sorry that decision was
6 made and that now you want to encroach into our
7 neighborhood. I'm sorry that the archdiocese
8 didn't have better thought plans and not just
9 allow you to have your 18 acres that you sit on
10 today.

11 Since 2005, the neighborhood's been back
12 in front of this BZA multiple times. We came
13 for the field lighting. We came to upgrade the
14 sound system. We came to put banners on light
15 poles. We came to put banners on light poles,
16 and I'm going to tell you this is not the
17 second time we've been here for these two lots
18 of land. We've been here three times. The
19 first time we came was for a parking lot with
20 townhouses in the front. So this is the third
21 time we have been in this building for these
22 two pieces of land. And I'm going to tell you,
23 Pete, or whatever your name is there, didn't
24 tell you the whole truth because he missed that
25 piece where they went and said, "Hey, let's

1 take this land. We'll take the back half, put
2 the townhouses in front." After that is when
3 he decided to sell the piece of land or half
4 the land today.

5 MS. CLARKE: No, no, no, it was before
6 that.

7 MS. ENGELHART: It was before that? It
8 was before that then, well, they couldn't have
9 sold Dave's land.

10 MR. MILLER: Wait a minute. You guys
11 can't be talking at the same time. If you want
12 to sit up there together that's fine --

13 MS. CLARKE: I'll behave myself.

14 MR. MILLER: -- but please let her talk
15 and then you can talk.

16 MS. ENGELHART: Anyway, it's the third
17 time we've been here for a parking lot for
18 Moeller. It's not the second. And each time
19 you voted no.

20 MR. MILLER: That's not true, ma'am. The
21 first time it was approved and the neighbors
22 appealed and Moeller dismissed their case.
23 That was about 10, 12 years ago.

24 MS. CLARKE: That's right. 2006.

25 MS. ENGELHART: Since then we reported,

1 again, multiple violations of the sound system
2 to Sycamore Township whenever it happens. We
3 have decimal readings when it occurs and we
4 report it and they come. This is all to prove
5 that Moeller is not a nice neighbor. Moeller
6 is only a good neighbor to us -- well, I don't
7 know when they're a good neighbor. They only
8 come to us when they want something from us.
9 Namely our land.

10 So since Dave bought his house in 2013,
11 he's been approached aggressively by both Pete
12 and Marshall to rebuy the land from him.
13 You've been approached to buy your land since
14 then as well, correct?

15 MS. CLARKE: Uh-uh.

16 MS. ENGELHART: And 9125 Montgomery Road
17 is constantly being approached as well. That's
18 four acres of land that they're trying to
19 acquire; aggressively trying to acquire. The
20 conversations as the people communicate them to
21 other neighbors is not a nice conversation.
22 It's not a gentle conversation, I'd like to buy
23 your land. I'd like to have first rights to
24 buy your land. It's like, sell me your land.
25 It's not as they say it, it's not a nice

1 conversation. So we know that Moeller is
2 aggressively trying to buy the land of four
3 acres right there at the corner.

4 On top of that we have another LLC that's
5 somewhat involved in this that bought a house
6 on Shadetree, four doors down from me. But we
7 feel like the onslaught is coming.

8 We've asked for the 5 -- and 10-year plan.
9 We have no feedback. We have no answers on
10 where is this going. That's why we said, we're
11 constantly guessing. We are, in fact,
12 constantly guessing. We don't know where they
13 want to go, but we know that the history says,
14 watch out, you're going to be back at the BZA
15 multiple times. So we've been here at least 13
16 times, I think we've documented, since 2005.
17 Little bit too much for one community to take
18 on. You can go to the next slide.

19 So this is a word cloud. I ran the land
20 use plan for the south Sycamore area through a
21 word cloud tool. And it basically comes up and
22 shows you your high level words that are used a
23 lot in this plan, right? And your most used
24 words in the south Sycamore plan are
25 single-family housing residential and

1 protecting the redevelopment into
2 nonresidential. Those are your most used
3 words. There's no where in here where you have
4 parking lots, or you have schools. Your
5 primary concern in the south where there is no
6 land to acquire. You know, you have six small
7 pieces of land sitting three inside the Tree of
8 Life property and three against the highway
9 berm off of some portion of 71. There's no
10 property in south Sycamore. You all know that.

11 You have said as your mandate and your
12 zoning regulations say that you should always
13 adhere and go back to your guide which is your
14 land use plan. And your land use plan for
15 south Sycamore says, "Protect Residential
16 Sections."

17 MS. CLARKE: Can I say something? I'm
18 looking at underneath your goals and stuff,
19 which is your Sycamore Township land use plan.
20 And under Policies No. 3. Protect desirable
21 residential development from the adverse
22 affects of nonresidential encroachment.

23 MR. MILLER: Wait, Margee. Are you
24 finished, ma'am?

25 MS. ENGELHART: She's just going to the

1 next slide. So I was telling Harry to move to
2 the next slide.

3 MR. MILLER: From a legal standpoint, you
4 guys are making this very difficult because
5 Mr. Barrett has to have the opportunity to
6 cross-examine each of you. The court reporter
7 is trying to keep track of what each of you are
8 saying. So the more you can have your own
9 presentation the better.

10 MS. CLARKE: I'll let her finish then.

11 MS. ENGELHART: That's going to be hard to
12 do. You're throwing us out of our thing.

13 MR. MILLER: Mr. Barrett, do you have any
14 objection to them continuing on?

15 MR. BARRETT: No, they can do whatever
16 they want to do.

17 MS. ENGELHART: So basically --

18 MS. CLARKE: Is it okay if we go back and
19 forth then, do you mind?

20 MR. BARRETT: You can do anything you want
21 to do.

22 MS. ENGELHART: I'm not going to talk for
23 these two pages.

24 MR. MILLER: Just don't talk over each
25 other. She can't understand who's saying what.

1 MS. CLARKE: You can call her L and you
2 can call me M, okay? So one of the things is
3 under here is terminate the expansion of
4 undesirable land use patterns. And for me it's
5 coming back here time and time and again
6 because we got land use changes all the time.
7 At least they keep trying to attempt to do
8 this. But my biggest one of a land use pattern
9 is that Moeller sits on this nice little
10 rectangle piece of land and they want to jut
11 out and have this little peninsula come out and
12 to me that's a really undesirable look. So I
13 just wanted to make that.

14 And then as we stick with the goals for
15 the south Sycamore Township area. Some of your
16 goals have been to promote the stability of the
17 community and the community as we as a
18 neighborhood by preserving the existing
19 residential areas and planning for new
20 compatible uses. In my opinion I don't feel a
21 parking lot within a residential area is
22 compatible. To apply for and maintain a vital
23 compatible land use mix which allows for an
24 attractive and safe residential environment.
25 Require that the development and redevelopment

1 proposals meets the high standards of design,
2 desired by the community and are compatible
3 with the residential character in that area.

4 Preserve the open space or available
5 within the south Sycamore Township area is
6 necessary to protect the public health and
7 safety. Minimize the exposure of residents to
8 excessive noise by requiring a preservation
9 and/or development of vegetation at greenbelts.
10 So you're kind of meeting that.

11 Maintain the areas residential expansion
12 for residential development through
13 redevelopment and continue to promote the
14 integrity of residential community. Protect
15 residential neighborhoods from adverse impact
16 of proposed development, redevelopment, and
17 land use changes. Protect and enhance the
18 character and visual appearance of the
19 residential neighborhoods. And these are your
20 policies which you wrote.

21 This is actually a picture of your
22 proposed parking lot, number one. And the next
23 one, this is your parking lot that you're
24 proposing now. To me a parking lot is a
25 parking lot is a parking lot and no matter how

1 much lipstick or how much make up you put on
2 it, it's still a parking lot. So all of the
3 buffering that you put on it is still going to
4 be detrimental to my property and to our entire
5 neighborhood.

6 MS. ENGELHART: So it's still a parking
7 lot. We have many concerns. Section 4.21 of
8 your zoning regulations talk about maintaining
9 a suitable environment for family living. We
10 don't believe that a parking lot or possible
11 extensions of this parking lot, I know I
12 shouldn't talk about it, are suitable to our
13 environment. We know that the noise will be
14 there. You can sound buffer all you want,
15 you're still going to have noise coming up
16 above it. All you have to do is look on
17 Twitter, Facebook and just Google Moeller and
18 you can get parking lot wars, talking wars,
19 what not, it will have been -- it has happened.

20 Section 12.9 calls for minimum requirement
21 brought up before about one space for every six
22 students. It says it's a requirement. It
23 doesn't say it's a minimum requirement. The
24 word "minimum" is no where in that section. So
25 if it's one parking lot for every six students,

1 12 visitors, and a parking lot for every staff
2 member, they more than have that today. One
3 for every six students, they only need a
4 hundred and some odd spaces, I think this was
5 brought up before. If it's a minimum, their
6 only regulation should state as a minimum, it
7 doesn't. Therefore, it should be adhered
8 too, right.

9 On top of that, there is a -- you have
10 stayed in the buffer. It's still a parking
11 lot. Why should different neighbors, you have
12 three neighbors that all have a different
13 amount of buffer and the longest amount of
14 buffer, you stop the landscaping halfway down
15 it. You stop the landscaping. You stop the
16 french drains at the lowest portion of the
17 land. Want me to show you on one of your
18 pretty slides here, cause I was watching it.
19 But you can see if you look at the slide that
20 shows you where the French drains are --

21 MS. CLARKE: That's it. All those little
22 black dots are drains.

23 MS. ENGELHART: This is it? I don't know
24 if that's it. But I'll tell you -- here they
25 talk about the French drain draining in right

1 here. Well, if the French drain starts here
2 and comes -- is French drain going to flow
3 upwards. I don't think water flows upwards
4 unless you force it. How's it going to get
5 across here, come down, enter here and no
6 French drain, which is why we're so upset that
7 the topography map was not put in with this
8 resolution. 125 feet of Margee's property has
9 no drainage put in, none whatsoever. It is the
10 lowest point of all this land. They're
11 assuming that she's not going -- that she's
12 going to keep this fence. Margee already has a
13 plan to move the fence across the portion of
14 her yard to keep kids when they're using the
15 pool more confined. So the fence won't be
16 there. This fence certainly doesn't go down
17 there. And there's only 7 feet buffering.
18 Here there's 10, here there's 20, but the
19 biggest issue is the French drain. And I don't
20 believe French drains run up hill. And French
21 drains don't run sideways and French drains you
22 hope will enter here, but they should really
23 enter all the way down here where it's not even
24 shown. That's the biggest thing.

25 MS. CLARKE: Then the mention of a high

1 water Table 2 and it is a fact, I actually had
2 Hamilton County Planning and Development out at
3 my house for the back yard because I got my
4 tractor stuck in a place which I'd never get
5 stuck before. I mean, I've gotten stuck before
6 until I really watch out where I drive back
7 there and I got stuck in a spot that it took my
8 brother and I a hour and a half to get me out,
9 which is not pleasant when you're ankle deep in
10 gushy, gushy mud. And I was concerned because
11 there was standing water and there was stuff
12 growing. And I even called the board of health
13 to come out to take a look because I was so
14 concerned.

15 And so if you got a high water table and
16 you put a surface over it, that water is still
17 there and it's got to go somewhere where it's
18 going to seep out. And I am the lowest part on
19 that road and I get a lot of issues from -- if
20 that drain up there on the west side of 7745
21 gets clogged up, then I get even more of a
22 river over there.

23 And you talk about a berm, which they
24 didn't say how big the berm was going to be,
25 and if it goes all the way around, that water's

1 going to find a way to go this way, that way or
2 this way, and possibly flood Dave's back yard.
3 But it will eventually come to my yard and
4 flood my back yard.

5 And the guy from Hamilton County looked at
6 me and said, "You know what," he said, "You are
7 low and you are flat, and here's what you can
8 do to try to alleviate that." And I said,
9 "Okay, what do I need to do?" He said, "Well,
10 you'll have to put a drain over here. You have
11 to put a drain over here." And so I paid
12 attention and I watched because he said, "I'm
13 going to go and check the one drain," but he
14 never came back to report to me, but I didn't
15 have a problem after that. So was the drain
16 clogged; I have no idea. But I have not had a
17 problem since and we've had a lot of lot of
18 rain because most of the time it goes off.

19 My concern is is if they do put this hard
20 surface on --

21 MS. ENGELHART: You have a right to your
22 property.

23 MS. CLARKE: -- the water's got to go
24 somewhere and a little tiny French drain with
25 some rock is not going to be enough when it

1 stops midway in my yard.

2 MS. ENGELHART: We don't believe the
3 drainage is sufficient to not flood Margee's
4 yard. The fence should continue the whole way
5 through. And really there's no reason that not
6 everybody can't have a 20-foot buffer other
7 than they want 117 spaces in there or more.
8 Let me move on.

9 So at the beginning of Mr. Barrett's talk
10 tonight, he referred to Moeller 17 times as an
11 institution. They are an institution, but more
12 importantly in your zoning code, you talk
13 about, and I get to this a little bit later,
14 they should be considered an institution and
15 not just a school and not just a -- because
16 with 18 acres of land and when you have
17 70 percent impermeable surface, their
18 impermeable surface ratio is well over 50
19 percent comes into the standards and you've
20 said in your zoning code as institutional
21 requiring 50-foot buffers. We'll get to that
22 some more later, but I needed to get that out
23 now. So we're going to --

24 MR. SCHEVE: Can I interrupt you? How's
25 the court reporter doing? She's working her

1 fingers overtime here. She's been typing for
2 hours. She's got the hardest job of anybody.

3 MS. ENGELHART: I know I talk too much.
4 So one of the things that's been great that
5 Moeller's done in bringing us back here 13
6 times since 2005 is I betcha we know the zoning
7 regs as well as Harry knows them. I betcha we
8 do.

9 What I find funny is when you look at your
10 conditional use specific criteria daycare which
11 you've said is a place where one to six
12 children go, needs a 50-foot barrier before you
13 go to a property line. A school which isn't
14 really defined doesn't need any. A university
15 needs 100. Moeller's sitting here with a
16 sizeable property of impermeable space
17 equivalent to Jewish Hospital which is
18 interesting to be brought up and as they
19 classified as an institution. It's just -- it
20 makes -- your zoning code just doesn't make
21 sense in how you're going to make a daycare one
22 to six people, kids, with parents dropping them
23 off twice a day, 12 visits, needs a 50-foot
24 buffer and Moeller doesn't need any. Go
25 figure.

1 MS. CLARKE: To clarify there was a thing
2 back and forth between these guys. And
3 institutional uses hospital is underneath that
4 as well as schools. So and I just reiterate
5 the one parking space per employee, 12 visitor
6 spaces and one space per six. And I went
7 through, you know, I think Marshall already
8 said, they have 390 parking spaces. They say
9 they only have two visitor parking spaces so
10 they're minus 10 on that. But if you got 880
11 students and you divide it by 6, it's only 147
12 parking spaces which totals up to 265. So
13 they've got more than adequate enough parking
14 spaces to accommodate the amount of students
15 that they do have.

16 MS. ENGELHART: So one thing 12.6 talks
17 about interior landscaping requirements. Now,
18 I heard something tonight that because this
19 didn't have street frontage it didn't need
20 interior landscaping requirements. I'm going
21 to bring this up anyway. They have 240 spaces
22 because they rent 150 so that's not their
23 problem. They have -- and if I look at the
24 existing requirements of three trees, three
25 canopy trees for every space, for every 10

1 spaces, and three shrubs for every tree, I can
2 tell you Moeller doesn't satisfy that today. I
3 counted. I went on their property. I counted
4 how many canopy trees are on their property.
5 There are 42 and I would take five off because
6 I really think they're on the All Saints
7 property which is at the entrance of Moeller.
8 So I would encourage you to go check out that
9 zoning violation.

10 Anyway this is more about canopy trees.
11 Canopy trees are important. An Carver Vidi, a
12 conifer are not canopy trees. Canopy trees are
13 there to shade. The big canopy shades. It
14 takes away some of the heat. I see that they
15 have a couple of canopy trees in the design. I
16 don't think it's enough. I really wish there
17 were more. I wish there was more interior to
18 it. It's still a parking lot. But canopy
19 trees help reduce the carbon footprint. This
20 parking lot does nothing to decrease the carbon
21 footprint that we all should be worried about
22 that will sizeably increase it.

23 Anyway I'm going to get back to 90 percent
24 of Moeller's property is in some form of a
25 hardscape. And I am saying plastic on the

1 earth is a hardscape. It is not natural. So
2 you can say 90 percent of Moeller's property is
3 an imperviable surface. That's a ratio of
4 almost -- it is 90. It's 90. That's higher
5 than most of your institutions today. So how
6 can you still define it as residential in a
7 school when they are our worst enemy. They
8 have more hard space than Jewish Hospital has.
9 Jewish Hospital went up in the parking lot so
10 that they didn't keep adding on property. I
11 just think that when you look at the 18 acres
12 they're not good stewards of their existing
13 land and they want more and they want a lot
14 more of it. They want four more acres of land.

15 I really encourage you to relook at what
16 is an institution and what should be classified
17 as an institution when you're doing review of
18 your zoning because this is an institution. It
19 is a big, big piece of hardscape. There's very
20 little green in that picture, very little, and
21 most of it's fake. Do you want to say
22 anything? We're going to go to the next slide.

23 MS. CLARKE: Well, can I say some things?
24 I agree with what everybody said about the
25 safety issues, but the one thing that hasn't

1 been mentioned yet is that the cross country
2 team still runs up and down that area. The
3 conditioning of the basketball team and also
4 the track team. So they're okay with their
5 sports teams running up and down, because in
6 the summertime I'm up in the morning and it's
7 6:30 in the morning those boys are out running.
8 So it's right there at the beginning of rush
9 hour traffic.

10 Also, I'm going down with this letter
11 that's right here, too. And underneath here it
12 says, 7745 and 7755 both parcels are under the
13 control of the Archbishop Moeller High School.
14 I don't think the LLC is quite underneath that
15 yet, so I wanted to be clear on that.

16 MS. ENGELHART: The only piece that's
17 under the control is the back half of 7745. It
18 says --

19 MR. SCHEVE: Ma'am, I don't want to be
20 rude, but you're starting to be repetitious and
21 it's 11:30. I think there's more people that
22 want to talk. I don't want to cut you short,
23 but I think we get you don't like the plan. We
24 get why you don't like it. So is there a way
25 you can speed the process up a little bit. I'm

1 not trying to be rude. I don't want to cut you
2 short.

3 MS. CLARKE: I understand. We got one
4 shot to try to prove our side. It's like we
5 have to come here and keep -- I'm going to
6 speak for myself. I have to come here and
7 defend my life style. And I really -- I'm as
8 mad as a hornet because I have to come back
9 here time and again to say I don't really like
10 this. This is what -- I've lived there for 27
11 years. I keep up my landscaping. I keep up
12 what I do. God love -- I have to complain to
13 get the grass cut. And then I read the
14 maintenance issue that come up and their
15 responsible for maintenance. When I look on
16 the complaint thing, they have one year to
17 comply. So if I complain in July, they don't
18 have to do a darn thing until the next July.

19 So I love where I live. I love -- it has
20 nothing to do with landscaping, it's just where
21 I love. I did buy there with the offices next
22 to me. I did buy there with the parking lot
23 across the street from me. I did buy there
24 with Moeller in my back yard, but I don't
25 appreciate the bullying that I feel I have to

1 contend with every time something comes up that
2 they want to do. This is my sacred space and I
3 don't feel that they have a right to think when
4 you have it written down how many parking
5 spaces are a true recommendation to come and
6 ask for more and more and more. We have to
7 come and we have to take our time, our energy,
8 our sleepless nights, our high blood pressure
9 and come and defend my right to live in a
10 peaceful family orientated.

11 They are not part of our community when
12 you have not one, not two, but three no parking
13 signs in their parking lot do not park or we'll
14 tow you away. They have a fence all the way
15 around their ball field. They have three gates
16 that lock with a pad lock. That is not
17 inclusive. That is exclusive of a
18 neighborhood.

19 I cannot walk through their property
20 because I'm not welcomed, at least I feel when
21 there's a fence I'm not welcomed. I can walk
22 down the street. I can walk into somebody's
23 neighborhood because fences aren't there to
24 block me out. So I don't appreciate someone
25 coming and trying to force down me that I have

1 to do something. It's my sacred space. That's
2 all I can call it.

3 CHAIRMAN EICHMANN: We understand your
4 feeling. You made it very clear.

5 MS. ENGELHART: So in my mind -- the next
6 one. In my mind this is an entitlement issue.
7 I don't think they really need spaces. I think
8 there's another reason why they want spaces.
9 It could be an additional building, I don't
10 know. It's not -- parking is not an
11 entitlement. Parking is a privilege in this
12 world. Land is precious particularly in the
13 south section of Sycamore.

14 If you look at Moeller compared to all the
15 other or most of the other schools in this
16 neighborhood, Moeller with the same amount of
17 boys as Elder High School, very comparable high
18 school. Elder has 10 acres of land and four of
19 those lands are for the on site stadium. So
20 they sit on less than 7 acres with the same
21 amount of kids, actually, more by a few. The
22 average home prices around all the other
23 archdioceses schools are one fifth the value of
24 our surrounding neighborhood, and I went with a
25 half mile out on each side of Moeller, each

1 side of LaSalle, each side of Roger Bacon, all
2 the way down the list. Every archdiocese in
3 school, and by the way the ones in yellow are
4 truly private Catholic schools. All the
5 archdiocese in schools have very low housing
6 values around them. Do they go out and buy all
7 the land, yes, they could. Do they, no,
8 because they like their neighbors.

9 When you impact our neighborhood, you're
10 impacting housing prices that are very high.
11 We bought high. They're staying high. They
12 may not be accelerating but they still are
13 high. They're going to deflate our values much
14 faster than you would ever deflate anywhere
15 else in the city. And what I find funny is
16 girls schools historically are undercontributed
17 to compared to boy schools by a long shot
18 because men generally control the money in the
19 families, right, and women are underpaid all
20 those reasons. Seton was able to go out and
21 build a four-story parking garage to solve
22 their parking problems. We told Moeller last
23 time go up or go down, don't go out. Go up.
24 They said, "No, it's too expensive." Seton's a
25 small little school. Sits on less than five

1 acres of land. Has next to no kids in there,
2 but they were able to secure the funds to build
3 a four-story upwards garage to solve their
4 parking issues. I encourage Moeller to look at
5 that. Moeller said, "No, we don't want to look
6 at that."

7 Moeller has 18 acres of land. They have
8 been bad stewards of that land. Clearly
9 sports -- they have three sports arenas and two
10 football fields. Any of those could be
11 replaced with a garage. Particularly that one
12 in the back.

13 Anyway, I think we're just tired of coming
14 here when Moeller is not being creative in
15 their solutions. Parking is a privilege and we
16 should not have to pay for that privilege.
17 School buses are the safest way to get to
18 school. And if the people have made a decision
19 to go to Moeller that live outside of this area
20 where the school busing is done, then that's
21 the parent's decision to do that and they need
22 to pony up and drive their kids to school and
23 pick them up, but it is their decision. It's
24 not our penalty because somebody from Batavia
25 wants to send their kids to school here. Just

1 not our problem. Thank you for listening to
2 me. I know I'm noisy.

3 MS. CLARKE: I have one more thing.

4 Mr. Barrett put this -- this is used probably
5 the lowest intensity used possibly or practical
6 for this site and I'm going to disagree with
7 that, because they can do outdoor activities on
8 that property, which I mentioned the last time.
9 The art department can be there. Science can
10 be there. Outdoor masses can be there.
11 Meditation can be done there. And it says
12 there will be no signed no ongoing activities.
13 The no ongoing activities is driving the cars
14 in and out and it was already spoken that the
15 cars are there any where starting -- I have
16 seen cars coming there at 5:30 in the morning
17 and leaving there after 11:00 at night. And it
18 is -- I have to be honest with you, I am trying
19 to keep track of it. There is only one day
20 that a few cars came through and that was
21 July 5th of this past year. Otherwise, you
22 have cars 365 days a year. I drove over there
23 last Thanksgiving cause I thought what are all
24 the cars and there was some big fancy party
25 going on inside that back room or back building

1 that they have. And so it is not just for
2 school use. It is for extracurricular and
3 everything else.

4 MR. MILLER: Any questions, Mr. Barrett?

5 MS. CLARKE: I -- what --

6 MR. MILLER: I thought you were finished.
7 I was going to see if he had any questions.

8 MS. CLARKE: You know I can go on and on
9 and on. I really appreciate you guys being
10 here tonight and rehashing this over with us.

11 MR. BARRETT: Let me just ask a couple of
12 questions.

13 Mrs. Engelhart, you live on Shadetree,
14 right?

15 MS. ENGELHART: I live on Shadetree which
16 means I have to drive past this everyday.

17 MR. BARRETT: About quarter a mile away
18 from the site?

19 MS. ENGELHART: I drive past it multiple
20 times a day.

21 MR. BARRETT: You live to the west of the
22 proposed site, right?

23 MS. ENGELHART: Yes, I do.

24 MR. BARRETT: About a quarter a mile away?

25 MS. ENGELHART: Yeah, long enough away

1 that we still hear particularly the
2 announcements of the football team, 80
3 decimals.

4 MR. BARRETT: Now, you indicated -- how
5 long have you lived there?

6 MS. ENGELHART: I've lived there for 19
7 years.

8 MR. BARRETT: You indicated that Moeller
9 has been bad stewards of this property; is that
10 right?

11 MS. ENGELHART: I said they have been bad
12 stewards in the management of their property in
13 deciding how to use their 18 acres of land and
14 that is a statement not just done by me, it was
15 said by one of the board members last time we
16 were here as well.

17 MR. BARRETT: Can you explain why you
18 would moved near Moeller High School if you
19 thought they were bad stewards?

20 MS. ENGELHART: At the time I didn't know
21 they were bad stewards. I was a single mom. I
22 was looking for a house. I found a house that
23 I could fix up and that was in Sycamore
24 Township where I wanted my son to go to
25 Sycamore Schools.

1 MR. BARRETT: And when did you find out
2 they were bad stewards?

3 MS. ENGELHART: In how many times have we
4 been here since 2005. I bought my house in
5 2000. We've been back here at least 13 times
6 since 2005.

7 MR. BARRETT: So it wasn't until you lived
8 there for five years before you realized they
9 were bad stewards; is that right?

10 MS. ENGELHART: I don't know when we knew
11 that they were bad stewards. Anybody can look
12 at that compared to any other archdiocese
13 school and say I don't think you're effective
14 stewards of the 18 acres of land that you use.
15 The only other archdiocese school that comes
16 anywhere close is LaSalle. And the only reason
17 why they come close is because they bought
18 17 acres in 2007 of semiusable land down the
19 side of their space and did sizeable work on
20 that.

21 MR. BARRETT: Mrs. Clarke, let me ask you
22 to clarify a couple of things?

23 MS. CLARKE: Sure.

24 MR. BARRETT: So the board can see this,
25 you see this aerial photograph? See this?

1 MS. CLARKE: Yeah.

2 MR. BARRETT: And this is your property
3 right here, correct?

4 MS. CLARKE: Correct.

5 MR. BARRETT: And your house is up here,
6 correct?

7 MS. CLARKE: Correct.

8 MR. BARRETT: And right in this area here
9 is your detached garage?

10 MS. CLARKE: Correct.

11 MR. BARRETT: And all along east of your
12 property line there's office parking, correct?

13 MS. CLARKE: Correct.

14 MR. BARRETT: And there's no real buffer
15 there, correct?

16 MS. CLARKE: There's trees and bushes and
17 weeds.

18 MR. BARRETT: How does that parking all
19 along your east property line affect you?

20 MS. CLARKE: It doesn't affect me. And
21 the reason it doesn't affect me so that you
22 know is that they are businesses. This is an
23 attorney. This is -- they manage property and
24 this is an attorney. They're grownups that
25 don't honk their horn.

1 MR. BARRETT: So these businesses which
2 are all zoned --

3 MS. CLARKE: And they're all there Monday
4 through Friday, 8:00 in the morning till maybe
5 5:00 or 6:00 in the evening. No one is there
6 in the evening after 6:00.

7 MR. BARRETT: Just so we're clear then --

8 MS. CLARKE: Yes.

9 MR. BARRETT: -- these businesses don't
10 bother you at all?

11 MS. CLARKE: No.

12 MR. BARRETT: And their parking right
13 along your east property line, doesn't bother
14 you at all?

15 MS. CLARKE: No.

16 MR. BARRETT: And you understand that when
17 I was referring to a strip of land I was
18 referring to this property east of this red
19 line and west of the offices, correct? You
20 understand that's what I meant?

21 MS. CLARKE: No, I didn't understand what
22 you meant, because on your thing what you wrote
23 was that this property abutted up next to this.
24 And when I say --

25 MR. BARRETT: I did not write that.

1 MS. CLARKE: Well, let me see what you did
2 write here if you don't mind, we'll just get it
3 exactly how you wrote it so we're all on the
4 same page here. "The subject property is to
5 the west of the offices fronting on Montgomery
6 Road. It's south of the residents fronting on
7 the south side of Kennedy Lane and is east of
8 the residents along Kennedy Cove."

9 MR. BARRETT: That's correct.

10 MS. CLARKE: It is not correct.

11 MR. BARRETT: It is correct.

12 MS. CLARKE: It is not abutting up to the
13 offices.

14 MR. BARRETT: Read it slowly.

15 MS. CLARKE: "The subject property is to
16 the west of the offices fronting on Montgomery
17 Road."

18 MR. BARRETT: Isn't correct it is to the
19 west?

20 MS. CLARKE: You want to know something
21 semantics -- yes, you're absolutely correct. I
22 will say that, but you know something you know
23 how that makes me feel, it makes me feel
24 invisible. That my property, that my home, and
25 that I don't exist and I don't appreciate it.

1 MR. BARRETT: Let me ask you one last
2 question. Are you the Margee Clarke that
3 Mr. Peter Kimener was talking about?

4 MS. CLARKE: I am.

5 MR. BARRETT: Thank you. That's all I
6 have.

7 MS. CLARKE: So now that he brought that
8 up, I will bring that up. I did get in a
9 conversation in 2009. I had a contract with
10 them to finally sell in 2009 to 2013. I chose
11 the closing date which was 3/13/13. I just
12 thought it sounded kind of cool, so that would
13 be a good closing date. The reason why I
14 didn't close is because they contacted me and
15 didn't turn in some of their paperwork. That
16 was the final reason why not. So I had been
17 working with them for all of these years.

18 I had all of my furniture in two pods
19 outside of my driveway, they forgot to tell you
20 that. I had all intentions of moving, but then
21 I got a sign not to go. I had no idea. I
22 wasn't paying any attention to the calendar. I
23 didn't know the contract was null and void
24 because it was after the 13th, but I didn't
25 sell. And you know what, I now have a gorgeous

1 pool in my back yard, thank you guys for. And
2 I hunkered on in, hunkered on in, and I wanted
3 to continue to be my space for my girls to come
4 back that they can continue they can grow up
5 there. And I'm sorry -- you know --

6 MR. MILLER: We're getting off the
7 subject. It's late. There's other people that
8 would like to speak.

9 MS. CLARKE: I need some coffee.

10 MR. MILLER: Margee, go sit down.

11 MS. ENGELHART: Are you finished with me,
12 too, Mr. Barrett?

13 UNIDENTIFIED SPEAKER: I had a question
14 for Margee. Margee, you said that the
15 property -- the properties next to you, you
16 said you had no problems with them. I remember
17 some light issue you had. You've had issues
18 with them; haven't you?

19 MS. CLARKE: Yes.

20 UNIDENTIFIED SPEAKER: You've had
21 landscape issues? You've had light issues?

22 MS. CLARKE: Those are -- you're right,
23 you're right, they are. But you want to know
24 something, I handle them. I talk to Harry
25 about it. I go over, I introduce myself to

1 people. I tell people -- I am who I am and I
2 speak the truth and I speak with integrity,
3 which I don't feel -- but if I got an issue, I
4 face it head on with people that I have it
5 with. So if I had an issue with lighting --

6 CHAIRMAN EICHMANN: Thank you.

7 MS. GLASSMEYER: I think this man was --
8 he was supposed to go before she did.

9 CHAIRMAN EICHMANN: That's right. We had
10 already crossed over there.

11 MR. MILLER: How long do you intend to go
12 tonight?

13 CHAIRMAN EICHMANN: I didn't intend to go
14 this long, but I thought we were going to move
15 along.

16 MR. MILLER: Well, I mean, I can literally
17 see being here a couple more hours and I don't
18 think anybody wants to do that.

19 MR. SCHEVE: How many more people are
20 going to speak?

21 CHAIRMAN EICHMANN: Then we'll continue
22 it. Then we'll continue it.

23 UNIDENTIFIED SPEAKER: Can't we limit the
24 amount of time per person?

25 UNIDENTIFIED SPEAKER: What about the

1 residents?

2 MR. MILLER: Let's continue.

3 UNIDENTIFIED SPEAKER: That's not fair to
4 let Margee talk and not let the residents talk.

5 UNIDENTIFIED SPEAKER: They went an hour.

6 UNIDENTIFIED SPEAKER: There should be
7 some protocol to running a meeting, you know.

8 MR. SCHEVE: We didn't limit a time before
9 so we can hardly start limiting it now. It
10 wouldn't be fair to the people that have
11 already spoken.

12 CHAIRMAN EICHMANN: So we'll continue it
13 to the next meeting. That's the protocol if
14 you want to call that to order if that's what
15 you're suggesting when we didn't think we were
16 going to take as long as we took here.

17 UNIDENTIFIED SPEAKER: Then put us back in
18 the same speaking order.

19 CHAIRMAN EICHMANN: We'll do our best.

20 MR. SCHEVE: You put yourself in the same
21 seating order.

22 MR. MILLER: Well, and that's the point
23 because of the rules of what happens if this
24 matter ends up in court, we have a problem if
25 we've not allowed everybody to say what they

1 want to say. So we've got -- it's up to you
2 guys to determine how much do you need to say
3 that hasn't been said before. We're not going
4 to limit you. So you can do that accordingly,
5 but there's probably 20 more people that raised
6 their hand that want to talk and I hate to not
7 get this done tonight.

8 MR. SCHEVE: When are we going to continue
9 it to? I don't want to come back in a month
10 from now because I won't remember what was said
11 a month from now.

12 MR. MILLER: That's up to the board if you
13 want --

14 UNIDENTIFIED SPEAKER: I just have one
15 thing, some people from the neighborhood even
16 have an attorney here and they're paying for an
17 attorney to be there. I would think they
18 should be able to speak tonight.

19 UNIDENTIFIED SPEAKER: It's not up to you.

20 UNIDENTIFIED SPEAKER: That was their
21 choice.

22 UNIDENTIFIED SPEAKER: That's why we have
23 people up there to make these decisions like
24 that.

25 MR. SCHEVE: I'm sort of inclined to

1 agree. They shouldn't be forced to pay an
2 attorney twice. Who's the attorneys?

3 UNIDENTIFIED SPEAKER: I would prefer to
4 come back, because honestly right now I'm
5 tired. You're tired. We're all tired. I
6 wouldn't trust any decisions that we were
7 making. I don't trust myself to be able speak
8 as eloquently as I could ordinarily. Maybe I'm
9 the oldest one in the room and I'm the only one
10 who's getting tired, but I really it's time to
11 go home and continue this in the future. I
12 know that people want to have a decision made,
13 but I just don't think we can do it tonight.

14 MR. SCHEVE: Mr. Barrett, when would be a
15 good time for you to come back?

16 MR. BARRETT: I'll accommodate your
17 schedule as long as I don't have a conflict.

18 MR. SCHEVE: I know we can't do it Tuesday
19 because you and I are in court on Wednesday.
20 I'd like to do it as soon as possible.

21 CHAIRMAN EICHMANN: We can't just
22 establish a willy-nilly date, we have to
23 announce, right. We have to announce it. We
24 have to give public notice. These people have
25 to schedule.

1 MR. MILLER: I'm out of town the first
2 week of September. You're looking probably
3 close to your next BZA meeting anyway.

4 CHAIRMAN EICHMANN: We haven't established
5 our resolution date even for the first case we
6 have.

7 MR. SCHEVE: We got to meet within the 21
8 days on the first case. Why don't we set this
9 for that time?

10 CHAIRMAN EICHMANN: That's what I'm
11 guessing according to the township.

12 MR. SCHEVE: We got to rule on the first
13 case within 21 days. Why don't we set this
14 case for the same time?

15 MR. SCHOLTZ: That would be while you're
16 gone.

17 MR. MILLER: I can have somebody else
18 here.

19 MR. SCHEVE: Well, is it critical that
20 you're here?

21 UNIDENTIFIED SPEAKER: Yes.

22 MR. MILLER: Thank you for that vote of
23 confidence. I mean, I probably should be with
24 everything that's going on.

25 MR. SCHEVE: When is your mediation on the

1 other case?

2 MR. MILLER: 29th.

3 MR. SCHEVE: 29th of August?

4 MR. MILLER: Yes.

5 MR. SCHEVE: It might make sense to wait
6 till after that time anyway.

7 MR. MILLER: It would make sense to wait
8 until after that, but as far as your other time
9 frame, you're going to be off because I'm not
10 here the week of September 2nd.

11 MR. BARRETT: I am available next week if
12 you want to do it next week.

13 CHAIRMAN EICHMANN: Our next meeting is
14 going to be September 16th, but we'll have a
15 special meeting in between.

16 MR. SCHEVE: If we continue the meeting,
17 we have to notify people by publication or just
18 the people that are here?

19 MR. HOLBERT: We will just do it all over
20 again.

21 MR. MILLER: Actually, I think if you
22 continue it, I think you only have to -- you've
23 already noticed the hearing. If they're not
24 here to find out that it's continued, I don't
25 think that's an issue for us. Although I would

1 make every attempt. I would send out another
2 notice, but I don't think your stuck on the
3 10-day notice --

4 MR. SCHEVE: So we could do it next week
5 then.

6 MR. MILLER: -- that the code requires.

7 MR. SCHEVE: So we could do next week.

8 MR. MILLER: I think you could.

9 UNIDENTIFIED SPEAKER: I'm not here,
10 because I already had to move a business trip.

11 MR. MILLER: Well, Kathy, she really needs
12 to be here. She's actually part of the
13 litigation of the first case.

14 MR. SCHEVE: You represent the intervener
15 in the first case?

16 MR. MILLER: She is the intervener. If
17 you have to do your 21 days, that's the 9th and
18 I can't do it on the 9th. So I would do that
19 and then set it for -- you have anything else
20 coming up, Harry, on the 16th?

21 MR. HOLBERT: September or August?

22 MR. MILLER: September.

23 MR. HOLBERT: We got BZA 6:30. That's all
24 I got.

25 MR. MILLER: Do you have any cases on that

1 docket?

2 MR. HOLBERT: Yeah, we've got either two
3 or three already on the schedule.

4 CHAIRMAN EICHMANN: Yeah, it doesn't sound
5 like we're going to be able to do it in
6 between, does it? So all we can do is continue
7 it to the next meeting and those three will
8 have to be informed it will be after we
9 complete this case because that's always the
10 rule, right? We handle this case that's
11 continued first because it's considered old
12 business versus new business, right?

13 MR. HOLBERT: Doug, are you going to be
14 able to do the 16th?

15 CHAIRMAN EICHMANN: September 16th.

16 MR. HOLBERT: I really don't want to
17 switch legal in the middle of this. I'd rather
18 you be here at all of them if possible.

19 MR. MILLER: Well, I mean, I can read the
20 transcript, but it's still not the same.

21 MR. HOLBERT: Yeah, it's not the same.

22 MR. MILLER: I'm okay on the 16th.

23 CHAIRMAN EICHMANN: At least we all have
24 our schedules for that. You could be losing
25 some of us if we pick another date.

1 MR. HOLBERT: Other than the 16th?

2 CHAIRMAN EICHMANN: Right. That's already
3 scheduled. We'll have to agree on the 21-day
4 hearing to get here for the resolution.

5 MR. HOLBERT: Doug, can we if the
6 applicant asks to go outside of that 21 days;
7 can we do that?

8 MR. MILLER: I would not risk it, not if
9 there's a possibility of an appeal.

10 MR. HOLBERT: Well, then we got it on the
11 agenda for the 16th.

12 CHAIRMAN EICHMANN: So in that case we'll
13 continue this until Monday, September 16th.
14 Will be starting once again at 6:30 and this
15 will be the first item of old business, I
16 believe, let's see, other than the resolution.
17 No, the resolution will be passed. So this
18 will be the first item.

19 MR. SCHEVE: So then do we have a special
20 meeting before that to deal with the first
21 case?

22 CHAIRMAN EICHMANN: Right.

23 MR. MILLER: You need to have a motion and
24 a vote on that --

25 CHAIRMAN EICHMANN: Do I hear --

1 MR. MILLER: -- to continue this in
2 progress.

3 CHAIRMAN EICHMANN: Based on that input.

4 MR. SCHEVE: And I'll move given the time
5 which is almost midnight and I think there were
6 eight or nine people indicate they still want
7 to speak that we continue the case in progress
8 until September 16th.

9 MR. SCHOLTZ: I'll second.

10 CHAIRMAN EICHMANN: Mr. Secretary.

11 MR. SCHOLTZ: Mr. Scheve?

12 MR. SCHEVE: Yes.

13 MR. SCHOLTZ: Mr. Leugers.

14 MR. LEUGERS: Yes.

15 MR. SCHOLTZ: Mr. Eichmann?

16 CHAIRMAN EICHMANN: Yes.

17 MR. SCHOLTZ: Mr. Heidel?

18 MR. HEIDEL: Yes.

19 MR. SCHOLTZ: Mr. Scholtz; yes.

20 CHAIRMAN EICHMANN: Thank you very much.

21 So as I said the date of the next meeting is
22 Monday, September 16, 2019. And we'll continue
23 this.

24 (PROCEEDINGS CONCLUDED.)

25

