

1 SYCAMORE TOWNSHIP BOARD OF ZONING APPEALS

2 TOWNSHIP ADMINISTRATION BUILDING

3 8540 Kenwood Road

4 Monday, September 16, 2019

5 6:30 p.m.

6

7 BOARD MEMBERS

8 Jim Eichmann, Chairman

9 Tom Scheve

10 Ted Leugers

11 Jeff Heidel

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1 (A sworn oath was administered.)

2 CHAIRMAN EICHMANN: And so this case
3 SYCB190010 is continued from 8/19 is that of
4 Archbishop Moeller High School and the Kennedy
5 Lane addresses for a conditional use. And as I
6 recall we had heard from many of the area
7 residents as well as from Moeller High School
8 and there was someone sitting -- seated in the
9 chair that I don't see here right now that was
10 ready to testify, so I guess that person is no
11 longer going to testify. So I'll ask for show
12 of hands who has yet to or want to say
13 something tonight.

14 MR. SCHEVE: I know there were a couple of
15 attorneys. I don't know if we should give them
16 preferential treatment but maybe if they're
17 expressing a view on behalf of more than one
18 person might save some time that way.

19 MS. MYERS: Actually, I have an initial
20 procedural matter if we can address that first?

21 CHAIRMAN EICHMANN: Very good. Come
22 forward if you don't mind and state your name
23 and address and what your concerns are.

24 MS. MYERS: Thank you, gentlemen. My
25 name's Kristen Myers. I'm with the law firm of

1 Beckman Weil Shepardson and I'm here on behalf
2 of Cathy Willis who is a resident of 7741, so
3 exactly next to the parcels that we're speaking
4 about. And I'll go into more detail --

5 CHAIRMAN EICHMANN: 7741?

6 MS. MYERS: Kennedy Lane, I'm sorry.

7 CHAIRMAN EICHMANN: Kennedy Lane.

8 MS. MYERS: Yes. Yes. My office address
9 is 895 Central Avenue, Suite 300, Cincinnati,
10 Ohio 45202.

11 The initial matter that I wanted to bring
12 to your attention was that I understand that
13 typically notice is given to residents or
14 property owners within 200 feet of a parcel
15 that's here before you. I understand that
16 notice was given for the August 18th matter and
17 that verbally this date was communicated at the
18 last hearing, but no written notice was given
19 for this date today. And, in fact, the
20 township's website until this afternoon had an
21 incorrect date on it. It said that this matter
22 was set for September 19th instead of
23 September 16th. So we simply wanted to raise
24 that issue that there was a problem with the
25 notice and just wanted to preserve that issue

1 in the event that there is an appeal in this
2 matter.

3 MR. SCHEVE: What do you suggest we do
4 about it in the meantime, anything?

5 MS. MYERS: I think everyone's here
6 tonight and so I think it's appropriate to go
7 forward. I spoke with Doug Miller this
8 afternoon and we talked about the possibility
9 of having another evening where people can come
10 and speak if they weren't aware of tonight or
11 it sounds like there's the possibility that we
12 may be there anyway. But we simply didn't want
13 to have a situation where somebody who had
14 otherwise been here wasn't here because of the
15 notice issue.

16 MR. SCHEVE: What does Mr. Barrett think?

17 MR. BARRETT: For the record, C. Francis
18 Barrett, attorney for Archbishop Moeller High
19 School. This hearing is a continuation of the
20 prior hearing, and therefore, I don't believe
21 notice is required of this hearing. Anyone who
22 was ready to testify at the last hearing in
23 August would have known that tonight was the
24 night, so this should not be a problem. Thank
25 you.

1 MR. SCHEVE: Yeah, I think that's right.
2 We told people to preserve this if there's an
3 appeal.

4 MS. MYERS: If there's an appeal. Yes,
5 thank you.

6 CHAIRMAN EICHMANN: Thank you. Back to
7 those who wanted to continue speaking. I think
8 the lady in the second row is the first one
9 that raised her hand. Thank you. And you were
10 sworn in --

11 MS. HRICOVSKY: Yes.

12 CHAIRMAN EICHMANN: -- just this moment I
13 appreciate that. Just identify your name and
14 address and state your interest.

15 MS. HRICOVSKY: My name is Marla
16 Hricovsky. I live at 8052 Silkyrider Court,
17 Cincinnati, Ohio 45249, Sycamore Township.

18 I'm here on behalf of Moeller. I am the
19 mother of a son who's a senior. Proud mom of a
20 senior. I was here at the last meeting and
21 didn't get a chance to talk so I appreciate the
22 opportunity. I think it's really important for
23 everyone to hear from a parent of a current
24 student there to hear and see what I have
25 observed over the years and my concerns with

1 this.

2 My son, like I said, is a senior. He
3 still walks to school. There's not enough
4 parking spots so he shares a spot with a friend
5 of his. Nothing wrong with walking to school.
6 There is something wrong with the danger of the
7 route that they take to get to Moeller and the
8 need, the desperate need for more parking on
9 campus.

10 As a mother when he was a freshman, I
11 drove him and so did my husband because
12 obviously he couldn't drive yet. And I can
13 remember going down Montgomery Road early in
14 the morning 7:00 a.m. and thinking, my, God,
15 these boys walking to class, you know, and you
16 can hardly see them and the cars are zooming
17 by. I thought, God, that's really dangerous.
18 Some day my son will be doing that most likely.

19 So fast forward to last year, he's a
20 junior and you know how boys are, they don't
21 say a whole lot, right. Well, so he came home
22 from school one day and I got home from work
23 and he says, "Mom, I almost died today." And I
24 said, "What?" I thought he was just joking.
25 He said, "No, mom. I really almost died." And

1 I said, "What happened?" He said, "Well, I was
2 walking along Montgomery Road early in the
3 morning and I was crossing, you know where
4 Awakenings is." Not only is Montgomery Road
5 extremely busy with tons of traffic especially
6 in morning commuters because they're getting
7 onto Ronald Reagan, but there's all those
8 businesses along the way that I think we forget
9 about and one of them is a really nice coffee
10 shop. And people are zooming in. They turn
11 in. They're not even looking. So my son said
12 he looked and he's crossing the driveway where
13 Awakenings is and he said, "Mom, within two
14 inches a car came to my abdomen." He said, "If
15 that car hadn't put on the brakes and seen me
16 at the very last minute, I'd been dead or
17 seriously injured."

18 And I have a problem with that and there
19 was a gentleman that was here I think back in a
20 month ago that said that he checked with
21 Montgomery Police and that there were no recent
22 reportings of injuries or fatalities. Is that
23 what it takes you all? It takes somebody being
24 I think the word was maimed or injured before
25 we realize that we have a safety concern here.

1 That makes me sick, physically sick, to think
2 that we could do something to make these young
3 men safer. And if there is a piece of land
4 that is conditional use that if Moeller is
5 trying to make it as nice as humanly possible
6 and respecting, excuse me, respecting the fact
7 that, yes, there are homeowners there. They
8 don't want a parking lot. Put yourself in
9 someone else's shoes.

10 I went home and my husband and I talk
11 about this, we have since my son was a
12 freshman. Yes, if I was a homeowner and lived
13 next door to Moeller, obviously I would prefer
14 not to have a parking lot built, obviously.
15 But that school has been there since the 60s.
16 It's been there. So if there is a piece of
17 land that we can do in a respectful manner and
18 I listened to the architect here and the
19 landscaper, as lovely of a fence that can be
20 built with trees and bushes and sound barriers
21 and low lighting and not to have it distracting
22 to the homeowners.

23 What if it was their son that drove from a
24 far distance, parked in public in Montgomery
25 and walked and almost got hit by a car. And

1 they said, don't really want to have that
2 parking lot there. Again, I understand that,
3 but when do we come to safety first. When do
4 we care about our citizens? When do we care
5 about them may be a little bit? We have been
6 wanting this to pass for a long time, a long
7 time. We have tried. Moeller has tried. It
8 gets turned down every time. When is too late.
9 Finally when that person is maimed or killed or
10 injured.

11 I think it was just a few weeks ago there
12 was a Western Hills High School student who was
13 injured on Glenway Avenue and the year before
14 was killed on Glenway Avenue. God forbid that
15 would happen to one of our students. What if
16 it was your son or your grandson.

17 My son's a senior. You think about how
18 much I care. He's going to be graduating. I'm
19 doing this for the future. I'm looking ahead
20 for someone else's son who's a freshman, a
21 sophomore, a junior, a senior. This is
22 important. If we don't start making things
23 like this important then what is. If you don't
24 put safety first, then what really is
25 important. I don't understand that. I really

1 don't.

2 I think Moeller is trying to do everything
3 they can. We have crossing guards. We have
4 police officers at the end of the day. Mr.
5 Beitman does a phenomenal job patrolling the
6 parking lot. I know that he would continue to
7 do that, but Montgomery Road is a highly
8 trafficked area. It's not what it was in the
9 60s, the 70s, the 80s or the 90s. Traffic has
10 increased and distracted driving has increased,
11 think about it. Cell phones, texting, people
12 aren't paying attention. That's a major
13 intersection where Ronald Reagan. And you
14 can't put police every couple of feet stopping
15 with crosswalks. Could you imagine what chaos
16 that would be, the people would have a fit.
17 They would have a fit. They couldn't get to
18 work.

19 I think the logical thing is if there is a
20 piece of land that we can do in a respectful
21 way and build a lot and get our boys, again, I
22 know that it won't fit everybody, but it will
23 certainly help and it's worth doing. It's
24 worth it. It's worth it now and it's worth it
25 in the long run.

1 I think about what my son said, "What if,
2 what if." What if one of these times that does
3 happen and somebody is hit and we all were here
4 and it's turned down again. How awful that
5 would be. Let's not take that chance. Let's
6 have an opportunity.

7 So I ask you please to consider this.
8 Another comment a gentleman made was over the
9 doorway to Moeller it says, "In through these
10 doors walk the men of Moeller." And I believe
11 the gentleman said, "Well, if they're men, they
12 should be able to get to school safely." My
13 son started as a 14-years-old boy. He's still
14 forming. It's the job of Moeller and their
15 parents to develop these young boys into men,
16 but you know the mind is not fully developed
17 until the age of 25. So I have a hard time
18 saying that if they're men they should be safe
19 and get to school okay. They're still young
20 men that are forming. Thank you for your
21 time.

22 CHAIRMAN EICHMANN: Any questions?

23 MR. MILLER: I have a question, ma'am.
24 When did this happen with your son?

25 MS. HRICOVSKY: It was his junior year

1 last year in the winter. I think it was like
2 in the month of February.

3 MR. MILLER: Does he still walk down
4 Montgomery Road?

5 MS. HRICOVSKY: He does.

6 MR. MILLER: If you feel this is so
7 unsafe, why do you let him do that?

8 MS. HRICOVSKY: How is he supposed to get
9 to school? I work. His dad works.

10 MR. MILLER: How did he get there when he
11 was a freshman?

12 MS. HRICOVSKY: We dropped him off, but we
13 now have different jobs and we both -- he can
14 drive. So if you want no 16 years old to drive
15 and you want all their parents; you know what I
16 mean, that's not realty either. A 16 years old
17 he also works and needs a car.

18 MR. MILLER: You're concerned about the
19 safety of Montgomery Road.

20 MS. HRICOVSKY: Well, now he's really
21 careful. He's extra careful. Because when you
22 almost get hit by a car, it kind of scares you
23 even as a proud, tough guy. When you're almost
24 hit by a car, he's extra careful now. And
25 sadly the law's changed so they can't all jump

1 in one car. We talked about that at the last
2 meeting because that would be another good
3 argument. Well, why don't they all just get in
4 a car and take turns driving everybody. The
5 rule is one extra beside yourself under the age
6 of 18. So my son is 17. So, yeah, he can't
7 just jump in a car with a bunch of people. And
8 they're all by the way on different schedules.
9 You know, if you think about they all have
10 different sports. A lot of these boys work.
11 They have sports that they play. So everybody
12 is on different schedules. Their parents are
13 on different schedules. So it would be
14 unrealistic to think that 16 years old aren't
15 going to also drive to school once they have a
16 license if they're able to and have jobs.

17 MR. MILLER: If there's room.

18 MS. HRICOVSKY: Yeah, if there's room.
19 But if we can make room for a parking lot,
20 shouldn't we think about that? Shouldn't we?

21 CHAIRMAN EICHMANN: Any other questions?
22 Thank you, ma'am.

23 MS. HRICOVSKY: Thank you.

24 CHAIRMAN EICHMANN: Continuing on in that
25 second row. Anybody else? We swore you in, I

1 believe?

2 MR. WILLIAMS: Yes, you did.

3 CHAIRMAN EICHMANN: Thank you. State your
4 name and address.

5 MR. WILLIAMS: Greg Williams, 7714 Kennedy
6 Lane. I have various comments to make on a few
7 topics here. I've lived there for five years.
8 When I first moved in, being that I had dogs I
9 needed to put up a fence. So the first thing I
10 did was I walked the entire neighborhood to see
11 what would fit in with the neighborhood and I
12 ended up getting a 4-foot aluminum rail fence.
13 Moeller wanting to put up the great wall of
14 China around an eye sore of a parking lot,
15 doesn't fit in with the neighborhood at all.
16 And so -- and as the esquire would ask, I live
17 across the street and about 125 feet up from
18 the proposed parking lot.

19 Our neighborhood he says -- he maybe say
20 that it's not going to affect anybody. It's
21 going to have sound barriers, the lights are
22 going to be low. But if you noticed our
23 neighborhood there's one way in, one way out.
24 It's all past that parking lot. And our
25 neighborhood, if you actually walked it,

1 starting at Montgomery Road, outlined it, came
2 all the way back, is two miles of housing. So
3 we're all neighborhood together. And once more
4 besides driving past and having to look at the
5 parking lot, we just had a new sidewalk put in
6 because there's a lot of people that like to
7 walk Montgomery, they walk for exercise, walk
8 their pets, that they'll be walking past this
9 everyday. Once again, it doesn't fit in with
10 the neighborhood.

11 I'm kind of curious does the board have an
12 arborist that reviews their landscape plans?

13 MR. SCHEVE: We have Mr. Holbert who is in
14 charge of everything. I'm not sure he's a
15 certified arborist.

16 MR. HOLBERT: I'm not.

17 MR. SCHEVE: But he's experienced in
18 landscaping.

19 MR. WILLIAMS: I do not have a certificate
20 in landscape design, but I went to a different
21 school myself, the school of life. I can
22 comment on a few of these things. They want to
23 border some Red Bud Trees on the property on
24 the two neighboring properties there. While
25 the Red Bud Trees are quite beautiful in the

1 spring, come fall they're a real pain in the
2 you know what because they drop seed pods all
3 over the place. And these little seed pods are
4 quite adept at sprouting little Red Bud Trees
5 all over the place. So pretty much if I didn't
6 like a neighbor, I'd put one of the Red Bud
7 Trees on their property because then as they
8 get established they're a real nuisance for the
9 pods they drop and the trees they keep
10 endlessly sprouting. How do I know, I got 15
11 Red Bud Trees in my yard.

12 The Gingko Trees. They said they were
13 going to put two Gingko Trees on their
14 landscape design. One right in the middle of
15 the parking lot and one on the edge of their
16 property. Well, last time they said it was
17 nice because those trees were drought tolerant.
18 They didn't tell you things like come fall
19 unlike a Maple or Oak leaf where the leaves dry
20 up and the kind you hope blow in the neighbor's
21 yard that you don't have to clean up. The
22 Gingko leaves when they fall off the tree, they
23 still have moisture in the leaves. They're
24 still soft and pliable. It's a heavy leaf. So
25 when the leaves fall, it falls straight down.

1 Pretty much if the wind blows it they fall 8 or
2 10 feet away. But firstly they fall straight
3 down. They also didn't tell you that the
4 Gingko leaves that they all fall off the tree
5 within a three -- or four-day period. So they
6 all come down at once, it literally rains
7 leaves off the tree. So in the middle of the
8 parking lot as I know, the Gingko leaves are
9 slick by the fact that they got moisture in the
10 leaves. By the fact that they're heavy.
11 They're difficult to rake. They're difficult
12 to leaf blow. They're difficult to vacuum up
13 because they've turned mush in the propeller
14 and a kitchen sized trash bag is almost
15 impossible to pick up they're that heavy. And
16 how do I know this, the last house I lived in
17 the neighborhood -- my neighbor had a Gingko
18 Tree on my property, being a widow, I cleaned
19 up after that tree for 20 years.

20 Arborvitaes. Once again, I've owned dogs
21 for 25 years and walked them year around.
22 Arborvitaes with a good ice storm or good heavy
23 snow fall has the tendency to break main --
24 those kind of trees. So they're conceptual
25 cartoon drawing that they got of what it's

1 going to look like has nothing to do with
2 reality because as I recall, there's about 50
3 Arborvitaes that they're going to put up there.
4 You remove that canopy, they're all going to be
5 exposed to the weather. They're all not going
6 to turn out nice, neat, and pretty.

7 Next point. I went to a private school
8 when I went to high school -- it maybe back in
9 the stone age, but I still went to high school.
10 The students driving to school is a privilege
11 not a right. School I went to is known as a
12 senior privilege. Only seniors were allowed to
13 drive. And the parents went ahead and they
14 took up and they formed carpools. They talked
15 to each other and made sure that the kids got
16 to school. The ones that could take them
17 during the week did. The ones that worked
18 picked up on after school activities or on the
19 weekends when there was activities but the
20 parents made it work. So I don't know why
21 Moeller has a parking lot policy that the
22 parking lot can't support. I just don't
23 understand that. Why you have or allowing more
24 drivers than you have spaces to park in.

25 Last one's not going to be popular. But

1 when an adolescence as esquire likes to call
2 them, let's say for example, comes to the
3 parents and goes, hey, there's a party
4 Saturday, can I go? And the parents go, what
5 time are you going, what time are you coming
6 back? Who's going to be there? Is there going
7 to be adult supervision? A parent does their
8 due diligence before they give the child an
9 answer. I can't help think that when child
10 comes and asks, can I drive to school, that the
11 parents do the same due diligence. And then as
12 they're talking about the ones that are parked
13 in Montgomery and walk, I can't think that
14 after the parents do this due diligence that
15 they can't come to the conclusion that safety
16 is at an acceptable level, because if they
17 didn't believe that then you'd be willfully
18 putting your child in harm's way.

19 The last comment I made I noticed that
20 building a wall that size requires a variance.
21 I don't know how you guys do with conditional
22 use with a variance. Is it voted on at the
23 same time?

24 CHAIRMAN EICHMANN: You're asking the
25 question?

1 MR. WILLIAMS: Yes.

2 CHAIRMAN EICHMANN: Yes. The answer is
3 yes.

4 MR. WILLIAMS: That's all I have to say.

5 CHAIRMAN EICHMANN: Thank you.

6 MR. WILLIAMS: Any questions.

7 CHAIRMAN EICHMANN: Any questions for him?

8 MR. BARRETT: I have a couple of
9 questions. You understand that the reason
10 there's a variance requested is because the
11 school is proposing an 8-foot high fence as
12 opposed to a 6 foot?

13 MR. WILLIAMS: Yes, because most
14 residential properties have a 6-foot limit.

15 MR. BARRETT: And you know the reason it's
16 8 feet rather than 6 feet is not to accommodate
17 the school, but the school is doing that to
18 accommodate the neighbors?

19 MR. WILLIAMS: Well, yes, you're trying to
20 hide the parking lot because the neighbors
21 don't want it there. Why not a 10-foot wall?
22 Why not a 12-foot wall? You're trying to hide
23 it.

24 MR. BARRETT: And you indicate that you
25 lived at 7714 Kennedy Lane, which I understand

1 is on the north side of Kennedy Lane?

2 MR. WILLIAMS: Yes.

3 MR. BARRETT: And you're actually west of
4 the subject property?

5 MR. WILLIAMS: Yes. Doesn't mean I can't
6 see it.

7 MR. BARRETT: And you understand that
8 there are two houses right now on the subject
9 property 7745 and 7755?

10 MR. WILLIAMS: Yes.

11 MR. BARRETT: And those two houses will
12 remain?

13 MR. WILLIAMS: Yes.

14 MR. BARRETT: And the parking will be to
15 the rear of those two houses?

16 MR. WILLIAMS: Yes. And I can see right
17 down through Kennedy Cove.

18 MR. BARRETT: And you indicated that there
19 are -- actually, Kennedy Lane is the only
20 access point to Montgomery Road to all the
21 houses west of you, all those streets?

22 MR. WILLIAMS: That is correct.

23 MR. BARRETT: And there are dozens and
24 dozens of cars that go past your house
25 everyday?

1 MR. WILLIAMS: Yes.

2 MR. BARRETT: That doesn't bother you at
3 all?

4 MR. WILLIAMS: No, it's called being
5 neighbors. We all wave to each other. We all
6 pretty much know each other.

7 MR. BARRETT: That includes deliveries,
8 too, correct? Any deliveries?

9 MR. WILLIAMS: When I'm walking my dogs, I
10 wave at the delivery drivers.

11 MR. BARRETT: And you indicated you had
12 some issues with the Red Bud Trees, correct?

13 MR. WILLIAMS: Yes.

14 MR. BARRETT: You have 15 of those in your
15 yard?

16 MR. WILLIAMS: That's correct.

17 MR. BARRETT: Is that acceptable to you?

18 MR. WILLIAMS: No, but my wife loves them,
19 so I got to deal with them.

20 MR. BARRETT: And you also mentioned the
21 Gingko Trees and the Arborvitae, correct?

22 MR. WILLIAMS: Yes.

23 MR. BARRETT: Do you have different
24 landscaping that you would prefer to those type
25 of plantings?

1 MR. WILLIAMS: As I said, I can only
2 testify to what I know about that's why I asked
3 the board had someone that actually reviews
4 these things. But to me, those wouldn't be
5 something the Gingko Trees in a parking lot is
6 absolutely ridiculous because the leaves will
7 all fall once and they're slick. Even if you
8 get the parking lot putting it in, having a
9 teenage driver driving over those is absolutely
10 insane.

11 MR. BARRETT: And I understand you don't
12 have a recommendation for an alternative type
13 of planting; is that right?

14 MR. WILLIAMS: No, I don't. As I said, I
15 can testify to what I know about.

16 MR. BARRETT: Thank you.

17 CHAIRMAN EICHMANN: Thank you, sir.
18 Continuing on in that second row back there.
19 Anyone?

20 MRS. COYLE: We have not been sworn in.
21 We were second row last time until midnight.

22 (A sworn oath was administered.)

23 MRS. COYLE: My name is Barb Coyle. My
24 husband Dave Coyle and we do not have a dog in
25 this fight. Our son graduated from Moeller two

1 years ago. Our main concern is all of those
2 other boys safety and that should be everyone's
3 as well. Not what it looks like. Not what
4 Moeller's planning to do in the future, because
5 we are not, but they're safety is key. Our son
6 as a senior two years ago had to park in public
7 because there weren't enough parking spaces.
8 And to say that, well, the mom's get to go
9 there and drive them, because everybody's
10 working these days. It's different now then it
11 was then and Moeller built in the 60s long
12 before the houses. They knew there was a
13 school there when they bought their house.

14 My main concern obviously is the path from
15 public in Montgomery, down Montgomery Road,
16 across Ronald Reagan, and, yes, I know there's
17 going to be a new interchange, it's going to be
18 so much fun. But I can tell you that in the
19 dark mornings when I would drive him to school,
20 the cars coming off of Cross County eastbound
21 to go to southbound Montgomery, don't even
22 look. They don't. They just keep going like
23 it's an expressway. There's no light there.
24 There's nothing. There's one stop sign. They
25 ignore constantly. And, yes, I think to

1 myself, yes, that's dangerous. And they
2 already own this property, I don't see what's
3 wrong with adding a parking lot. And, yes,
4 driving is a privilege and it's also their
5 responsibility to be careful drivers in that
6 parking lot. But I think it's more important
7 that the boys use this parking lot wisely and
8 they will appreciate it not having to come from
9 Montgomery. I support Moeller in this endeavor
10 and I think Moeller has bent over backwards to
11 make this as nice a parking lot as possible.

12 MR. COYLE: Again, my name is Dave Coyle.
13 As my wife indicated, my son graduated a couple
14 of years ago. And when he was a freshman and
15 sophomore, I often drew the short straw and
16 would drive him to school. And I was appalled
17 at the boys walking across Ronald Reagan from
18 downtown Montgomery to make school on time,
19 right. And I was appalled at how fast traffic
20 would move through there. And quiet honestly,
21 all these years, I'm surprised that there
22 hasn't been a problem, that was the first
23 thing.

24 The second piece that is somewhat
25 bothersome to me is just the other day in the

1 Cincinnati Enquirer there was an article
2 talking about how much it cost to live in a
3 particular suburb or community within the
4 Cincinnati area based on how good the schools
5 are. One of the things that makes a school and
6 a neighborhood or makes a neighborhood valuable
7 is the value of the school that's there.
8 People in Montgomery and Madeira, Indian Hill,
9 and all the like, have the option to not only
10 send their kids to those schools, they can also
11 send, if they so choose, to send their kids to
12 places like Moeller, Ursuline and whatever, and
13 those schools make the area that much better
14 for all the residents of the immediate area.

15 So this thing that Moeller is not a good
16 citizen for the neighborhood is absolutely
17 malarkey quite honestly, they make the
18 neighborhood better. And the neighborhood
19 should support the school as much as they can,
20 because they're there and they make their
21 property values that much higher.

22 Now, people talk about all the hours and
23 people coming and going from Moeller, right,
24 that's because Moeller is a very involved
25 school and has all these extracurricular

1 activities for the students themselves. It's
2 not just sports. They have all sorts of other
3 kinds of activities and so, yeah, there's going
4 to be a lot of traffic coming and going, but
5 that's a good thing. Yeah, my son was a
6 football player, but he was in a whole bunch of
7 other kinds of things on a regular basis. And
8 so his time at Moeller was extensive, all
9 right. And by the way, he got a really good
10 education while he was there, too.

11 So the community should embrace this and
12 figure out a way to make the parking lot work
13 for everybody because it's a good thing and
14 it's valuable to the students. The school's
15 valuable to the community and we all just ought
16 to get along and figure it out. Thank you.

17 CHAIRMAN EICHMANN: Thank you. Any
18 questions?

19 MS. MYERS: Do you all live in the
20 township?

21 MRS. COYLE: Yes.

22 MR. COYLE: Yes.

23 MS. MYERS: Where do you live?

24 MRS. COYLE: Kemperknoll --

25 MR. COYLE: Kemperknoll north part of the

1 township, yes.

2 MS. MYERS: About how far away is that
3 from the site that we're talking about here?

4 MR. COYLE: Three miles.

5 MS. MYERS: Did you say that when your son
6 went here that he parked in downtown Montgomery
7 and walked?

8 MRS. COYLE: Yes.

9 MR. COYLE: Yes.

10 MS. MYERS: But when he was a freshman and
11 sophomore you drew the short straw and drove
12 him here?

13 MR. COYLE: Yeah, often.

14 MS. MYERS: Why didn't you drive him if
15 you had such concerns about safety when he was
16 a junior or senior?

17 MR. COYLE: Okay. I'll tell the story.
18 So he was one of the lucky ones when he was a
19 junior and he pulled the long straw and got a
20 parking spot in the parking lot.

21 MS. MYERS: On Moeller?

22 MR. COYLE: Moeller proper. So when he
23 was a senior, and you all can appreciate this,
24 I'll be real honest, I'll throw him under the
25 bus. He was asleep at the switch when the time

1 came to submit the application for parking and
2 even though he was a senior, he didn't get one.
3 So he and another buddy teamed up for a parking
4 pass and split it.

5 MRS. COYLE: And split it.

6 MR. COYLE: So some of the time, he would
7 park at Montgomery and he'd wait for his ride.
8 His ride wouldn't show up in time, and so he
9 ended up having to walk to school.

10 MS. MYERS: So the buddy that parked on
11 Moeller's parking lot would then drive up and
12 get him?

13 MR. COYLE: Supposedly.

14 MS. MYERS: Supposed to get him.

15 MR. COYLE: But he was --

16 MRS. COYLE: Chronically late.

17 MR. COYLE: -- chronically late. His
18 clock was almost 15 minutes late almost
19 everyday religiously, so he ended up walking.

20 MS. MYERS: When your son was in that
21 situation, did you do anything about your
22 safety concerns at that time?

23 MRS. COYLE: Such as?

24 MS. MYERS: Anything? We're talking about
25 building a parking lot now to resolve the

1 safety issue that everyone says is there, but
2 it sounds like it's been a problem for decades?

3 MR. COYLE: My son was well aware of the
4 critical nature of what transpired on
5 Montgomery Road having seen it firsthand from
6 the passenger side when I would drive him, when
7 he was a freshman and sophomore. He would see
8 his buddies that were older than him walking
9 across there and so he knew that it was not a
10 fun walk and he was particularly cautious when
11 the weather was less than good.

12 MS. MYERS: And I know that you said that
13 you think safety should be the first issue, but
14 you understand there's a legal standard by
15 which you get a conditional use. Do you
16 understand that?

17 MR. COYLE: Yes.

18 MS. MYERS: Have you looked at what that
19 standard is for conditional use?

20 MR. COYLE: No.

21 MRS. COYLE: That's why we think it's
22 important to have a parking lot even though he
23 graduated two years ago that's how strongly we
24 feel and I sat here at that last meeting till
25 midnight. That's how strongly I feel that this

1 is still important. You know I don't have a
2 dog in the fight. But you want these boys, you
3 want them involved. Moeller's offers a
4 multitude of activities for them besides
5 sports. My son was an Eagle Scout. We felt it
6 important for him to realize the responsibility
7 of him being asleep at the switch and not
8 sending that e-mail and saying you're going to
9 be walking. So he had to get together with a
10 buddy, split the pass. One was in football and
11 one was in spring track. So the one for
12 football wanted it for the first half of the
13 year. And the one in track wanted it for the
14 second part of the year and that's the way that
15 they split it.

16 MS. MYERS: Thank you.

17 MR. SCHEVE: Can I ask you one thing?
18 Where did he park in Montgomery?

19 MR. COYLE: In the public parking lot
20 behind all the stores and stuff that front
21 Montgomery Road back behind where the jewelry
22 store is.

23 MR. SCHEVE: Is there not a charge to park
24 there is there?

25 MR. COYLE: No.

1 MRS. COYLE: No.

2 MR. COYLE: And I can't give you the
3 number. I'm sure maybe Marshall can or I'm
4 going to guess there's probably several hundred
5 boys that will park there. May be they carpool
6 to there and walk together to the school.

7 MR. SCHEVE: So that's where most of the
8 guys park in that public lot?

9 MR. COYLE: Yeah. Marshall, can he --

10 MR. SCHEVE: They're not parking in
11 private lots and --

12 MR. COYLE: No. No.

13 MR. MILLER: Well, sometimes they do.
14 Being next door to the place I can -- go ahead.

15 MR. SCHEVE: They park in your lot?

16 MR. MILLER: Occasionally.

17 MR. SCHEVE: Thank you.

18 CHAIRMAN EICHMANN: Did I skip over you
19 before?

20 MS. OLBERDING: Yeah.

21 CHAIRMAN EICHMANN: Were you sworn in?

22 MS. OLBERDING: I was.

23 CHAIRMAN EICHMANN: Did you testify last
24 month?

25 MS. OLBERDING: I did not. My name is

1 Karen Olberding. And I live at 9094 Shadetree
2 Drive in Sycamore Township.

3 Couple of things that people keep saying
4 here that I think need to be clarified that the
5 neighborhood that the school was there before
6 the neighborhood. While part of that is true,
7 part of the neighborhood was built after the
8 school was. Where I live, my house was built
9 before the school. And in our section of the
10 neighborhood, our section of the neighborhood
11 was built before the school was there.

12 I've lived in my house for 16 and a half
13 years. And, yes, I did move in knowing that
14 Moeller High School was caddy-corner to my back
15 yard. But when I moved in, we did not have
16 this elaborate athletic field back there which
17 is why I was here for four months fighting the
18 60-foot light poles because that is not the
19 condition of what I moved into. And why I'm
20 here fighting the parking lot, because that is
21 not a condition that I knew when I bought my
22 house and moved into my house. And, oh, by the
23 way, I just put on an extension addition on my
24 house. I have no intention of leaving my
25 neighborhood. We have an awesome neighborhood.

1 As Greg was saying, we all know each
2 other. Everybody knows everybody in our
3 neighborhood because we're always out walking.
4 And, yes, most of us do know the delivery truck
5 drivers. Those of us that our home we have the
6 same drivers and, yes, we do know them and we
7 know their names. So I just wanted to clarify
8 that, yes, while part of the neighborhood was
9 built after the school, a good portion of the
10 neighborhood was there before the school.

11 In terms of the public lot, I used to work
12 for Luxottica, retail out in Mason. And our
13 parking lot wasn't big enough for the 3,000
14 people that worked in that building. So they
15 worked out a deal with Hope Church up on the
16 corner of Mason Montgomery and Western Row Road
17 and they ran shuttle buses to get people from
18 the parking lot to work everyday and they ran
19 continuously all day long because people came
20 and went at different times. If so many of the
21 students are parking at the public lot in
22 Montgomery, why doesn't Moeller invest in a
23 shuttle service or shuttle bus to shuttle
24 people back and forth from that parking lot if
25 there are so concerned about safety of their

1 students. Or, have the teachers park up there
2 and let the students park in the parking lot
3 and shuttle the teachers. There are other
4 options that could be utilized that I don't
5 think Moeller's really decided or actually
6 looked into those options. We keep bringing
7 this up, but we haven't gotten any
8 clarification of whether they really have
9 looked into the shuttle bus option.

10 I personally don't want a parking lot in
11 my neighborhood than what's already there.
12 One, where Kennedy Cove is from what my
13 understanding was, Moeller was given the first
14 right of refusal to buy that property when it
15 came up for sale and they chose not to buy it.
16 That's on Moeller. Why should we be suffering
17 because Moeller didn't have the foresight to
18 take the land when it was offered to them to
19 buy. That's all I have.

20 CHAIRMAN EICHMANN: Any questions?

21 MR. BARRETT: I have a couple of
22 questions.

23 MS. OLBERDING: Sure.

24 MR. BARRETT: You mentioned Kennedy Cove,
25 is your position that Moeller should have

1 bought the property where Kennedy Cove is
2 located?

3 MS. OLBERDING: Yeah, they were given the
4 first right to buy it.

5 MR. BARRETT: That would be okay with you?

6 MS. OLBERDING: The houses wouldn't have
7 been there.

8 MR. BARRETT: So that's okay if they
9 bought, it's okay if the school would expand
10 where Kennedy Cove is; is that what you're
11 saying?

12 MS. OLBERDING: It would have happened 25,
13 30 years.

14 MR. BARRETT: And that would have been
15 okay with you?

16 MS. OLBERDING: Yeah, I would have known
17 that moving in that it was there. I have lived
18 there now -- that was not the condition when I
19 moved in. I may not have moved into that
20 neighborhood had Moeller been where Kennedy
21 Cove is now.

22 MR. BARRETT: Well, actually you're closer
23 to Moeller now than you are to Kennedy Cove,
24 correct?

25 MS. OLBERDING: Kennedy Cove is at the end

1 of my street.

2 MR. BARRETT: You're on Shadetree?

3 MS. OLBERDING: I'm on the corner of
4 Shadetree and Timberknoll.

5 MR. BARRETT: So you're actually closer to
6 Moeller than you are to Kennedy Cove?

7 MS. OLBERDING: No. About the same. It's
8 about halfway.

9 MR. BARRETT: Aren't you above Moeller?

10 MS. OLBERDING: No. I'm on the corner --
11 trying to figure out this map.

12 MR. HOLBERT: Give me your address and I
13 can plug it in.

14 MS. OLBERDING: 9094. Oh, I'm right here.

15 MR. HOLBERT: Shadetree?

16 MS. OLBERDING: Yeah, I'm right here.

17 MR. BARRETT: So you're about a quarter of
18 a mile away from the parking lot?

19 MS. OLBERDING: Yes. Well, no. Kennedy
20 Cove is at the end of Timberknoll here and then
21 the park. Moeller's this way. So I'm kind of
22 in the middle there.

23 MR. BARRETT: And obviously you're willing
24 to save the neighborhood by reinvesting your
25 property, correct? You want to stay there?

1 MS. OLBERDING: Yes, I want to stay there.
2 I have no intention of moving.

3 MR. BARRETT: So you would consider that
4 Moeller is a good neighbor at the present time,
5 correct?

6 MS. OLBERDING: At the current time. If
7 they would turn down their speakers on the
8 weekends so I don't have listen to that
9 offensive music that I have to sit --

10 MR. BARRETT: Other than that --

11 MS. OLBERDING: -- out on Saturdays and
12 Sundays.

13 MR. BARRETT: Other than that you consider
14 them a good neighbor because you're investing
15 and spending on your house, correct?

16 MS. OLBERDING: Moeller's a good neighbor
17 to a certain extent. They're not a good
18 neighbor because here I am once again sitting
19 in here in these meetings fighting what they
20 want to do in our neighborhood and coming up
21 constantly. So, no, I wouldn't say Moeller's a
22 good neighbor.

23 MR. BARRETT: In what other ways are they
24 not a good neighbor other than this case?

25 MS. OLBERDING: Well, with the whole

1 football field. We had to fight that because
2 they wanted to put up 60-foot light poles that
3 would have shined all over the neighborhood.

4 MR. BARRETT: Are you okay with the
5 football field the way it is today?

6 MS. OLBERDING: With the way it is today,
7 yes. The landscaping could probably use some
8 work, but, yeah, which they said they were
9 going to maintain all of this landscaping and
10 then the trees have been dying.

11 MR. BARRETT: Thank you.

12 MS. OLBERDING: Which I see happening with
13 the parking lot, too. Oh, and to Greg's point
14 with the Gingkos, sorry about this, he was
15 talking about the leaves. He didn't talk about
16 the little stink bomb fruit that drops that
17 smells like something -- somebody threw up when
18 they step on them.

19 MR. BARRETT: What kind of trees would you
20 prefer?

21 MS. OLBERDING: Something that's going to
22 stay green all year. And Arborvitaes are great
23 but they have a tendency to die very quickly if
24 they're not taken care. They grow quickly and
25 they fill out, they stay green, but they

1 usually only last about seven to eight years
2 before you have to replace them.

3 MR. BARRETT: What trees would you
4 recommend?

5 MS. OLBERDING: I just told you. I mean,
6 Arborvitaes are fine, but you just have to know
7 you're going to have to replace them.

8 MR. BARRETT: So Arborvitaes are okay?

9 MS. OLBERDING: Yeah, you're going to have
10 to replace them just know that. And they have
11 a tendency to get disease.

12 MR. BARRETT: Any other kind of trees
13 you'd recommend?

14 MS. OLBERDING: I'm -- Red Buds are fine
15 if you don't have a ton of them. They do
16 spread because I have two in my back yard and I
17 got to out and pull out all these little Red
18 Bud Trees out of my patio and my fountain and
19 everything else because they do spread all over
20 the place so somebody's got to be there to take
21 care of that. Again, they grow quickly so they
22 do provide a canopy, but then they drop in the
23 fall and they're not hiding anything because
24 they're bare.

25 Blue Spruces are another tree that stays

1 blue green the whole year. They are a little
2 bit slower growers, but they're prettier trees
3 but they're a lot more expensive.

4 MR. BARRETT: Thank you.

5 MR. HOLBERT: Mr. Chair, just one thing
6 for the board's clarity also. So I wanted to
7 show you where the parking lot was because it
8 came up several times. So right here is the
9 campus. This is Montgomery Road. This is
10 Cross County Highway as you go through
11 Montgomery. The parking lot's right there.

12 CHAIRMAN EICHMANN: The public parking lot
13 you're referring to?

14 MR. HOLBERT: This is the public parking
15 lot. This is the 9400 lot in this
16 intersection. This would be Cooper Road. So
17 right there's Cooper. This is Montgomery.
18 Right here's the main parking lot I think
19 that's used. There maybe some other like Mr.
20 Miller said. But, again, I just wanted to
21 clarify for the board and also for the
22 audience. This is the public parking lot that
23 they are referring to.

24 CHAIRMAN EICHMANN: Thank you. I think we
25 exhausted that second row. How about the

1 second row over here. Were you going to speak,
2 too? I know you spoke last time. Yes, sir,
3 you're in the second row you came in late. I
4 don't think I swore you in so you want to come
5 on up. State your name and address.

6 (A sworn oath was administered.)

7 MR. SHAW: Dabry Shaw, 8190 Kemperridge
8 Court. I just wanted to talk on behalf of
9 Moeller being a student. I'm a senior at
10 Moeller. Like I've walked a few times from
11 public. I actually like knowing like the stuff
12 that happens. So like the walk is about like
13 half a mile, quarter of a mile. It's like, if
14 you walk it in the morning, especially during
15 the months of like November through March, it's
16 dark. It's cold. It's slippery. Drivers are
17 just they're not very like cautious. They'll
18 slip around. I've heard of kids being scared
19 of like cars kind of swerving to the side,
20 because the sidewalks, it's pretty wide but
21 like it's still pretty nerve wracking when it's
22 sliding towards you.

23 But just I wanted to talk on behalf of the
24 safety, like, my fellow students and like my
25 brothers, and it's just kind of scary to know

1 that like sometimes there could be a moment
2 where a kid's life could be in the hands of
3 another driver on Montgomery Road and I just
4 wanted to talk on behalf of the parking lot.

5 MR. SCHEVE: Let me ask you. How long
6 does it take you to walk from the public lot to
7 the school?

8 MR. SHAW: I'd say it's about 10, 15
9 minutes.

10 MR. SCHEVE: What time do classes start?

11 MR. SHAW: 7:50.

12 MR. SCHEVE: Is that for everybody?

13 MR. SHAW: Yeah.

14 MR. SCHEVE: So freshman, they all start
15 at 7:50?

16 MR. SHAW: Yeah.

17 MR. SCHEVE: So you have to get to the lot
18 before 7:30 to get to school on time?

19 MR. SHAW: Yes.

20 MR. SCHEVE: It's usually dark by then?

21 MR. SHAW: Yeah.

22 MR. SCHEVE: Thank you.

23 CHAIRMAN EICHMANN: Any other questions
24 for this gentleman? One more question.

25 MS. MYERS: So you said that your address

1 is 8190 Kemperridge Court; is that right?

2 MR. SHAW: Yeah.

3 MS. MYERS: Is that in the township?

4 MR. SHAW: Yeah.

5 CHAIRMAN EICHMANN: Did I skip over
6 somebody in the first row? You, sir?

7 MR. BUGADA: Yes.

8 CHAIRMAN EICHMANN: Please. And I think
9 you were sworn in?

10 MR. BUGADA: Yeah, my name is Dan Bugada.
11 I live at 10421 Stone Court, Montgomery, Ohio
12 45242. I was here at the last meeting, the
13 marathon meeting, so thank you for the
14 opportunity to speak. I noticed last time some
15 of the speakers went on so I've written a
16 statement to try to be concise and to the point
17 and cover my --

18 CHAIRMAN EICHMANN: That's appreciated.
19 Thank you very much.

20 MR. BUGADA: So first of all, good evening
21 and thank you very much for the opportunity to
22 speak to you. I would like to first introduce
23 myself and then express my opinion with regards
24 to the request submitted by Moeller High School
25 for an extension of their parking lot at the

1 northwest end of their campus. So first of
2 all, again, my name is Dr. Dan Bugada. My wife
3 Francine and I are very proud parents of four
4 boys. We live in Montgomery in the area of
5 Bethesda North Hospital.

6 Three of our boys have already graduated
7 from Moeller High School and our youngest is a
8 senior this year. Our boys have never driven
9 to school so the expansion of the parking
10 spaces is not really relevant to our specific
11 family situation. We simply have not had
12 enough cars or enough resources for them to
13 drive to school. However, neither my wife or
14 myself have always driven them, our kids, to
15 and from the school, so I can say we're very
16 familiar with the road traffic, the pedestrian
17 traffic, and just the circumstances of how many
18 students walk. We are very familiar, as I
19 said, with the road traffic, pedestrian
20 traffic, on Montgomery Road especially from
21 where the Moeller students park and Montgomery
22 public parking and their walk south to Moeller.

23 I also think it's relevant for me to
24 mention that I've worked for 33 years in the
25 petrochemical industry with significant

1 knowledge and experience, in risk assessment,
2 risk management, and mitigation of risk. At
3 work we have a culture we refer to as Gold
4 Zero. Refers to zero safety incidents, zero
5 injuries, zero accidents, and that is the
6 primary culture that we work with at work.
7 It's very serious. We're trained, and we are
8 required to constantly assess anything we do at
9 work and outside of work.

10 It is with this experience and this
11 knowledge that I want to express my concerns
12 for the safety of the dozens and dozens of
13 students who walk from Montgomery public
14 parking to Moeller each and every schoolday.
15 Last week I experienced what Moeller students
16 do everyday, every schoolday, and I walked
17 from -- I walked the route from Montgomery
18 public parking to Moeller High School. I
19 encourage you to do the same. I note and I
20 timed it, I'm a scientist engineer, it takes
21 15, 16, 17 minutes to walk it. During this
22 time and the students need to cross eight
23 streets, nine parking lots/driveways entrances.
24 That's eight streets and nine parking lot or
25 business driveways. This is about one road

1 crossing every minute. It is not your typical
2 walk to school. Only two of the streets have
3 traffic lights, that's Cooper and Kennedy. And
4 two of the streets are actually highway ramps
5 to the Ronald Reagan Cross County Highway,
6 which I'll say are not pedestrian friendly.
7 Under the best conditions these pose a
8 significant risk in themselves, but note as was
9 also mentioned earlier, that when the students
10 walk to school in the mornings on the sidewalk
11 they are not facing oncoming traffic. So that
12 seriously evaluates their risk level. They are
13 crossing streets and driveways and parking lots
14 with cars constantly in their blind spot.

15 Furthermore, every time a student crosses
16 one of these streets, roads, ramps, driveways,
17 the cars that need to turn there slows down
18 southbound traffic on Montgomery Road. Now, if
19 you combine these factors with dark winter
20 mornings, unfavorable weather conditions, kids
21 wearing hats, hoodies, and in my opinion this
22 is just a question of time before a serious
23 accident will happen. My concern is even more
24 elevated as construction begins on the
25 Montgomery Gateway project and the chaos that

1 construction would pose to pedestrians for the
2 next at least 18 months. I was talking to
3 somebody at the Montgomery car show this past
4 Saturday. They had a booth there and they had
5 a diagram of the project. And construction and
6 all that is expected to go at least until April
7 of 2021.

8 And I'm also especially concerned to the
9 safety of the students once this multi lane,
10 multi ramp roundabout is built at the
11 intersection of Montgomery Road and Ronald
12 Reagan Highway. From my understanding the city
13 of Montgomery has recognized this high-risk
14 factor and has proposed that the students who
15 are walking southbound on Montgomery Road will
16 need to cross Montgomery Road before they reach
17 the roundabout, cross an additional it will be
18 a high density driveway, cross what will be
19 Gateway Boulevard and then cross again over
20 Montgomery Road before completing their journey
21 to Moeller. It appears to me that pedestrian
22 crossings and especially this roundabout are
23 just not feasibly integrated.

24 For me the proposed expansion of the
25 parking lot at Moeller is a very reasonable

1 approach that would remove dozens and dozens of
2 student pedestrians from Montgomery Road,
3 alleviate unnecessary risk for these students
4 and help the flow of traffic on Montgomery
5 Road. As a homeowner myself, I understand the
6 concerns of the neighbors fronting this
7 proposed parking lot expansion. But to me this
8 is by far the most favorable and least
9 destructive use of this parcel of land.

10 Moeller and the expert landscaping
11 architectural firm that was here at the last
12 meetings have gone out of their way, in my
13 opinion, to accommodate and respect their
14 neighbors with significant compromises
15 including reduced parking spaces, nonevasive
16 low lights, increased buffer zone, upscale
17 landscaping and plants, improved drainage,
18 privacy fence, et cetera. All of which were
19 described at the last meeting.

20 So in conclusion in my opinion, the
21 proposed parking lot extension at Moeller
22 represents the least intrusive, the least
23 disruptive, and the most passive use of this
24 land for the neighborhood and the best use of
25 the property for the safety of the students,

1 which represents our future. Thank you very
2 much for your time.

3 CHAIRMAN EICHMANN: Thank you, sir. Any
4 questions for this gentleman? Ma'am?

5 MS. MYERS: I believe I know the answer,
6 but the address that you listed on Stone Court
7 that is within the township, correct?

8 MR. BUGADA: It's within the City of
9 Montgomery.

10 MS. MYERS: City of Montgomery, okay. You
11 mentioned that you believed that this is the
12 most favorable and least disruptive use of this
13 parcel. Have you explored other uses of this
14 parcel or seen anything about how this parcel
15 might be used other than a parking lot?

16 MR. BUGADA: Well, I think considering the
17 number of students that are there that this is
18 the best use for that space for the safety and
19 efficiency and the students. Like I said, they
20 have to be there early. They start school
21 early. If they add an extra 15 -- to 17-minute
22 walk under the best conditions, to me, yes,
23 it's the best use of that space.

24 MS. MYERS: Have you spent any time
25 looking at other solutions to the parking

1 situation around Moeller?

2 MR. BUGADA: I think a lot of the proposed
3 solution may have been mentioned and talked
4 about a shuttle which would have to go back and
5 forth on student's arrival, schedule, stuff
6 like that. I don't believe that's the right
7 answer. I think that if you can get the
8 students at the school in their cars
9 conveniently, it's the best solution.

10 MS. MYERS: But you yourself don't have
11 any experience outside of these hearings --

12 MR. BUGADA: No, ma'am.

13 MS. MYERS: -- on these topics.

14 MR. BUGADA: No.

15 MS. MYERS: Thank you.

16 MR. BUGADA: Thank you very much.

17 CHAIRMAN EICHMANN: Thank you, sir. Back
18 here on the third row, anybody? Were you sworn
19 in?

20 MR. BROXTERMAN: I was not.

21 (A sworn oath was administered.)

22 MR. BROXTERMAN: My name's David
23 Broxterman. I live at 7755 Kennedy Lane, which
24 would be directly in my back yard. It does
25 have a big impact on me and I appreciate all my

1 neighbors coming up and talking about it. I
2 agree with most subjects. I have a lot of
3 notes here. I'm going to try and read directly
4 from some of this stuff.

5 So I guess I want to start with the safety
6 topic. I think it's kind of insulting. Me and
7 my 3-year-old boy walk with walkers which is
8 the same area all the time and he doesn't have
9 any issues walking with me. If a 16 or 18 year
10 old can't cross the street, they probably
11 shouldn't be driving. Like I said, I walk
12 there often and traffic accidents are the
13 number one cause of deaths. So I think we need
14 to consider where -- if we can't walk, we
15 shouldn't be driving.

16 I'm a single father of a three years old.
17 I hope he makes it into Moeller. His bedroom
18 is in the back part of my house which is
19 closest to Margee's place. With the parking
20 lot expansion, I worry about my back yard
21 getting flooded. I worry about smog from the
22 cars. I worry about my back yard becoming a
23 heat island. Worry about loud music, students
24 yelling, littering, car alarms.

25 And I did a quick Twitter search.

1 Unfortunately I don't have the means to hire a
2 super attorney so I did this on my own, but I
3 did a quick Twitter search on Moeller parking
4 lot and I'm just going to read some of the
5 stuff I found. "Moeller parking lot. Honking
6 noise. Crazy to think acid rap is four years
7 old. I remember sitting in Moeller parking lot
8 sophomore year bumping in my car every morning.
9 Congrats to JR Smith for life on his car wreck
10 in the Moeller parking lot. Fish getting
11 caught out. Tate doing doughnuts in Moeller
12 parking lot --"

13 MR. BARRETT: Mr. Chairman, I'm going to
14 object to this. This is all hearsay. This
15 isn't testimony. This is hearsay. I'm going
16 to object to it.

17 MR. BROXTERMAN: "I just farted and made
18 sure to yell it through the Moeller parking
19 lot. Unbeknownst to me a mom was checking me
20 out. Uh, life. Tear it up in Moeller parking
21 lot. It has a picture of -- three shot in
22 parking lot after Moeller Elder soccer game."
23 I could go on. "Shout out to the man at
24 Moeller who through the LaCrosse ball in
25 parking lot; classy."

1 That's -- I did a quick search of kids who
2 walk to school between ages 7 and 12. 36
3 percent of 7 to 12 years old walk to school.
4 Schools across the U.S. At 5:01 p.m. before the
5 last meeting, I was driving here, rushing from
6 work and actually took a picture of boys
7 crossing Cross County, Ronald Reagan Cross
8 County Highway, I got the photos of a few guys
9 just running. So, again, we talked about kids
10 being able to run in practice, but they can't
11 walk to school.

12 Right now and I can show you guys
13 pictures. You can't see Moeller from my back
14 yard. There is no parking. I actually
15 doublechecked it on my way here. There's three
16 parking spots that are numbered. I assume the
17 numbers are for faculty. So right now you
18 can't see it from my back yard. Any parking
19 you couldn't see Moeller. If I can show you, I
20 don't know if you can show on that, but here's
21 a picture from my back yard I took today.

22 MR. MILLER: Do you have a hard copy of
23 that?

24 MR. BROXTERMAN: I don't. I didn't have
25 time.

1 MR. MILLER: Unless you want to leave your
2 phone here to put it in the record, I don't
3 know how we do that.

4 MR. BROXTERMAN: You can't see it. Maybe
5 you can pull it up on Google maps or something
6 else. You can't see Moeller from my back yard
7 right now. If you look out my back yard you
8 can't even see it. I have to tell people that
9 it's even there. So adding a hundred plus
10 spots, I don't know what the number is, 10 feet
11 off my property. Property line will have a
12 huge negative impact on my home and my home
13 value. We love, me and my son, love the
14 privacy of our back yard. I'm going to ask you
15 to not take that away from us. We play ball.
16 We catch fireflies. We run power wheels. We
17 cut through there to get to All Saint's fish
18 fry's or we even listen to Moeller band
19 practice.

20 I did find several health benefits of
21 Bourbon landscapes, I guess is what they're
22 called. The trend now is to get rid of parking
23 lots, not to add them, so I hope we stick with
24 what we voted on last time, but there's the
25 benefits. There's 40 years of research

1 evidence confirms that nearby nature including
2 gardens, urban forests, and green space support
3 human health and wellness. Health benefits
4 from small nature spaces. Improve general mood
5 and attitude. Stress reduction. Better mental
6 health and functioning. Improve mind for
7 creativity.

8 My son was born with some issues. There
9 are plenty of nights that I can't get him to
10 sleep or to settle down. I'm exhausted we go
11 outside. We listen to insects and animals.
12 And I count the stars until he falls asleep.
13 My peaceful oasis, our play area, and our quiet
14 area will be interrupted with boys yelling
15 after games, loud music, doors slamming, car
16 alarms beeping, as well as smelling exhaust,
17 increased heat, less wildlife to feed and learn
18 about.

19 We may not be able to play in our back
20 yard some days because of flooding or there's a
21 smog alert. I may have to leave earlier in the
22 mornings because of more traffic exiting out of
23 there. Switch my son's bedroom because if the
24 cars or the boys don't wake him, Margee my
25 neighbor has dogs and their stress is going to

1 wake him.

2 The Sycamore Township land use plan talks
3 about keeping -- I got to find it here. Our
4 land use plan's objective is to maintain
5 residential quality and life and support and
6 protect the residential neighborhood. I'm
7 asking you to do that. Vote no today. That's
8 it. Thank you.

9 CHAIRMAN EICHMANN: Thank you. Are there
10 any questions for him?

11 MR. BROXTERMAN: I'm not answering any
12 questions. Thank you.

13 MR. BARRETT: I have a couple of questions
14 for him.

15 MR. BROXTERMAN: I don't want to answer
16 any questions today.

17 MR. BARRETT: I have a couple of questions
18 for him.

19 MR. MILLER: Well, then we have to strike
20 all your testimony.

21 MR. BROXTERMAN: I don't have an attorney
22 with me. Are you my attorney?

23 MR. MILLER: You can either answer the
24 questions or the board will not consider your
25 testimony.

1 MR. BROXTERMAN: Go ahead. We'll try. I
2 just -- I don't feel like if I don't have the
3 means for an attorney to be with me present --
4 I don't like to be -- I feel like I'm being --

5 MR. MILLER: You're not on trial.

6 MR. BROXTERMAN: Right. But I feel like
7 the words he's using is trying to trick people
8 and I don't like that. I have my testimony and
9 my statement and I don't know why I have to --

10 MR. MILLER: Well, you can fully explain
11 any answer if he asks you a question. If you
12 think he's putting words in your mouth you can
13 certainly say that.

14 MR. BROXTERMAN: Go ahead and ask.

15 MR. BARRETT: My first question is: what
16 have I done that's tried to trick anybody here?

17 MR. BROXTERMAN: Well, I think the
18 question with the type of trees you would like.
19 I don't think she wants the parking lot at all
20 so why do you want any trees. I think that was
21 your objective asking what type of trees.

22 MR. BARRETT: You think that's a trick
23 question?

24 MR. BROXTERMAN: I think, yeah. I think
25 the right way you would have asked it would

1 have been.

2 MR. BARRETT: Didn't she bring up the
3 trees?

4 MR. BROXTERMAN: Yeah, but --

5 MS. OLBERDING: But how far away do I
6 live.

7 MR. BARRETT: Do you think that's a trick
8 question asking how far away somebody lives?

9 MR. BROXTERMAN: I'm not -- go ahead.
10 Next question. I don't want to answer all of
11 these. I think it's silly.

12 MR. BARRETT: Does the parking lot that
13 exists at Moeller High School today bother you?

14 MR. BROXTERMAN: Today, no.

15 MR. BARRETT: Can you see the parking lot
16 from your house?

17 MR. BROXTERMAN: I cannot. It's hard to
18 see from my house.

19 MR. BARRETT: Do you know where it is?

20 MR. BROXTERMAN: I know where it's at.

21 MR. BARRETT: It's due south of you?

22 MR. BROXTERMAN: South.

23 MR. BARRETT: Does the parking lot for all
24 the office uses to the east of you on the west
25 side of Montgomery Road, does that parking

1 bother you?

2 MR. BROXTERMAN: You're talking about
3 across the street?

4 MR. BARRETT: No, Mr. Miller's offices and
5 all the offices that are next to his?

6 MR. BROXTERMAN: I don't know which ones
7 you're talking -- there's a lot. I'm
8 surrounded. We go to the right. The ones next
9 to me.

10 MR. HOLBERT: I've got them up on the
11 screen here.

12 MS. OLBERDING: The ones next to Margee.

13 MR. BROXTERMAN: The ones next to Margee,
14 I've had issues, but, yes, I've had issues.

15 MR. BARRETT: And how's it bothered you?

16 MR. BROXTERMAN: Do I need to list my
17 ways? Why is this relevant? I guess that's my
18 question. Why do I have to keep answering his?
19 Why are you asking?

20 MR. BARRETT: Let me ask you this: What's
21 the relevance of the Twitter accounts you're
22 reading from?

23 MR. BROXTERMAN: It just shows what
24 students are saying what's happening in a
25 parking lot. I did a quick search.

1 MR. BARRETT: As I understand it from your
2 testimony, the current conditions of the
3 Moeller parking lot do not bother you?

4 MR. BROXTERMAN: Yeah, I can't see it.
5 It's a half acre from my back yard.

6 MR. BARRETT: And you understand that the
7 school is a conditional use in this district.

8 MR. BROXTERMAN: Yeah, I don't really
9 understand all of that though.

10 MR. BARRETT: You understand that if the
11 school wanted to try to get other uses, they
12 could apply for permission for a building or an
13 athletic field.

14 MR. BROXTERMAN: Yes.

15 MR. BARRETT: You understand that the
16 parking lot is an accessory use?

17 MR. BROXTERMAN: No, I don't know.

18 MR. BARRETT: Have you ever seen a parking
19 lot that's been better buffered from adjacent
20 residents than this parking lot?

21 MR. BROXTERMAN: I haven't -- I don't know
22 what that --

23 MR. BARRETT: And do the cars on
24 Montgomery Road, do they bother you in any way?

25 MR. BROXTERMAN: Do the cars on Montgomery

1 Road bother me in any way?

2 MR. BARRETT: Yeah. Noise, smog,
3 pollution?

4 MR. BROXTERMAN: What does it have --
5 sure. Yeah. I guess if there's a wreck, if
6 there's traffic. There's a lot of bothersomes
7 on Montgomery Road all the time.

8 MR. BARRETT: Do the cars that go up and
9 down Kennedy Lane bother you?

10 MR. BROXTERMAN: Yeah, if I'm walking down
11 the street, there's times that they bother me.

12 MR. BARRETT: There's been testimony
13 there's like two miles of streets that actually
14 go down past your house, correct? All the cars
15 that are to the west of you, all those streets,
16 have to go past your house, Montgomery Road and
17 Kennedy intersection is the only access point?

18 MR. BROXTERMAN: Right. So half acre in
19 front and half acre in back of me. I have a
20 very large front yard, very large back yard.

21 MR. BARRETT: Does that traffic bother
22 you?

23 MR. BROXTERMAN: Bother me, yeah. I wish
24 I had 10 acres, I guess. I don't know.

25 MR. BARRETT: Thank you.

1 CHAIRMAN EICHMANN: Thank you, sir. Where
2 were we back there along -- yes, ma'am. Were
3 you sworn in, ma'am?

4 MS. BRABENDER: Yes. I'm Mindy Brabender.
5 I live at 7396 Timberknoll Drive in Sycamore
6 Township. I wanted to say that Moeller has
7 been presenting the idea of this parking lot
8 based on -- for the safety of their students,
9 based on the number from last time of about a
10 hundred students and I believe even some time
11 this evening they said there are a couple of
12 hundred students that maybe walk from the lot
13 up north. That number always struck me as
14 being not right so I decided to see for myself
15 how many walkers there actually were.

16 On six separate days in August and
17 September I went down to Montgomery Road and
18 counted the students as they walked from the
19 other side of Ronald Reagan Highway. In
20 addition to my counting, there's footage from a
21 security camera at a residence on the corner of
22 Montgomery Road and Kennedy showing the
23 walkers. I have that flash drive if the
24 township needs it.

25 MR. HOLBERT: Okay.

1 MS. BRABENDER: So that provided another
2 four days of information totaling 10 days of
3 counting students. As you can see the numbers
4 are -- that didn't turn out so good did it.

5 MR. HOLBERT: I can scroll down if you
6 want to read them.

7 MS. BRABENDER: The numbers are startling
8 low. It was so low that I actually went onto
9 the Moeller's website to see after the first
10 day, if there was some activity, a late
11 arrival, or something and there wasn't. So I
12 kept going and in the ensuing days the 20ish
13 number proved to be accurate. So all in all
14 using my count and the videotape, the average
15 number of walkers over a 10-day period is 19.5
16 walkers a day. Never more than 23 and 2 times
17 as low as 14. In my opinion, the number of
18 young men walking in no way warrants invading
19 this residential neighborhood with a parking
20 lot.

21 I'm kind of thinking moving 19 or 20 kids
22 a day through -- from the parking lot down to
23 the school should be a pretty easy problem to
24 solve. I know the neighborhood has come up
25 with many suggestions including paving the

1 Moeller archdiocese land that is directly
2 behind their school. And I understand the
3 parent's concern for their kid's safety, but it
4 seems like that would have been a really great
5 idea. I also like the idea of moving a
6 transport which I think Moeller owns to
7 transport vehicles up through the school down
8 or through the parking lot and down to the
9 school.

10 In Moeller's words, "The parking lot is
11 still not going to fulfill their desire for
12 parking. There will still be walkers and there
13 will still be sports teams running up and down
14 that road," and I'm wondering why their safety
15 is not mentioned or concerned. I believe
16 there's been pressure brought to bear by the
17 parents on the school based on the statement by
18 the gentleman who assigns the spot that it
19 would be nice to get the parents off their
20 back. I believe if Moeller's prime concern was
21 safety of their students, they would have shown
22 some sign of doing something by now more than
23 coming at this neighborhood for their
24 residential land. Moeller's chosen to develop
25 land in athletic fields and athletic buildings.

1 They're a landlocked campus and they need to
2 live with the consequences of their choices.
3 Any lot on this land will permanently change
4 the color and function and sound of this
5 neighborhood. I think we can come up with
6 another way to move your 20 kids from the lot
7 down to the school safely.

8 We were here a year ago when this board
9 voted no to this parking lot and I'm still
10 confused about why we're here again voting on
11 basically the same thing minus 13 parking
12 spaces with some additional landscaping, but
13 still pretty much the same thing. You cannot
14 pave 1.74 acres of residential land and
15 surround it with landscaping, even enhanced
16 landscaping and expect that people won't know
17 that there is a parking lot in there.

18 As a Sycamore resident, I respectfully
19 request that the board support the decision of
20 a year ago and deny the parking lot and let us
21 all put our Moeller folders away.

22 CHAIRMAN EICHMANN: Thank you. Any
23 questions?

24 MR. BARRETT: Mrs. Brabender, how far away
25 do you live from the parking area -- proposed

1 parking area?

2 MS. BRABENDER: I live about four houses
3 away from it.

4 MR. BARRETT: You're on Timberknoll,
5 right?

6 MS. BRABENDER: Yes, sir.

7 MR. BARRETT: Whereabouts on Timberknoll
8 are you?

9 MS. BRABENDER: I live at the end of the
10 cul-de-sac and from the back of my house, I
11 have a direct sight line to that parking lot.

12 MR. BARRETT: Where are the four houses
13 that you're talking about?

14 MS. BRABENDER: 7396. My cul-de-sac abuts
15 Kennedy Cove. I'm 7396. Right there
16 (indicating).

17 MR. BARRETT: So at least four houses
18 between you and the parking lot, correct?

19 MS. BRABENDER: Uh-uh.

20 MR. BARRETT: All houses on Kennedy Cove
21 are between you and the parking lot, right?

22 MS. BRABENDER: No. Well, I mean, I see
23 directly down the street so I see directly into
24 that land. There's no house that shields that
25 from the back of my house and it's three

1 houses, I guess.

2 MR. BARRETT: And you're actually closer
3 to the school to the south, correct?

4 MS. BRABENDER: I think from the parking
5 lot to the school, it looks like a push to me.

6 MR. BARRETT: There's only one house
7 between you and the school, correct, including
8 the athletic field?

9 MS. BRABENDER: Well, it's a cul-de-sac so
10 7395 and 7381, but I can see directly to the
11 viewing stand, as they call it, the press box
12 out the one side and straight down Kennedy Cove
13 to the proposed parking lot.

14 MR. BARRETT: How long have you lived
15 there?

16 MS. BRABENDER: Twenty-one years.

17 MR. BARRETT: And the school has been a
18 good neighbor?

19 MS. BRABENDER: It's a different neighbor
20 now. I would say when we moved in they were a
21 good neighbor. They were part of the fabric of
22 our community and now I would say the school is
23 not even a little bit part of the fabric of the
24 community.

25 MR. BARRETT: And how is it part of the

1 fabric before and not now?

2 MS. BRABENDER: Had a lot to do with the
3 field. The field was an integral part of the
4 neighborhood in my opinion. My kids played
5 over there. They flew kites over there. After
6 dinner we would walk the track. We got to know
7 the people on the other side of the school on
8 Glenover side so the neighbors would all get to
9 know each other and kids would cut through our
10 yards and go to school which they rarely do
11 anymore because the field's all fenced in. So
12 we don't know the kids anymore. We used to buy
13 the silly coupons books and they don't come
14 around and sell anything anymore, the band
15 doesn't. I'd say it's separate now.

16 MR. BARRETT: And you've got this list
17 here of a number of walkers.

18 MS. BRABENDER: Yes, sir.

19 MR. BARRETT: Is it your contention that
20 these are the number of students that have to
21 park off campus and walk to the school?

22 MS. BRABENDER: Yes. I'm assuming that
23 they're parking at the public lot and walking
24 over.

25 MR. BARRETT: If this is accurate, why

1 would the school be wanting to build a parking
2 lot of 117 spaces for only 20 walkers?

3 UNIDENTIFIED SPEAKER: That's the
4 question.

5 MS. BRABENDER: That's not a question for
6 me. That's a question for the school.

7 MR. BARRETT: Why do you think that's the
8 certain situation?

9 MS. BRABENDER: Why do I think what?

10 MR. BARRETT: Why would the school be
11 wanting to build a parking lot of 117 spaces,
12 but only need -- there are only like 20
13 students that have to walk?

14 MS. BRABENDER: I have no earthly idea.
15 Why would they?

16 UNIDENTIFIED SPEAKER: Yeah, why would
17 they?

18 UNIDENTIFIED SPEAKER: Ask Marshall?

19 UNIDENTIFIED SPEAKER: He's sitting next
20 to you.

21 UNIDENTIFIED SPEAKER: Ask your client.

22 MR. BARRETT: So you don't think the
23 school needs any more parking, right?

24 MS. BRABENDER: No.

25 MR. BARRETT: You think their parking

1 needs are satisfied?

2 MS. BRABENDER: I know they're not
3 satisfied, but I think there are options for
4 the parking that Moeller has expressed no
5 interest in.

6 MR. BARRETT: You mentioned using the All
7 Saints property. What's your position on that?
8 Is that something that would be acceptable to
9 you?

10 MS. BRABENDER: Yes.

11 MR. BARRETT: Have you talked to anybody
12 at All Saints about that?

13 MS. BRABENDER: I actually e-mailed the
14 archdiocese about it.

15 MR. BARRETT: And what was their response?

16 MS. BRABENDER: They said to talk to the
17 school.

18 MR. BARRETT: To All Saints?

19 MS. BRABENDER: I approached them
20 explaining that Moeller needed the parking and
21 they referred me back to Mr. Hyzdu.

22 MR. BARRETT: Have you approached anybody
23 at All Saints?

24 MS. BRABENDER: No.

25 MR. BARRETT: Do you know why not?

1 UNIDENTIFIED SPEAKER: It's not our
2 problem.

3 MS. BRABENDER: Well, I guess they
4 haven't. I would think that the parents would
5 be bring the pressure to their, the
6 archdiocese.

7 MR. BARRETT: Did you hear the testimony
8 of Mr. Hyzdu before about he approached --

9 MS. BRABENDER: Yes, he said that.

10 MR. BARRETT: Do you believe that?

11 MS. BRABENDER: I believe he's approached
12 them.

13 MR. BARRETT: Do you believe that they
14 turned him down three times?

15 MS. BRABENDER: I don't know. If he says
16 they did I'm sure they did. But it seems as
17 if, you know, you said this before Mr. Hyzdu,
18 that you believe that somebody is going to die
19 and I think that these parents believe that
20 somebody is going to be hurt and I just can't
21 believe that really -- if my kid went and I
22 felt like that, I would have done, moved heaven
23 and earth to try and do something. There's
24 just nothing that's been done ever.

25 MR. BARRETT: Wouldn't you agree that what

1 they're trying to do is to do something right
2 now?

3 MS. BRABENDER: Well, yes, they are, but I
4 think there are other options. And I can't
5 believe in the past 20 years of kids walking or
6 however many years the kids have been walking
7 that nobody has done anything.

8 MR. BARRETT: Don't you think it's going
9 to be a safer condition for the students if
10 they could all park on campus as opposed to
11 parking off campus?

12 MS. BRABENDER: I don't think you will
13 ever satisfy all of the parking needs according
14 to Moeller and there will always be walkers.
15 So I don't know why it's acceptable to have
16 sports teams and walkers, you know, if they
17 think somebody is going to be hurt, why is it
18 acceptable for some to use the road and others
19 not.

20 MR. BARRETT: Thank you.

21 MS. BRABENDER: Thank you.

22 CHAIRMAN EICHMANN: Continuing back there.
23 Is there somebody else? Nobody else in the
24 third row. Over here in the third row. Did I
25 swear you in?

1 MR. CLARKE: You did. I'm Matt Clarke,
2 7765 Kennedy Lane. Am I able to ask questions
3 to Moeller?

4 CHAIRMAN EICHMANN: You can, but --

5 MR. CLARKE: How long has safety been an
6 issue, with the students walking, how long has
7 safety been an issue? Marshall?

8 MR. HYZDU: Yes.

9 MR. CLARKE: How long has safety been an
10 issue?

11 MR. HYZDU: At Moeller? Well, I've only
12 been at Moeller for three and a half years so
13 it's been an issue for me since I walked in the
14 door.

15 MR. CLARKE: Was it an issue when you went
16 to school there?

17 MR. HYZDU: As a teenager, I don't
18 remember. What I would tell you though that
19 there's a lot more students driving than there
20 were when I was a student there.

21 MR. CLARKE: But somewhat of an issue,
22 people still walked, right?

23 MR. HYZDU: Not that I know of. I don't
24 remember anybody parking in Montgomery and
25 walking up. I think there was just fewer

1 drivers. I think the laws --

2 MR. CLARKE: At least 10 years on the
3 safety issue?

4 MR. HYZDU: I have no idea. I haven't
5 lived in Cincinnati 20 years after I graduated.
6 I left Cincinnati for 20 years. I've been back
7 three and a half years and so that's --

8 MR. CLARKE: It's safe to assume it's been
9 an issue?

10 MR. HYZDU: I have no idea.

11 MR. CLARKE: My point being is: You can
12 see the athletic fields there. I brought this
13 up last time, but I feel like we have to go
14 over it every time is that those are newer
15 athletic fields that were built knowing that
16 there was a safety issue. And Moeller proposed
17 those ball fields versus being -- they were
18 always ball fields but those are newly redone
19 ball fields that could have been put into a
20 parking lot mitigating the safety issue. And I
21 do want to hammer home another point about
22 safety being an issue because that seems to be
23 the theme of everyone coming from Moeller
24 tonight is safety is an issue. And while
25 leaving tonight Kennedy Lane -- he took photos,

1 it doesn't matter -- but I saw while leaving
2 Kennedy Lane, two joggers running in front of
3 me, Moeller gear, high school students, I'm
4 assuming they're students.

5 Marshall, do your athletic programs still
6 run up and down Montgomery Road to your
7 knowledge?

8 MR. HYZDU: I assume that they do.

9 MR. CLARKE: You're the president of the
10 school?

11 MR. HYZDU: Yeah, but as president of the
12 school, I'm not also the cross country coach so
13 I see them all the time out there.

14 MR. CLARKE: But your concern of safety
15 about your students, wouldn't that be the first
16 person you would go to is those coaches to make
17 sure that no ones running up and down that
18 road. We were here a year ago, I said this,
19 yet they're still running up and down. I see
20 them everyday.

21 So a big concern coming from the parents
22 and I think the parents should focus on this is
23 that they're coming at the neighbors who don't
24 want this parking lot saying that put it in,
25 but they should be going at Moeller for

1 allowing their athletic programs to run on
2 those streets. The same street that your son
3 nearly got hit on and you guys have had issues
4 with in the past with safety concerns, they're
5 letting their students run on those streets for
6 safety. I think Marshall, Moeller High School
7 is who you should be going after. You're still
8 allowing them out of safety to send your
9 students down the same road that you're worried
10 about safety.

11 A few other things just in terms of the
12 neighborhood in and of itself. I truly think
13 outside of these small things Moeller has been
14 a good neighbor that's a fact for what it's
15 worth. But I also wanted and I reached out to
16 Marshall and he got really back and forth and
17 wanted to meet in person and it's been a long
18 time perhaps I could have. But the idea of
19 wanting to meet in person when I asked for a
20 five-year plan and he asked what kind of
21 five-year plan. It was like, well, I think you
22 know what I'm looking for in terms of a
23 five-year plan in terms of building and adding
24 on, right? Like Moeller's always going to have
25 a land problem, they're landlocked. So I bring

1 this up because my mom who owns the property
2 saw Marshall with a photo with a piece of paper
3 that had plans for Moeller exiting onto Kennedy
4 Lane. It's a long-term goal of them to
5 actually be exiting there.

6 CHAIRMAN EICHMANN: Well, this hearing's
7 not about that. And it's not been applied for
8 and if it was it would have to come back to our
9 committee and that would be a whole another
10 meeting.

11 MR. CLARKE: Sure. But I was bringing it
12 around full circle.

13 CHAIRMAN EICHMANN: Well, it's been
14 discussed several times before and same
15 request --

16 MR. CLARKE: I missed the previous
17 meetings. So I can't talk about that at all
18 because I think it has to do with -- I know
19 this is the only plan now, right, but there's
20 got to be concern for whether or not there's
21 going to be more adding on.

22 CHAIRMAN EICHMANN: Well, that will be a
23 future meeting.

24 MR. CLARKE: I say that based on the
25 aggressive nature at which Moeller attempted to

1 purchase all of the properties in between them
2 and Kennedy Lane. And, therefore --

3 CHAIRMAN EICHMANN: Sir, are you the
4 property owner?

5 MR. CLARKE: I live at the property.

6 CHAIRMAN EICHMANN: So this is your mother
7 you're talking about?

8 MR. CLARKE: It is.

9 CHAIRMAN EICHMANN: You live with your
10 mother at that property?

11 MR. CLARKE: I do.

12 CHAIRMAN EICHMANN: Well, she gave us a
13 significant amount of time testifying at the
14 last meeting, over an hour I might add. So
15 we've heard all of these same arguments from
16 her.

17 MR. CLARKE: I wasn't here. I apologize.
18 Can I continue?

19 CHAIRMAN EICHMANN: As long as you're not
20 going to repeat the same thing that was --

21 MR. CLARKE: Fair enough. I did not know
22 that she said the same things. I apologize.

23 CHAIRMAN EICHMANN: A lot was covered.

24 MR. CLARKE: I apologize. I guess the
25 only other thing I can think of is the concept

1 of Sycamore Township attempting to not allow a
2 neighborhood to be jeopardized. And I think
3 the question needs to be asked is whether or
4 not you think that this would be jeopardized or
5 not. And if you look at the property, I don't
6 think there's any question about whether or not
7 it's going to jeopardize the integrity of the
8 neighborhood and its appearance. Any
9 questions?

10 CHAIRMAN EICHMANN: Is that all? Thank
11 you. Any questions for this gentleman?

12 MR. BARRETT: Do you live there?

13 MR. CLARKE: I do.

14 MR. BARRETT: And did you know that your
15 mother initially approached Moeller about
16 selling that property to the school?

17 MR. CLARKE: I do.

18 MR. BARRETT: And that was okay with you?

19 MR. CLARKE: It was.

20 MR. BARRETT: And I understand that you
21 believe that the parking lot should be where
22 they athletic fields are located if they need
23 parking?

24 MR. CLARKE: I think I said what --

25 MR. BARRETT: Did I understand that

1 correctly, they should put the athletic
2 buildings --

3 MR. CLARKE: What I said was Moeller chose
4 to build athletic fields over a parking lot.

5 MR. BARRETT: Would it be acceptable to
6 you to have a parking lot where the athletic
7 fields are?

8 MR. CLARKE: Yes.

9 MR. BARRETT: And what about the neighbors
10 that are next to that athletic field?

11 MR. CLARKE: They're already dealing with
12 what's there now. It won't be -- they might
13 get a better barrier in between.

14 MR. BARRETT: So you think a parking lot
15 would be a better barrier than an athletic
16 field, correct?

17 MR. CLARKE: No, I think a barrier in
18 between --

19 CHAIRMAN EICHMANN: Can you speak into the
20 microphone so we can hear everything?

21 MR. CLARKE: Sure. Would you be able to
22 go up here so I don't have --

23 MR. BARRETT: Stay where you are.

24 MR. CLARKE: I'm asking you everyone else
25 has gotten up. I think it's fair that I

1 wouldn't have to look to my right. Is that
2 fair?

3 MR. BARRETT: Tell us about the barrier.

4 MR. CLARKE: They're proposing a lot of
5 landscaping in between. I don't know. What do
6 you want to know?

7 MR. BARRETT: You mentioned that there
8 would be a barrier?

9 MR. CLARKE: Well, there's a barrier --
10 yeah, sorry. Shouldn't have said that.

11 MR. BARRETT: Would the parking lot be a
12 better neighbor or the athletic field?

13 UNIDENTIFIED SPEAKER: Doesn't matter.

14 MR. CLARKE: I'm merely saying that
15 Moeller chose to build an athletic field over a
16 parking lot. That's what I'm saying.

17 MR. BARRETT: And I'm asking you would it
18 be acceptable to have a parking lot and you
19 said it would be?

20 MR. CLARKE: Moeller chose to put an
21 athletic field over a parking lot; that's what
22 I'm saying.

23 MR. BARRETT: You understand that --

24 MR. CLARKE: That's what I'm saying.

25 MR. BARRETT: -- you're preferring a

1 parking lot to the athletic field, correct?

2 MR. CLARKE: I'm voicing, I'll say it
3 again, Moeller chose to build an athletic field
4 over a parking lot with concern for safety,
5 that's what I'm saying. We can take all night.

6 MR. BARRETT: No, let me ask you this
7 question: Is a parking lot preferable to an
8 athletic field as a neighbor?

9 MR. CLARKE: That's not my opinion to
10 make. I don't know.

11 MR. BARRETT: I'm asking you as a
12 neighbor, would you prefer an athletic field or
13 a parking lot?

14 MR. CLARKE: No comment.

15 MR. BARRETT: Yet you're suggesting that
16 Moeller should have put in a parking lot where
17 the athletic field is.

18 MR. CLARKE: With the concern for safety,
19 yes. If there's a concern for safety for the
20 students then perhaps that should have been
21 mitigated first.

22 MR. BARRETT: And what about the residents
23 who are next to that parking lot, would that be
24 acceptable to them in your opinion?

25 MR. CLARKE: I'm merely saying from a

1 safety concern that that would have been an
2 ideal scenario for them.

3 MR. BARRETT: So how would you accommodate
4 their athletic needs?

5 MR. CLARKE: I can't answer that.

6 MR. BARRETT: Does the traffic on Kennedy
7 Lane and all the streets that access Kennedy
8 Lane, is that a problem for you?

9 MR. CLARKE: No.

10 MR. BARRETT: There are many, many houses
11 back there. Hundreds of cars everyday going
12 past your house, right?

13 MR. CLARKE: Right.

14 MR. BARRETT: That's not a problem with
15 you?

16 MR. CLARKE: No.

17 MR. BARRETT: And 10s of thousands of cars
18 on Montgomery Road are not a problem?

19 MR. CLARKE: Is there 10s of thousands?

20 MR. BARRETT: Yes.

21 MR. CLARKE: I have no problem.

22 MR. BARRETT: Thank you.

23 CHAIRMAN EICHMANN: You have a question
24 for him?

25 MS. HRICOVSKY: Yes, I did. I just had a

1 quick question, statement for you. I don't
2 know why we keep living in the past. I'd like
3 to state that Marshall has been the president
4 for, I believe, three and a half years. One of
5 his statements when he became president was the
6 mission that he had to keep the young men safe
7 on campus and getting to school. He wasn't the
8 president 10 years ago.

9 MR. MILLER: Is there a question coming
10 up, ma'am?

11 MS. HRICOVSKY: Yeah. So how is the 7:00
12 a.m. walk to school the same as the cross
13 country boys? How is that the same as far as
14 the danger of getting to school in the morning
15 versus cross country?

16 MR. CLARKE: It's rush hour. It's 4:50
17 they're running.

18 UNIDENTIFIED SPEAKER: In the summer it's
19 still on --

20 MS. HRICOVSKY: You have to go to school,
21 it's the law, right? Cross country --

22 MR. CLARKE: It's not the law to walk.
23 There's bus service.

24 MS. HRICOVSKY: True.

25 MR. CLARKE: Right?

1 MS. HRICOVSKY: True. But it's also --
2 you don't have to be a cross country player
3 either or a football player?

4 MR. CLARKE: But it seems as if
5 concern wouldn't you allow --

6 MS. HRICOVSKY: Just so you know normally
7 parents sign a waiver if their son or daughter
8 is going to play a sport that allows them to
9 run in the area roads.

10 MR. MILLER: Ma'am, do you have questions?

11 MS. HRICOVSKY: The question was I don't
12 see how that was relevant.

13 MR. MILLER: That's not a question. You
14 not seeing how something is relevant is not a
15 question.

16 MS. HRICOVSKY: How 7:00 a.m. -- how is
17 that more dangerous than 7:00 a.m.? There's
18 the question.

19 MR. CLARKE: There's still a safety
20 concern, right.

21 MS. HRICOVSKY: How's the cross country
22 team -- okay, thank you.

23 CHAIRMAN EICHMANN: Thank you.

24 MS. HRICOVSKY: That answered -- thank
25 you.

1 CHAIRMAN EICHMANN: Others in the back row
2 there that I missed. Yes, sir. you've been
3 sworn in, I believe.

4 MR. KOSEL: Yes, I was sworn in the last
5 time.

6 CHAIRMAN EICHMANN: How about this time?

7 MR. KOSEL: I was sworn this time. I
8 think you got us twice last time. We're
9 covered.

10 CHAIRMAN EICHMANN: You can hand those to
11 me and I'll hand them out. Your name and
12 address, please.

13 MR. KOSEL: Yeah, right on the front page.
14 My name is Rusty Kosel. I'm here with my wife
15 Sara. We've been residents of Kennedy
16 neighborhood for 33 years. You'll see on the
17 cover there that we're property owners of two
18 pieces of property. The barn sits on one piece
19 of property and the house sits on the adjacent
20 piece of property. We did receive the notice
21 from the township as a property located within
22 the proximity of the project being within our
23 proximity so that's why we're here today. Our
24 interests would be of course our property value
25 and the character of the neighborhood so that's

1 why I'm here to speak. Being there for 33
2 years, of course, we have a lot of sweat equity
3 into that place. So again, the chance to speak
4 to you all is very much appreciated.

5 We're the one house that can claim that we
6 were there before Moeller High School. We were
7 there well before Moeller High School. The
8 house was built in 1942. Again, on the second
9 page I appreciate the chance to speak to the
10 board today. Appreciate the process you have
11 that allows us to speak.

12 The third page it was brought up again by
13 Moeller the idea of parking on Kennedy Lane.
14 As I've said, we've lived there for 33 years.
15 There's never been any of that that I'm aware.
16 And given the idea there it's illegal. The
17 students are not participating in illegal
18 activity to park on Kennedy Lane, because it
19 has not happened. And likewise, the township,
20 sheriff's department, and then also Montgomery
21 Police, both are responsible for the area.
22 Montgomery has the north side responsibility.
23 The township sheriff's have the south side.

24 So I want to get into the idea of the plan
25 that came up and this is where I really want to

1 appeal to the board for their consideration.
2 We've seen a detailed plan they were sitting
3 somewhere elaborate posters there in the back
4 corner there, and I think that's interesting
5 for sure. What this neighborhood is really
6 going to feel though is what is actually put in
7 place and what that looks like year after year
8 after year. None of us selling our property
9 today, the sales and the property value in the
10 years to come is very important. We've not
11 seen the details of how this landscaping will
12 be kept up. You're just kind of --

13 MR. HOLBERT: The file's too large. It's
14 stopped.

15 CHAIRMAN EICHMANN: We have these up here
16 so we're following along with you so go right
17 head.

18 MR. KOSEL: So what I want to get to is
19 considering not just the plan for the day, but
20 how it's going to be kept up in the years to
21 come. Those details really weren't provided.
22 On the page that is actually up on the screen
23 right now which is a good one to be frozen on,
24 is the landscaping that's the front yard to
25 Moeller today. So I wanted to show kind of a

1 benchmark of what the landscaping there on the
2 marquee right in front of the school. The
3 photo in the center is basically the front door
4 to Moeller. This is where you walk into the
5 school. And then the photo on the right is
6 your athletic building. And I got to say
7 neither one of those three pictures can be
8 claimed to be pristine. The next page --
9 again, that's the front yard if you would.

10 On the next page in your packet is the
11 back yard. In the back yard notably it even
12 worse, right, in terms of keeping the
13 landscaping up, keeping the basic property up,
14 there are for sure questionable upkeep there.

15 Upkeep matters. Next page of text there.
16 I think if you look at the current property, it
17 does beg the question, how is Moeller going to
18 maintain the parking lot if the parking lot was
19 approved in 5, 10, 15, 20 years. I hope I have
20 30 years left in me, right. When I finally
21 getting ready to sell my property what is that
22 parking lot going to look like? I'm trusting
23 the board to really consider that. It's that
24 simple to keep up that property.

25 Just as a benchmark, I did put up two

1 other pieces of property in the neighborhood.
2 One to either side of Moeller. It's actually
3 one of my neighbors that helps with the
4 landscaping at All Saints on the right. It is
5 kept pristine. On the left is Ms. Willis'
6 property. Again, from the front you can see
7 that that is kept pristine. So in terms of
8 upkeep, we got some very good examples of what
9 you hope for and you got the examples of how
10 Moeller is currently upkeeping their property
11 today.

12 The lighting plan. So I did have a chance
13 to look through Moeller's presentation and also
14 the material that you could get to and I want
15 to start with the lights there. You see that
16 we were provided a photograph for an image of
17 what the Bollard light would look like. So the
18 graphic was for a 3-foot tall light. In the
19 plot layout, the text was a 4-foot tall Bollard
20 light. And then the narrative it was 4 -- to
21 6-foot tall. I would note that the Bollard is
22 not surrounded by grass or mulch barrier with a
23 curb.

24 So what I want the board to consider is:
25 What is the final lighting plan going to be?

1 We don't really know right now. I can tell you
2 if we go with the graphic of the 3-foot tall
3 Bollard, 3-foot tall goes onto the parking lot
4 here and get in the car and see how long
5 they're going to do a 3-foot tall Bollard.
6 That's going to disappear during the day. You
7 may see it at night. 3 foot's not going to
8 work in a parking lot. I'd say it's hard to
9 find a parking lot anywhere. I'm trying to
10 observe and find one where you find a lighting
11 structure that's this tall that's not protected
12 by any kind of curb barrier or landscaping or
13 mulched area, right. If you put something this
14 tall, what should we expect to happen when you
15 put it in a parking lot. This plan it doesn't
16 seem to me to be very logical, right. It seems
17 like it's automatically going to get backed
18 into. So how high are they going to have to
19 make it so it's safe to be in the parking lot
20 and not have an accident and people not backing
21 into them, we don't know, right. I just wanted
22 the board to consider, hey, is this 3-foot tall
23 Bollard that they show in the picture, is that
24 what we're going to see. What would the
25 residents ever see in the end when it's finally

1 institutionalized in terms of construction.

2 So the next page. Another thing that
3 popped out to me was the idea of the French
4 drainage. I think in Moeller's presentation,
5 it was the landscape architect that mentioned
6 this is a low area. If you walk near the back
7 of Ms. Clarke's property, you noticed that that
8 corner of her property is kind of a low area.
9 There was no narrative on how they were going
10 to grade the parking lot. I imagine if they're
11 going to do a French drainage kind of thing,
12 perforated pipe, some kind of stone, it's going
13 to want to end up following gravity and drain
14 towards that corner. There's no mention of a
15 sewer hookup or how they were going to manage
16 the overflow. I wanted to mention in the
17 Moeller presentation that this was kind of a
18 wet area. How do you French drain into a wet
19 area, right? French drains try to move water
20 to an area where it can be absorbed into the
21 ground or dissipated into the ground.
22 Currently the Moeller plan, as I understand is
23 that they're going to try to move the water
24 down to a collection area near the Clarke
25 property. So I don't understand that how you

1 absorb all of this water into a form that's
2 already soupy. By their testimony, their
3 landscape expert said maybe treat the failing
4 because of how wet it is. How are you going to
5 get water to dissipate into an area that's
6 already kind of wet? Now, on the graphic it
7 did provide a chart, but I got to say it was
8 hard to read because the legend on the chart
9 that Moeller provided had a dash line, there's
10 so many dash lines that the dash line in the
11 legend didn't actually match any of the dash
12 lines that were actually in the figure. The
13 only time there was -- it wasn't clear whether
14 they were going to hook up into a storm sewer
15 or not. That was not clarified. Kind of had a
16 dash going that way they were hooking into the
17 storm sewer.

18 Let me make another comment there is: I
19 think it's \$48,000 square foot. So I can
20 provide this, right. So I did one of those
21 quick searches and in Cincinnati, Ohio your
22 storm that you should count on is about 3
23 inches per hour. That's kind of the worst case
24 storm. So 48,000 square foot parking lot. 3
25 inches of rain. The rate of 3 inches of rain

1 on it, that's a hell of a lot of water. You
2 got a French drain that's already probably
3 soaking -- soaking wet already. Where's all
4 that water going to go? I think Ms. Clarke's
5 property is at risk. Moeller's property may be
6 at risk also, because that's going to drain out
7 of the new parking lot towards their parking
8 area.

9 Those are just questions I had that I want
10 the board to consider because it's not a
11 narrative that was provided and I think it's
12 reasonable questions based on Moeller's input
13 that that's an already soggy area that they're
14 going to french drain into it.

15 Is walking a concern? You got to go back
16 one page, sir. I think I covered that I've
17 been a resident there for 33 years and I am a
18 recreational jogger, so I've been going up and
19 down Montgomery Road for that period of time.
20 I got to say the key to success is my safety
21 training as an elementary school child, right.
22 You look both ways. If it's a motor vehicle,
23 you yield to it whether you're supposed to have
24 the right-of-way or not. It works every time.
25 I think that's personally how I can guard

1 myself walking. These are nice wide sidewalks
2 going to and from Kennedy Lane or Moeller area,
3 north and south to downtown Montgomery. Again,
4 if you're alert, it is not a problem. Being
5 alert, walking, not a problem. So I want the
6 board to think about this and that is if you're
7 not quite alert enough to be walking the
8 sidewalk, walking the sidewalk, you're not
9 alert enough to walk the sidewalk and protect
10 your own safety, let's put you in an automobile
11 in a high traffic area. Traffic on Montgomery
12 Road to me is a lot more concern than walking.

13 Like some of the parents here, I have
14 daughters that were runners and my wife and I
15 feel comfortable sending them north and south
16 on Montgomery Road. We're competent in their
17 ability to -- competent in their ability to be
18 able to follow basic guidelines and what to
19 look for when crossing the road. As a parent,
20 I'll say young 16-years-old driver who's a
21 novice be a little bit nervous when I saw the
22 car leave the driveway. Having them run
23 never happen.

24 So, again, I just wanted to highlight with
25 the bottom bullet that adding more cars to the

1 area potentially adds more risk to the entire
2 community putting more cars into a congested
3 area. One other thing to keep in mind, there
4 was a young man that mentioned that sometimes
5 the sidewalk gets slippery going on top of
6 Ronald Reagan. Today, of course, you have a
7 bridge. Everybody recognizes bridges freeze
8 over quicker than paved roads. So a young and
9 inexperienced driver driving that bridge versus
10 somebody waking the bridge. My daughter would
11 probably take the walk versus the drive any
12 day.

13 I want to comment one of the other
14 gentleman spoke, mentioned he was a safety
15 person. I'm also very much a safety-minded
16 person and I think it was my neighbor Tom
17 Navaro had mentioned that the data is there's
18 nothing of a pedestrian event. So in the past
19 five years we've not had a pedestrian event.
20 You cannot say the same thing about the
21 accident rate on Montgomery Road involving
22 students and the traffic there on Montgomery
23 Road. We would be adding to that.

24 We had a personal family friend who had
25 his car totaled at the end of Kennedy Lane

1 exiting of Moeller traffic. So the event rate
2 or car accidents is there. There's not an
3 event rate for walking. So comparing the
4 safety of walking versus the safety of driving
5 a car, you'll be better off if you're walking.
6 You're going to be best if you're in a bus or
7 in a car that's being driven by a more mature
8 more experienced driver. It's pretty straight
9 forward.

10 Since our last event, from that last
11 meeting, pardon me, about a month ago, as I
12 said I jog frequently and one of my hobbies is
13 to look at the trash on the road. I always
14 find unique things as I go up and down
15 Montgomery Road. It's frequent but it's not
16 frequent. I'll say several times a year I'm
17 going to find debris at the end of Kennedy
18 Lane. So I know events are taking place. I
19 know I had a personal friend whose son had his
20 car totaled. So, again, it's fun to play guess
21 the make and model based on what you find on
22 Montgomery Road. So if anyone wants to play
23 make and model, I have the trash for them.

24 The roundabout. Let's fear the
25 roundabout. That's the next page. So I know

1 there's a lot of concern about what the
2 roundabout will be in the future, but I'd like
3 to highlight when you look at the roundabout as
4 it's being proposed. The students or anybody
5 moving from the Montgomery area to Moeller have
6 to go a little further. The question is it
7 less safe. Today it's been pointed out we walk
8 to and from Moeller, they cross over the ramps
9 to Montgomery. As you can see the roundabout
10 instead of crossing over ramps, they're going
11 to move you to the other side and you're going
12 to cross over an entrance to a mixed-use type
13 of property. So you're changing and walking
14 over entrance ramps to walking past a mixed-use
15 property is my understanding.

16 I'd like to also mention that there's
17 sidewalks on both sides of the bridge moving
18 north and south on Montgomery Road over top of
19 Ronald Reagan on both sides. It's the
20 student's choice where they want to walk
21 facing -- or sidewalks on both sides. You get
22 to a cross light there's a light at the end of
23 Kennedy Lane. You're going go on the east or
24 west side you can go either side, there is a
25 light there to use.

1 I know this has been covered so I'll try
2 not to harp on it. Moeller's behavior on the
3 next page. We have seen as a neighborhood no
4 actions consistent with a true safety concern.
5 If you have a true safety concern you act upon
6 it and we have not seen that. And it was
7 already covered by the gentleman before me on
8 the idea that a true safety concern would stop
9 after running on the road. Like I allow my
10 daughters to run on Montgomery Road, I don't
11 disagree with the coaches when there's athletes
12 running on Montgomery Road. I disagree with
13 Montgomery, pardon me, Moeller using that as
14 the leverage to try to influence the board.
15 That is my concern. You're seeing them use
16 safety as a leverage tool here. You don't see
17 them taking actions at the administration level
18 to change the behavior of the coaches.

19 Convenience versus safety. Next slide,
20 sir. I sure get it. Yes, it sure would be
21 more convenient if anybody that wanted to park
22 at Moeller could park there. The parking
23 issues though for sure with the students going
24 to Moeller today we understand, right. This is
25 not something new. The laws have not changed

1 so recently. It was brought up at the prior
2 meeting that there's been a change in how many
3 cars could go into a car. The law went into
4 effect early enough that anybody currently
5 going to Moeller would have had awareness to
6 that. I get it. There are students with
7 extracurricular activities. But I can also say
8 as a parent, I did my time in the barrel. I
9 did my time when I was up to take my daughter
10 to school. She was there by 6:00. It's a
11 responsibility a parent has. I appreciated her
12 safety. I took care of that. There's really
13 no new hardships for the students here. When
14 you enroll at Moeller, this is what you're
15 going to get. We're trying to upgrade Moeller
16 now after really the students knew what they
17 were going to get into. Don't feel like
18 convenience of Moeller and the students should
19 be traded for the chemistry of our
20 neighborhood.

21 Next slide, sir. So I don't know how well
22 it shows up there. That is our -- one of our
23 favorite runners in our neighborhood in our
24 community. That's the runner that is in his
25 bear chest and red shorts you see him everyday.

1 You also notice where he's at. He is on the
2 Ronald Reagan bridge. We have passed each
3 other frequently and it's always with a wave,
4 we acknowledge each other. Recently though I
5 chased him down. It's easy to chase him down
6 because he's not running he's usually walking
7 and I spoke to him for a little bit. I asked
8 him about his safety concerns that would be
9 hearsay so I won't harp on that, but clearly he
10 did not have a concern for himself. And,
11 again, it's hearsay, but he didn't really see
12 the issue with the students.

13 What I really wanted to challenge him on
14 what was his perspective on Moeller versus All
15 Saints versus the archdiocese and he really
16 would not comment on that. He considered All
17 Saints and Moeller two different entities. But
18 it sure left me with a mystery there. Why do
19 we not see Moeller as a good neighbor and get
20 along with All Saints and try to figure out
21 something that would work between them.

22 That leads me to the next page. So my
23 wife did the homework. And she looked several
24 days and tried to avoid anything special going
25 on, but she was able to go and count 135 empty

1 spots there in the All Saints area. And she
2 was there several days so this was not a rogue
3 day that there's typically going to be quite a
4 few empty spots. It just begs the question
5 with me, why isn't the archdiocese as being a
6 leadership role for the organization that's
7 working with All Saints and Moeller, why aren't
8 we challenging them more. Why are we not
9 challenging All Saints more. I think the easy
10 answer is to say that they turned them down.
11 If it's really a safety issue why have they not
12 pressed it harder. Even if it was a matter of
13 convenience here just to press the convenience
14 thing, why are we not seeing the parent
15 organization here for Moeller and All Saints
16 stepping in a little bit more.

17 In the photo in the right, you can see
18 there's still some more property there. For
19 sure the two ball fields, the two large ball
20 fields and the circular track took up the back
21 portion. You have two ball diamonds there
22 behind All Saints. They really don't get that
23 much use. There's never been two ballgames
24 going on at the same time whenever I pass by.
25 Not to say that it's never happened, but I sure

1 never observed it. We don't see the compromise
2 being worked out between All Saints and
3 Moeller. The answer that they won't respond
4 that's just not good enough for me as one of
5 the neighbors being impacted.

6 Final page. There are options there just
7 not as convenient, let's recognize that that
8 there are some options here, right. Shoveling
9 from different areas, right. It's not that
10 difficult. The public area in Montgomery is so
11 close you could run a shuttle bus back and
12 forth several times an hour. It's less than a
13 mile away or about a mile away. Moving back
14 and forth is not a problem. We sure see that
15 Moeller has resources here. They have a lot of
16 planning going on. They have legal counsel.
17 We talk about construction of a parking lot.
18 That's a lot of resources, a lot of money
19 that's being put into that. It's hard to think
20 that if there was a true safety problem today
21 that you would not sponsor a bus at a very
22 reasonable rate to go back and forth to the
23 parking lot.

24 So, again, I'm asking the board to
25 consider whether this is a true safety issue or

1 whether this is a convenience issue for the
2 high school. And, again, also like to mention
3 the earlier points I made which is, hey, we
4 really don't know what this parking lot is
5 going to look like. The lighting is not
6 figured out. The landscaping plan to keep it
7 up has not been talked about, right. I can
8 personally say that since I've lived in the
9 same house 33 years, you have to revitalize
10 your landscaping every 10 years or so, right.
11 The ornamental trees start to die out. It gets
12 overgrown. You have to redo your landscaping.
13 We have no idea what this landscaping is going
14 to look like in the future. That was my last
15 point there. That's it. Any questions for me?

16 CHAIRMAN EICHMANN: Any questions? Yes,
17 sir.

18 MR. BUGADA: I have one.

19 MR. KOSEL: Yeah, sure.

20 MR. BUGADA: I'm a parishioner at All
21 Saints and Father Larry has recently, to be
22 honest I don't know the timing whether it was a
23 year ago, or two years ago, he brought up in
24 his homily that he was actually hit by a car in
25 Montgomery as he was running. Were you aware

1 of that?

2 MR. KOSEL: He did not mention that to me.

3 MR. BUGADA: Well, I can assure you that
4 he brought that up in the homily at church.

5 MR. KOSEL: He did not mention that to me.
6 And, in fact, he did mention to me that he did
7 not think it was a safety issue, so I do not
8 know the incentive --

9 MR. BUGADA: Thank you.

10 CHAIRMAN EICHMANN: Thank you.

11 MR. MILLER: Do you have anything?

12 MR. BARRETT: Yes. Mr. Kosel, looking at
13 your PowerPoint I understand that you are
14 substantially west of the subject property.

15 MR. KOSEL: Substantially is unquantified.
16 What's substantial to you, sir? I got the
17 message here from Sycamore Township that I was
18 in the proximity.

19 MR. BARRETT: Are you north of
20 Timberknoll?

21 MR. KOSEL: Yes. I'm on the north side of
22 neighborhood.

23 MR. BARRETT: So Timberknoll is between
24 you and the school?

25 MR. HOLBERT: What's your address?

1 MR. KOSEL: 7451 Kennedy Lane, 7477
2 Kennedy Lane. Yes, there is houses between me
3 and Moeller if that's the question.

4 MR. BARRETT: Yes.

5 MR. KOSEL: I can say this we're close
6 enough to hear the ball field traffic and
7 announcements on the Moeller High School field.

8 MR. BARRETT: You've lived there for 33
9 years?

10 MR. KOSEL: Yes, sir.

11 MR. BARRETT: You've enjoyed living in the
12 neighborhood?

13 MR. KOSEL: We've enjoyed our property,
14 yes, sir.

15 MR. BARRETT: And Moeller has been a good
16 neighbor?

17 MR. KOSEL: I cannot say that.

18 MR. BARRETT: Yet you've stayed there for
19 33 years?

20 MR. KOSEL: I would say as or my neighbor
21 Ms. Brabender mentioned earlier, I do feel the
22 chemistry with Moeller has changed over the
23 years since we started living there. I do
24 remember and enjoyed when Moeller was a little
25 bit more community friendly. The back area was

1 an open area with the old cinder track and ball
2 field and we could go back and walk across that
3 and it wasn't a guarded area, per se. When I
4 moved to the community, we're not talking about
5 how high the lights were. We were not talking
6 about how loud the announcements were. None of
7 that was going on. We were not given these
8 trips to the township. So the chemistry has
9 changed with Moeller. So it depends on the
10 time frame. It has changed.

11 MR. BARRETT: And how is Moeller at the
12 present time not a good neighbor?

13 MR. KOSEL: I think I just went through
14 that. That a good neighbor would not be
15 bantering with the neighborhood over lighting
16 and how noisy the ball field was.

17 MR. BARRETT: But you understand there's
18 no lighting there now.

19 MR. KOSEL: Lighting where, sir?

20 MR. BARRETT: The field does not have
21 stadium lighting?

22 MR. KOSEL: Right. And it took a pretty
23 good effort, I think, by the neighborhood to
24 make sure that did not happen so that's part of
25 my relationship with the neighborhood. You're

1 asking whether I feel more --

2 MR. BARRETT: I'm asking what conditions
3 exist today --

4 MR. KOSEL: My response was --

5 MR. BARRETT: What conditions exist
6 today -- what conditions exist presently --

7 MR. MILLER: Let him finish his answer,
8 Mr. Barrett?

9 MR. BARRETT: -- that make them not a good
10 neighbor?

11 MR. KOSEL: Thank you, sir. So you asked
12 me what the conditions were and why I think the
13 neighborhood is changing and how Moeller is
14 going from being a neighbor that I thought
15 was -- it was fine when we moved into the
16 neighborhood today and it's a different
17 chemistry with Moeller. There was none of this
18 chemistry what we're seeing here when I moved
19 into Kennedy Lane. We didn't feel like this at
20 all. We had neighbors bantering with what
21 Moeller was doing when I moved into the
22 neighborhood that has changed. So when did it
23 exactly happen, I don't know. When did Moeller
24 stop getting along with All Saints, I don't
25 know. That's part of being a good neighbor.

1 They don't get along apparently, I don't know
2 why they can't have a negotiation on how to use
3 a hundred spots. I don't know, when did that
4 happen.

5 MR. BARRETT: You realize that's All
6 Saint's decision?

7 MR. KOSEL: I realize that it's all part
8 of the archdiocese.

9 MR. BARRETT: But you realize that it's
10 All Saints decision with regard to the use of
11 their property?

12 MR. KOSEL: I recognize their obstruction.
13 They're a bigger Catholic archdiocese. I
14 expect them to come to the table and negotiate
15 and council things. Isn't that what we expect
16 from a church?

17 MR. BARRETT: Did you know Moeller
18 presently rents spaces from All Saints?

19 MR. KOSEL: Yes, I'm aware of that. Why
20 don't they rent more? When you put this
21 parking lot how much are you going to charge
22 students to park in there? Parking's not free.
23 Can I ask that? How much do you charge
24 students to park at Moeller?

25 MR. BARRETT: You indicated that --

1 MR. KOSEL: Am I allowed to ask questions?

2 MR. BARRETT: No.

3 MR. KOSEL: Sir, do I get to ask
4 questions?

5 MR. MILLER: You can't ask him questions,
6 no.

7 MR. KOSEL: I cannot ask him.

8 UNIDENTIFIED SPEAKER: Ask Marshall.

9 MR. KOSEL: Okay. I can ask Marshall.
10 Marshall, how much do you charge --

11 MR. MILLER: Wait a minute. We're in the
12 cross-examination here.

13 MR. KOSEL: Oh, cross-examination. Sounds
14 legal.

15 UNIDENTIFIED SPEAKER: Is this a court of
16 law?

17 MR. BARRETT: You indicated the 33 years
18 you've lived on Kennedy Lane there's not been
19 an issue with students parking on Kennedy Lane?

20 MR. KOSEL: From my house that's true. I
21 can make that observation directly.

22 MR. BARRETT: And you understand that
23 because there's no parking signs?

24 MR. KOSEL: There is no parking signs that
25 I showed you the photograph of that's in my

1 front yard.

2 MR. BARRETT: And the neighborhood doesn't
3 want the students parking on Kennedy Lane?

4 MR. KOSEL: It's not a matter of just the
5 students parking on Kennedy Lane. It's a
6 safety issue where they have to get the buses
7 up and down the streets in the morning. So
8 there's never going to be an issue with
9 students parking on Kennedy Lane because you'll
10 never get the buses up and down the street.

11 MR. BARRETT: Would you have any
12 objections to students parking on Kennedy Lane
13 under any circumstances?

14 MR. KOSEL: You won't get the buses up and
15 down the street so the answer is yes, I have an
16 objection to them parking on Kennedy Lane
17 because you won't get the buses up and down the
18 street.

19 MR. BARRETT: So the issue is the school
20 buses, correct?

21 MR. KOSEL: It's in the school buses and
22 if you measure the width of the street it's not
23 suitable to have parking on the street.

24 Another thing in my house in particular, sir, I
25 do not have a curb. Some of the neighbors on

1 Kennedy Lane have a curb, I do not. So that
2 means that often when people park in my front
3 yard, they park a little bit in the yard not
4 just on the street.

5 MR. BARRETT: Just so we're clear the
6 students from Moeller High School do not park
7 on Kennedy Lane?

8 MR. KOSEL: They do not.

9 MR. BARRETT: You're concerned about the
10 landscaping. You realize that the board of
11 zoning appeals can impose conditions on the
12 maintenance of landscaping?

13 MR. KOSEL: That's up to them. My
14 response is to the observations I made on the
15 plan. How the board decides to view my
16 comments, that's up to them.

17 MR. BARRETT: Let me represent to you that
18 the board can impose conditions on the
19 maintenance of landscaping requiring a property
20 owner to maintain the landscaping.

21 MR. KOSEL: Yes, my comment there is those
22 conditions exist. But still I don't get the
23 front yard from Moeller and wonder what to
24 expect, right. We have to go as a neighborhood
25 and say, golly, they do not keep the

1 landscaping up on the front door to the
2 property. So, yes, I guess there is actions
3 that can be taken to force somebody to keep
4 their property up. I worry about the benchmark
5 that I see when I look at their front door.
6 The front door to Moeller is telling me a
7 message on what to expect in the future. I am
8 worried about the burden my neighbors will have
9 to force Moeller to take action to clean their
10 property up. I think my neighbor made
11 outstanding points on the amount of upkeep
12 that's going to be needed here. Vines there's
13 a message in there that they're going to plant
14 vines. Vines need trimmed. All those bushes
15 and stuff they're going to be needed to upkeep
16 and eventually replaced. Arborvitaes they grow
17 together, some of them die. Yeah, sure. I
18 know we can take legal action or force the
19 township to try to take action. That's a
20 burden on our neighbors. I don't need to see
21 that burden passed to my neighbors. When it
22 comes to be a burden to my neighbors that
23 eventually can influence their property values.
24 I'm the old house on the neighborhood.
25 I'm looking at Ms. Willis' property saying go

1 Ms. Willis. I want your property value to be
2 as high as possible. If you have an unkept
3 parking lot fence line next to her property.
4 I'm thinking of the old real estate; location,
5 location, location. I want her property value
6 to be as high as possible so that I'm ready to
7 retire I can count on them.

8 MR. BARRETT: Wouldn't you agree it's to
9 everyone's best interest to have the highest
10 property value as possible?

11 MR. KOSEL: Oh, yeah. Sure.

12 MR. BARRETT: Including the school?

13 MR. KOSEL: I don't see where this parking
14 lot adds to the school's property value. It's
15 off your campus today. You're expanding your
16 campus into the neighborhood. So for sure the
17 campus of Moeller would be more like X if you
18 could keep expanding into the neighborhood.
19 That would make your campus great. Keep adding
20 fingers of property to the neighborhood, I
21 guess that would be good. Athletic fields, you
22 can have weight rooms, you could do all kinds
23 of things. Keep polking into the neighborhood
24 that would increase this Moeller versus X. I'm
25 not interested in that right now. That's not

1 going to add property value to me. That may
2 help your school, but it's sure not going to
3 help our property value --

4 MR. BARRETT: As I understand --

5 MR. KOSEL: -- with your property sticking
6 into our neighborhood.

7 MR. BARRETT: As I understand your preface
8 is --

9 MR. KOSEL: One other thing in terms of
10 Moeller is that it's an interesting fact that
11 most of our neighborhood, young men, go to X.
12 That's fact.

13 MR. BARRETT: You mean St. X High School?

14 MR. KOSEL: Yes. Like my next door
15 neighbor, wonderful young man, he goes to X.

16 MR. BARRETT: What's your point?

17 MR. KOSEL: I think Moeller needs to catch
18 up a little bit and they're going to come and
19 do it if they try at our neighborhood's
20 expense.

21 MR. BARRETT: You understand that Moeller
22 wants to maintain its high standards?

23 MR. KOSEL: I question it. I question
24 your high standards when you come in here and
25 not put together a story where you say this is

1 why we are trying to expand into the
2 residential area. You're trying to use safety
3 as a wedge to do it, yet I truly see that your
4 actions do not match that.

5 MR. BARRETT: As I understand --

6 MR. KOSEL: That is not a high standard
7 when I see a disconnect between your actions
8 and what you're trying to appeal to the zoning
9 board. That is a disconnect. So what is the
10 high standard there. I see a disconnect
11 between what actions I see Moeller taking and
12 what you're trying to bring in here to the
13 zoning board.

14 MR. BARRETT: As I understand your
15 position you do not believe it's a legitimate
16 safety issue, correct?

17 MR. KOSEL: I actually gave you rates.

18 MR. BARRETT: Is that correct?

19 MR. KOSEL: Yeah, I gave you the actual
20 rates that says --

21 MR. BARRETT: You do not believe this is a
22 legitimate safety issue, correct?

23 MR. KOSEL: I was going to express my
24 answer, sir.

25 MR. BARRETT: Is that right?

1 MR. KOSEL: I was going to express my
2 answer --

3 MR. BARRETT: It's a yes or no?

4 MR. KOSEL: -- which was I gave you --

5 MR. BARRETT: Give me a yes or no.

6 MR. KOSEL: -- rates today for events
7 where you are walking is zero and I gave you
8 the failure rate today where that is not true
9 of auto accidents. I have firsthand knowledge
10 of a student that totaled a Mustang at the end
11 of our street. So, yes I believe it would be
12 safer if the kids were riding a bus or going to
13 school with their parents. Walking is not the
14 issue. Taking them to the sidewalk to putting
15 them in a motor vehicle is going to increase
16 the risk.

17 MR. BARRETT: So we understand your
18 position. It's your belief, you maintain, that
19 safety is not a legitimate issue here?

20 MR. KOSEL: Correct.

21 MR. BARRETT: You believe it's a matter of
22 convenience, correct?

23 MR. KOSEL: Correct.

24 MR. BARRETT: And wouldn't you agree if
25 it's strictly a matter of convenience, just

1 accepting your premise, it's a matter of
2 convenience that it is a benefit to the school?

3 MR. KOSEL: Yes, it's a benefit from the
4 school to expand into our neighborhood at our
5 neighborhood's expense.

6 MR. BARRETT: Did you hear the
7 presentation of Mr. Gary Meisener last time?

8 MR. KOSEL: What was his role?

9 MR. BARRETT: He was the landscape
10 architect.

11 MR. KOSEL: Yes, I heard his presentation.

12 MR. BARRETT: Did you hear his
13 presentation on the Bollard lights?

14 MR. KOSEL: I heard his presentation. I
15 had to refer back to because I don't have any
16 record of it unless there's a transcript that I
17 could have. I had to go back to the
18 presentation that was provided so my notes here
19 reflect the presentation material.

20 MR. BARRETT: You're concerned about cars
21 backing into Bollard lights, correct?

22 MR. KOSEL: I think that is an observation
23 that you have to make when the Bollard lights
24 are this high. My wife and I have a Chief
25 Grand Cherokee that's a SUV with a tailgate

1 that's about 4-foot high, so, yes, there is a
2 concern I have.

3 MR. BARRETT: You understand that they
4 would have to be protected, correct?

5 MR. KOSEL: Yeah. Yeah.

6 MR. BARRETT: Did you hear his testimony
7 that they would be on a concrete base?

8 MR. KOSEL: Yeah, and that's where it gets
9 confusing, right. You take a concrete base --
10 are you going to have a concrete base 3-feet
11 tall and then put a 3-foot Bollard on top of
12 that. It's not clear what is going to be done.
13 It you're going to put a 3-foot concrete base
14 then great, that concrete base wins the battle
15 between the bumper and the concrete. It's
16 still going to be not visible. Nobody's told
17 us for sure how tall the lights are going to
18 be. Are they 3 foot, 4 foot or 4 foot to 6
19 foot?

20 MR. BARRETT: You understand the lights
21 were lowered for the benefit of the
22 neighborhood?

23 MR. KOSEL: Yeah, that's a good point. So
24 what you did is come up with a plan that
25 suggests that and, again, it's great marketing.

1 I appreciate Moeller's marketing. You show us
2 a picture of a Bollard about this tall. It's
3 not going to work, right. So what are we going
4 to end up with. You did it for the benefit of
5 selling a presentation, but in the end what are
6 you going to give the neighborhood when the
7 planning is all done. You come back and talk
8 about the hardships of students backing into a
9 pole that's only yea tall. It's not going to
10 be visible to them. I'm worried about what we
11 end up with, not what your plan looks like
12 today.

13 MR. BARRETT: You realize the original
14 light poles were 25 feet high?

15 MR. KOSEL: Good point. Because what I'm
16 saying is these poles are not going to work so
17 pretty soon you're going to have to plus higher
18 poles that they would be up to 25 foot so they
19 can add to accident rates and so forth.

20 MR. BARRETT: That's a supposition on your
21 part, correct?

22 MR. KOSEL: Supposition?

23 MR. BARRETT: Yeah. You said we're going
24 to come back and apply for taller poles. How
25 do you know that?

1 MR. KOSEL: I identified that as a risk,
2 sir. I identified that as a risk --

3 MR. BARRETT: You'd be satisfied if that
4 risk was mitigated, correct?

5 MR. KOSEL: My idea of mitigation is no
6 lights. No parking. I think that's the true
7 mitigation here. What I'm saying is it's a
8 no-win situation for you, right. You're
9 pointing to a no-win situation here. If you
10 keep the lights low enough so that they're not
11 Ms. Willis' bedroom window, then it's going to
12 be hard for the students not to back into them.
13 You make them tall enough so you don't have to
14 worry about the lighting, then they're going to
15 be problematic. You're in a no-win situation
16 there. Even a win situation --

17 MR. BARRETT: Are you familiar with the
18 current drainage problems on this site?

19 MR. KOSEL: What?

20 MR. BARRETT: The current drainage
21 problems.

22 MR. KOSEL: Yeah, the drainage problems I
23 became aware of based on your architect's --
24 landscape architect's comments and also just
25 the grade of the land that that corner closest

1 to the Clarke property is low right now. It
2 was your guy that said, hey, it's an area that
3 the trees are failing because of how wet it is
4 and that's their area. I think, again, your
5 planning is not very good. I can read a blue
6 print, but it has to have a correct legend.
7 Your plot does not have a correct legend. But
8 I think it's implying that the French drain is
9 going to be in the wet area. How do you drain
10 a swamp into the same swamp?

11 MR. BARRETT: Are you familiar with the
12 drainage problems in the corner of Cathy
13 Willis' property?

14 MR. KOSEL: I'm not as familiar with Ms.
15 Willis' property. I'm familiar with the corner
16 there by Ms. Clarke where the French drains
17 appear by the drain --

18 MR. BARRETT: You're talking about the
19 northeast corner of the subject property?

20 MR. KOSEL: So that would be east, yes.
21 Can I ask, has there been -- I have to ask Mr.
22 Marshall, right. So is there an effort where
23 we worked out how to deal with storm drainage?
24 Is it going to go into the storm sewer? It's
25 not. It sort of looks that way. Can somebody

1 confirm whether it's going to go in the storm
2 sewer or not? Do we know -- do we know if it's
3 pumping into the storm sewer?

4 MR. MEISENER: The plan that was presented
5 last week, or last month, I'm sorry, shows a
6 storm drainage system that ties into an
7 existing storm lines that go out to Montgomery
8 Road. They're right along the property line.
9 The north property line of --

10 MR. MILLER: Perhaps you can address that
11 in rebuttal is a better spot to do it.

12 MR. BARRETT: Happy to do it now.

13 MR. SCHEVE: Maybe you can identify
14 yourself for the benefit of the court reporter.

15 MR. MEISENER: Gary Meisener.

16 MR. KOSEL: Sorry, Mr. Meisener. I didn't
17 notice you at first behind the Moeller
18 representation there. My question would be
19 when you come to rebuttal is, again, what I
20 found on a quick search in the Cincinnati area
21 we should be accounting for about 3 inches as a
22 size in criteria, 3 inches per hour. Do we
23 have the capacity to deal with 3 inches per
24 hour of rain coming off a 48,000 square foot
25 parking lot to be tied in? Is that going to be

1 acceptable rate to add to that drainage?

2 MR. MEISENER: Simple question, simple
3 answer is yes. It will meet the Hamilton
4 County stormwater management stamps.

5 MR. KOSEL: I appreciate that. That
6 narrative was not in any of the documentation
7 that we received.

8 MR. MEISENER: It's on the plans.

9 MR. KOSEL: The capacity?

10 MR. MEISENER: Not all the details because
11 this isn't the final engineering plan.

12 MR. KOSEL: Thanks for the confirmation
13 that you did go through it.

14 MR. BARRETT: Mr. Kosel, as I read your
15 PowerPoint on the issue of walking being a
16 concern, is it your position that it is safe to
17 jog up and down Montgomery Road and Cross
18 County highway interchange?

19 MR. KOSEL: Yes. I allow my daughters to
20 do it and I've also watched the Montgomery,
21 pardon me, the Moeller athletes do it
22 frequently in the morning 7:00, before 7:00.

23 MR. BARRETT: So as far as you're
24 concerned, there's no issue with the safety
25 with the cross country team running up and down

1 Montgomery Road?

2 MR. KOSEL: No. As I said, I also allow
3 my daughter to do it.

4 MR. BARRETT: And it's also your
5 contention that Montgomery Road becomes more
6 dangerous if students are parking on the
7 campus?

8 MR. KOSEL: I think my thought there is it
9 becomes more dangerous to add teenage drivers
10 going through that intersection going past
11 Moeller High School at the end. Dealing with
12 the dismissal times at Moeller so adding
13 another hundred students to a congested area, I
14 think, yes, that is more dangerous. I think
15 the safest thing is especially for our youngest
16 drivers for them to still be using alternate
17 modes of transportation to the school.

18 MR. BARRETT: Aren't those same drivers
19 using Montgomery Road?

20 MR. KOSEL: I think as my statement just
21 said, right, that the safest thing to be for
22 them to be out of the congested areas and see
23 more experienced drivers take them to school.

24 MR. BARRETT: Aren't they still driving on
25 Montgomery Road?

1 MR. KOSEL: You'll notice that if they're
2 going to the area behind there the public
3 parking, they'll be going to Cooper Road
4 possibly or coming from the north on Montgomery
5 Road, go from the south past through there.

6 MR. BARRETT: So those cars are still
7 using Montgomery Road?

8 MR. KOSEL: Yes, fewer the better.

9 MR. BARRETT: Please?

10 MR. KOSEL: The fewer cars the better.

11 MR. BARRETT: It's the same number of
12 cars?

13 MR. KOSEL: No. If you add capacity to
14 Moeller High School where we said there was
15 about 22 students crossing over the top of
16 Ronald Reagan, if you keep adding spaces to the
17 parking there, make it more convenient for more
18 and more drivers to drive to the high school,
19 more and more drivers would take advantage of
20 that.

21 MR. BARRETT: But they're still using
22 Montgomery Road when they go to school or some
23 public lot in the City of Montgomery, correct?

24 MR. KOSEL: Right. So what we're looking
25 for is to reduce the incentive for students to

1 even drive to school. Why don't we go with
2 more experienced drivers on the road. There's
3 less privileges for the youngest drivers to
4 either park or to drive to the local parking
5 lot. That would be the safest thing.

6 MR. BARRETT: Would it be fair to
7 characterize your testimony as you're looking
8 for any possible way you can to oppose
9 Moeller's efforts to procure approval?

10 MR. KOSEL: I don't think that's fair.
11 That's kind of saying that I'm against Moeller.
12 I'm not against Moeller. I'm against the
13 parking lot.

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

16 CHAIRMAN EICHMANN: Thank you, sir. We're
17 about a half hour beyond what I promised for a
18 break. I noticed a lot of you have taken a
19 break, but we'll take a 10-minute break here
20 and come back at 9:10.

21 (Break was taken from 9:00 to
22 9:10 p.m.)

23 CHAIRMAN EICHMANN: Call to order the
24 meeting again. And we'll get back there were a
25 couple more people initially that said they

1 wanted to testify. Did I see a couple of
2 hands, one hand, two hands, three hands, four
3 hands? Okay. Ladies, we'll go right across
4 that back three of you.

5 MS. WILLIS: She's going to pass out my
6 information for me.

7 CHAIRMAN EICHMANN: So you're going to
8 testify together?

9 MS. WILLIS: Yes, we are. Just the two of
10 us.

11 MS. MYERS: I'm her counsel.

12 MS. WILLIS: Let me reintroduce myself.
13 I'm Cathy Willis. I live at 7741 Kennedy Lane.
14 I am the person who is immediately or one of
15 the people who is immediately adjacent to the
16 where the property where the parking lot would
17 be.

18 CHAIRMAN EICHMANN: And you have been
19 sworn in?

20 MS. WILLIS: I have been sworn in.

21 CHAIRMAN EICHMANN: And you made a
22 presentation last time?

23 MS. WILLIS: I made a presentation last
24 year.

25 CHAIRMAN EICHMANN: That's fine. I

1 thought you meant last month.

2 MS. WILLIS: I said hello again.

3 MR. HOLBERT: Is it new folder or
4 September 16th.

5 MS. WILLIS: September 16th. Unless you
6 want to look at pretty pictures.

7 MR. HOLBERT: I'll put whatever you want.

8 MS. WILLIS: The first slide just was my
9 name so you can skip past it. I would like to
10 get the second slide up, it's also in your
11 packet. Just for context I want to make sure
12 you really see who the people are that we're
13 talking about. And you can see exactly where I
14 am which is right here. And this is the area
15 that will eventually become a parking lot
16 eventually, hopefully not. This is Tom. This
17 is Dave. This is Margee (indicating).

18 Go ahead and flip to the next slide.

19 Again, just for context, you've seen this, but
20 this is Moeller's drawing of where this parking
21 lot would go. So you can see the proximity to
22 my property. You can see the proximity to
23 Dave's property. You can see the proximity to
24 Margee's property. You can also see that
25 because this parking lot now goes all the way

1 up through Kennedy Lane, there are people here
2 that will also be affected that currently
3 really have nothing for them.

4 Let's look at the next page. So we talked
5 about the standards for conditional use. We
6 have had that conversation before. I'm just
7 going to focus on one of them and that is the
8 board of zoning appeals must determine that the
9 proposed use will not have adverse effect on
10 adjacent property or public health, safety,
11 morals and general welfare.

12 So let's flip to the next page. This
13 parking lot is going to have an adverse effect.
14 And it's going to have an adverse effect on me
15 and it's going to have an adverse effect on
16 others. Right now when I drive down into
17 Kennedy Cove coming home from wherever I've
18 been, I'm home. It's an oasis. It's
19 beautiful. I love it and that's the reason
20 I've lived there for 25 years. The addition of
21 this parking lot would immediately change that
22 visual impression and it's going to make the
23 area less desirable for all of us who live
24 here. In fact, I have to admit right now ever
25 since this whole issue keeps coming up over and

1 over and over again, it's gotten to the point
2 when I drive into Kennedy Lane, I'm not getting
3 that sense of an oasis. I feel more like I'm
4 in a war zone. I feel like I don't know what
5 the next step is going to be. I don't know
6 what the effect is going to be. And what I do
7 fear is that something's going to be placed, be
8 built here that's going to make my property
9 less valuable and less desirable as a place to
10 live. Attempts to minimize aren't enough. The
11 standard here, I think, is not have an adverse
12 effect. It's going to decrease visual appeal.
13 It's going to increase sound barriers. It's
14 going to increase traffic hazards. It's going
15 to increase exposure to pollutants. It may
16 even increase vulnerability to drive that's
17 hard to say, but it could.

18 So honestly even with the best possible
19 design, any parking lot is going to have a
20 negative affect. And just take a look down
21 here and you see what's going to happen, this
22 is where this parking lot goes. Just take a
23 minute and look at it. Anjannette, I think we
24 even have some colored pictures if you want to
25 bring them and maybe see them a little bit

1 better.

2 You flip to the next page. For me
3 personally, and first of all, I am not an
4 architect. I am not a drafts person, but I
5 have used the parcel information from the
6 Hamilton County site and looked at really --
7 what was the situation for before we started
8 talking about parking. I've lived here for 25
9 years. I was one of the original purchasers in
10 Kennedy Cove. And one of the things that we
11 knew, we knew Moeller was there. And I
12 remember talking to some people and said you
13 know what they're actually pretty good folks,
14 it will be okay. But at that time and
15 currently, this amount of my property roughly
16 27 yards of perimeter of my property is
17 bordered by Moeller and it's at a distance of
18 about 35 yards. So let me put this in
19 Moeller's terms, that's more than a third of
20 football fields playing area. When I bought it
21 25 years ago I thought you know what this is an
22 acceptable inconvenience. It's far enough
23 away, there's going to be some trees back
24 there, so, yeah, I was willing to accept that.

25 You flip to the next page. What's going

1 to happen if Moeller builds this parking lot?
2 Is that the amount of my property that is
3 directly adjacent to Moeller and in this case
4 directly adjacent to their parking lot, is
5 going to increase by another roughly 70 yards
6 and the distance is going to be pretty much at
7 about 13 yards from my property. So combined
8 we got almost a football field here. And most
9 of that is at a distance pretty darn close to
10 the 10-yard line. This represents 50 percent
11 of the perimeter of my property.

12 So, yeah, when I came into Kennedy Cove I
13 knew I was going to be living near a school. I
14 knew I was going to have a percentage of my
15 property that was bordered by Moeller. I knew
16 there was a distance there. I also believed
17 that I had the shielding of a residential
18 section directly to the east of me and I can
19 look at that and say, yeah, that's fine. Let
20 me tell you having 50 percent of the property
21 being up against Moeller this is not
22 acceptable. This is the big picture. This is
23 really what's happening if we build this
24 parking lot. If Moeller builds this parking
25 lot.

1 There was testimony from a realtor last
2 year. We did not have testimony this year.
3 But during the last hearing there was some
4 indication that this will most likely have an
5 affect on property values. So I'm not even
6 looking at being able to say, hey, this is not
7 going to be the happy place to live I've been
8 living for the past 25 years, but also it's
9 most likely going to cost me money.

10 Let's go to the next one. So basically
11 and I'd stand up if I could, but this is going
12 to have a very similar impact on Dave on Margee
13 on the Navaros. So if you really, really look
14 at where this is going, right here, so this is
15 me. You see right now I have this distance.
16 Now I'm not. Now, this is the adjacency.
17 Later this is what it could become. But for
18 the Navaros if you look at it here, basically
19 they have, I'm not sure exactly the distance,
20 but they have pretty good distance between
21 themselves and the field. The distance between
22 their house and the new parking lot would be
23 roughly the same, but the amount maybe the
24 distance is going to be adjacent to Moeller or
25 close to Moeller, it's going to increase

1 dramatically.

2 Let's just stay on Kennedy Cove for a
3 minute. These houses -- these houses bought in
4 knowing that Moeller was close by. They did
5 not buy in with any adjacency or any really
6 visible view of Moeller. Suddenly, they've got
7 it too. So when you start coming down Kennedy
8 Cove now, you don't walk into an oasis. You
9 walk into a place that's got a fence, some
10 shrubs, and a parking lot and it's going to
11 impact this entire section here. I know Fran's
12 been asking some questions about where people
13 live and whatnot, and if people back here --
14 right now they're trees. When they're not
15 trees, you can see right through here. So
16 they're also going to be seeing this.

17 Let's actually flip onto the next page
18 because I want you to take a minute here and
19 actually use the rulers I gave you and take a
20 minute to actually do the measurements
21 yourself. You can do it on this page. You
22 flip to the next page, Harry. You can do it
23 using this schemata or you can go up to the
24 next page. Or you can even do it using this
25 schemata that was provided by Moeller, I don't

1 care. But if you really take your rulers and
2 start to say, okay, well, what's going on here
3 with Margee. Right now Margee's got all of
4 this space between her and Moeller. She's got
5 a little bit of property here that's adjacent
6 to Moeller. She's got really too much adjacent
7 to the parking a little bit. She's got some
8 business parking here. But now this is
9 encroaching all the way up to her pool. All
10 the way up to her pool, across from her garage,
11 and look at just the sheer volume of what the
12 border's going to be. Same thing for Dave. I
13 mean Dave's back here right now. Of course, he
14 doesn't hear anything from Moeller, it's way
15 back there. Now, it's going to be right here.
16 This is the property that's currently owned and
17 is being leased by someone else. But,
18 seriously, take a minute and I know that sounds
19 a little hokey, but until I really took the
20 ruler to this thing and started to recognize
21 just what they're talking about, I'm the one
22 who's affected, and it took me a while to
23 really grasp just how big a deal this is.

24 So I know we've talked about pretty
25 fences. We've talked about shrubbery. We

1 talked about all kinds of things. I know it's
2 really easy to get caught up and say, hey, some
3 of those renderings look pretty nice. And
4 let's face it, Gary's a great guy. But the
5 realty is what we're really talking about is an
6 enormous amount of asphalt that's encroaching
7 in deeply into a residential area. Deeply into
8 a residential area. I also want to point out
9 we don't have a lot of buffer between us and
10 this Montgomery Road mixed-use corridor. So
11 now we got this big parking lot and a little
12 bit of green, and a little bit of green here.
13 This is going to change the nature of this
14 neighborhood.

15 Would I continue to live here if Moeller
16 builds the parking lot? I would actually
17 challenge -- I'm not sure I would. I'm
18 honestly not sure I would. I would question
19 whether other people might make those same
20 decisions. Some people can't. I'm in a
21 position where I could, but this is not an
22 acceptable situation at all.

23 We can move on. Again, this is the
24 context as it was provided by Moeller.

25 Let's go to the next slide. The other

1 thing I want to share with you is just what's
2 changing in terms of the number of parking
3 spaces that I'm adjacent to, they're adjacent
4 to. Right now down here at the bottom, they've
5 got six and a half to seven spaces that are
6 somewhat close to my property line. And, oh,
7 by the way, I'm hearing the horns. A couple of
8 weeks ago, it was like 1:45 and 2:45 and we're
9 hearing all these horns going off. It was
10 really fairly obnoxious. Then, now, what we're
11 going to have, I'm going to have, is an
12 additional 22 spaces. So you have increased
13 the number of spaces that are close to my
14 property more than four-fold, more than
15 four-fold. How can this not be a negative
16 effect from the adjacent property? There's no
17 way. Similarly, Margee doesn't really have any
18 parking spaces. Maybe a little bit over here.
19 She's now got 21. 21 horns blowing
20 potentially. I know that's a bit of a high
21 probability, but we have got 21 spaces right up
22 against her property. 14 spaces in here, about
23 half or more of those are going to be right up
24 against Dave.

25 Also, really again, look back to the

1 Navaros, they were over here. They had very
2 little adjacency and now they're going to have
3 22 spaces, not that far away from them. These
4 guys up here nothing now. They're home free.
5 Not anymore. They're going to have about 10
6 spaces up here. So, again, I cannot in any way
7 see how this does not create a problem for the
8 neighborhood. How this meets the standard
9 that's being that you set for conditional use.

10 Let's go to the next page. This was
11 discussed earlier. This issue of maintenance.
12 And I do understand absolutely that there will
13 be things put into place. That will say this
14 is what Moeller needs to do to maintain this.
15 But the record right now with Moeller is really
16 less than stellar, and honestly I get it. The
17 neighbors are not the first priority and we
18 shouldn't be their first priority. But there
19 was some issues already shown to you about how
20 they have not maintained their property.
21 They've really been pretty unresponsive to some
22 recent issues that neighbors have raised and
23 honestly if I were Moeller right now I'd be
24 kind of sucking up to the neighborhood and they
25 aren't.

1 And so if they're not going to do it now,
2 what's going to happen when they get what they
3 want. They're certainly not going to be
4 responsive and just a couple of examples. Tom
5 has been measuring the decimal level coming
6 from the speakers and he's finding that they
7 peak at around 90 decimals. I've actually
8 asked for a copy of the agreement that was made
9 with Moeller and I believe there is a decimal
10 limit. The only thing I can find,
11 unfortunately, before coming here was something
12 from one of Fran's court cases where it was the
13 McNichols case and there was someone who said
14 they thought it was about 55 decimals. I'm not
15 sure if that's accurate, but the decimal level
16 over in the past couple of weeks has been way
17 out of 55 decimals. Definitely in the 70s and
18 80s and peaking at 90. We have -- I know Tom
19 has reached out to the township and shared this
20 information. The point is: We're the ones
21 that have to do it. So it means it's my time,
22 Tom's time and effort. Ultimately, we might
23 have to come back before the board. We might
24 have to hire more attorneys. It's not always
25 easy for the neighbors to get Moeller to do

1 what they had promised to do.

2 This is a silly one, but look -- February
3 we had an open house at Moeller to look at some
4 of these plans. Tom commented to, I think I
5 raised it actually with Marshall, that Tom has
6 been complaining because there's a light on the
7 building that shines right into his
8 second-story window. He calls it his personal
9 nightlight. Also, by the way, I think it
10 shines into Margee's window. So I said, you
11 know, it might be nice if you might actually
12 adjust that. It's just a light on a building,
13 just a light on a building. Marshall actually
14 went over to visit, saw it. Nothing has
15 happened. Nothing has happened. That was
16 February, I think, this is September; isn't it?
17 So should Tom have to be constantly haranguing
18 Marshall to say can you fix this for me. So
19 this is the way -- again, I get it. He's busy.
20 He's got a lot to do, but just because he's
21 busy doesn't mean that it's right for us to be
22 in a position that we have to be the ones who
23 are doing the haranguing.

24 So I do believe that if this parking lot
25 is built and you know things are going to go

1 wrong, I don't know enough about trees and
2 shrubs to know which ones are going to go
3 wrong, but I know stuff is going to go wrong.
4 I know we're going to have a storm. I know
5 probably when you build this -- I have a
6 brother-in-law who's an engineer who always told
7 me, well, yeah, something always goes wrong.
8 We know that. So are they really going to be
9 willing to spend the money and the time to
10 repair it or are we going to be the ones who
11 are going to have to come and say, let's go
12 again. Let's talk again. Let's do this again.
13 Okay, let's take you to court. I don't want to
14 have to do that.

15 Moeller received an e-mail recently and I
16 have a copy of it if anybody wants it from a
17 resident that raised concerns about an incident
18 in their parking lot. It was -- and that
19 student, a driver who was probably a student, I
20 don't know, possibly a student, nearly ran into
21 a bicyclist. The neighbor e-mailed Moeller
22 weeks ago; no answer. No answer. I don't want
23 to make this is a litany, but what I'm saying
24 here is that is Moeller a good neighbor. Well,
25 I think there's some questions that I've

1 observed over the past 12 months. I'm going to
2 be honest first probably up until a couple of
3 years ago, I was traveling so much on business
4 that I was everybody's favorite neighbor
5 because I was never here. So there was some
6 things that may have gone on in the past that I
7 wasn't even aware of. But, boy, you know, I
8 look at this now and say this is what we're
9 going to have to do. Come here. Anyway, you
10 get the point.

11 Next one. The question about parking lot
12 having adverse effect on public safety. There
13 was a lot of discussion last time about whether
14 this is really going to create additional
15 traffic during congested times. The exact
16 impact is pretty hard to estimate. What I do
17 know is that if this goes through, we're going
18 to have a hundred plus additional cars in this
19 section of Montgomery Road and this section
20 being Moeller, All Saints, Kennedy Lane, and so
21 on. So, yeah, they maybe on Montgomery Road
22 now, but they're not all piled up right here at
23 peak traffic times.

24 One of the reasons I don't really know
25 what the impact is going to be because nobody's

1 done the work. We contacted the City of
2 Montgomery to ask if they had done any work to
3 study the potential impact of this, especially
4 in light of the roundabout. And they
5 indicated, well, they don't have any
6 jurisdiction here. It's up to Sycamore
7 Township. We contacted Sycamore Township.
8 Sycamore Township has acknowledged there's no
9 traffic study that's been done. So will it or
10 won't it, I don't know. The reason is because
11 nobody's done their due diligence. Similarly,
12 I wonder how much study has actually been gone
13 into that traffic flow and patterns into and
14 within the parking lot with all these
15 additional cars. I know that there's been some
16 discussion of that, but you're going to have a
17 lot of young drivers going into this parking
18 lot, a lot more young drivers going into this
19 parking lot. My question is: Are we actually
20 setting up more risk for students to have
21 access now?

22 Let's go onto the next one. Again safety,
23 I get it. Kids walking to school you have
24 concerns. You made a choice or your children
25 made a choice that was what they wanted to do,

1 they weren't going to take the bus and so on,
2 but you're concerned I get it. At the same
3 time, I think we have to look at the bigger
4 picture here in terms of safety risks. Nobody
5 really wants to talk about teen drivers, but
6 the question is: Are we actually encouraging
7 more young drivers to drive to school? And was
8 that actually increasing the risk for students
9 for the faculty as well as for their neighbors
10 and the public at large. Again, I'm not an
11 expert here, but I will tell you that the Ohio
12 house it has recognized this risk. House Bill
13 106 is currently in committee. It was
14 actually -- it came up in the previous
15 legislative session. The same bill was passed
16 in committee during that session with strong
17 bipartisan support. There were 11 yeas and 4
18 nays. Session ended prior to passage and
19 because of the support and strong support of
20 the key stakeholders, it has been reintroduced
21 and in my judgment it has a pretty good chance
22 of passing. So what is this bill. Well,
23 Triple AAA does a good job of kind of
24 explaining it. They proposed to modernize
25 Ohio's young driver licensing system with two

1 simple but important adjustments: Lengthen the
2 temporary permit instruction permit from six to
3 12 months and then insure newly licensed teen
4 drivers are supervised while driving after
5 10:00 p.m. rather than midnight.

6 Let's go to the next page. So why is this
7 even relevant to this discussion. Well,
8 there's a couple of reasons. The first is: If
9 it passes what we're really talking about is
10 that students who are now 15 and a half in the
11 spring who would be eligible to drive in the
12 fall, aren't going to be eligible to drive for
13 another six months. The goal here is to give
14 these students additional experience. As we
15 look at -- as people have looked at some of the
16 reasons why there's so many teen traffic
17 accidents, yeah, distractions are one thing and
18 so on and so forth, but a big part of it is
19 simply lack of experience. So this has been
20 tested in other states and has been affected.
21 So the goal here really is to get used to these
22 additional driving time. So I guess my
23 question is: By adding parking, are we
24 potentially encouraging additional students to
25 drive to school? And if so, is Moeller

1 actually flying in the face of emerging
2 evidence of safety risk that this could present
3 not just for their students, but for the
4 faculty and the community at large?

5 We talked about this at nauseam I think,
6 that they continue to claim that they can't
7 find alternatives that might be safer. I just
8 want to let you know I care about this. I've
9 actually offered Moeller -- I have a marketing
10 research and creativity business. I've offered
11 Moeller that I would come over and run a
12 creativity workshop with them to try to help
13 them find better solutions. You want to find
14 out how much that's worth I'll tell you my rate
15 card later. It's not insubstantial.

16 So, again, providing additional parking
17 may seem like a less convenient solution here,
18 but this is about the staff of public safety.
19 We have focused on one aspect of safety which
20 is students walking to school. This is a
21 broader issue. So let's go on just a moment.

22 Just take a minute. You're probably
23 familiar with these statistics, but this is
24 what Triple AAA presented to the house
25 transportation and public safety committee in

1 support of this bill. Young drivers are
2 consistently overrepresented in both motor
3 vehicle crashes. Ages 16 to 17 are 3 times as
4 likely as adults to be involved in a deadly
5 crash. 38,000 injuries and fatalities occurred
6 in Ohio teen driver crashes during the past
7 five years, with an average of 20 injuries and
8 fatalities everyday. Ohio is now the 7th in
9 the country for the highest number of teen
10 fatality and injury crashes. And this doesn't
11 just impact the teen drivers. It puts all road
12 users in danger. Two thirds of those killed
13 are injured in crashes involving teen drivers
14 are people other than teen drivers.

15 Let's go to the next page. Some
16 additional testimony. Basically, what they've
17 seen is the parents of teen drivers in states
18 that have a 12-month permit are actually
19 extremely supportive. They probably were
20 somewhat concerned initially because, hey, it's
21 less convenient. We got to figure this out,
22 but after North Carolina enacted a 12-month
23 learner's permit, 95 percent of parents said it
24 was just right or not long enough. Numerous
25 reputable studies have proven longer learner

1 permits than supervised night time driving
2 protections and reduced crashes. You can take
3 a minute. I don't have to read this to you.
4 The point being this is a broader issue than
5 simply students walking. Moeller actually has
6 an opportunity to lead. Perhaps to consider
7 saying, hey, in consideration of emerging data,
8 we're going to discourage our younger students
9 from driving.

10 Let's go onto the next page. This is just
11 a list of all the stakeholders. This is pretty
12 compelling that there are this many proponents.
13 I actually provided you with a separate set of,
14 separate packet. And in that packet, you'll
15 see some of the additional letters that were
16 provided or testimony including one from a teen
17 driver who was very supportive because he or
18 she talked about the first time he had a wreck
19 which basically totaled his truck, he was
20 pulling into a parking lot.

21 Let's go to the next one. So no adverse
22 effect also means no effect on the general
23 welfare. I got to tell you. This is already
24 having a negative effect on the welfare of the
25 neighborhood. Not one tree's come down. Not

1 one space put onto the ground and the reason is
2 we're tired. We have had to take time. We had
3 to take energy, money, effort, to fight a
4 battle that was decided last year. Let me
5 remind you it was decided last year and there
6 is an appeal's process ongoing. But now we
7 have to come here. I'm beginning to feel like
8 I pay a Moeller tax. It's called money. It's
9 called time. It's called anxiety. I'm not
10 going to ask them to raise their hands, but I
11 can't tell you how many neighbors have admitted
12 to me they've lost sleep over this. Lost
13 sleep. And why because they say this is bad
14 enough. We have to keep going back and back
15 and back. I can't even trust a decision that
16 was made and what's going to come next. The
17 last thing here is I'm going to remind -- this
18 presentation has been a -- from what I made
19 last year. Some of you may remember that.
20 Some of the cosmetics of the parking lot have
21 changed. The fundamental issues have not
22 changed. Cosmetics have not addressed the
23 fundamental issues. And again me as neighbors,
24 we have been forced to come back and back again
25 and this is, again, the high cost of time

1 energy and money and so on.

2 Last slide for me here, please. We talked
3 about it, is it really a need. I've heard
4 Mindy's numbers that she's counted. I trust
5 Mindy. I happen to know the morning she was
6 out. She was sending us regular routine
7 reports. By the way, she also actually counted
8 the cars in the public lot a couple of days.
9 It was only a couple of days and she said there
10 were about 46. Even if all of those were
11 Moeller students, it's not the hundreds that
12 we've heard about and it's highly unlikely that
13 all 46 of those cars in the lot were actually
14 Moeller students. So the question is: Has
15 something changed or were the numbers we looked
16 at last year incorrect? I don't know. But I
17 do know that this is something that really
18 makes me wonder. Well, is this really the
19 need.

20 I think it's a problem self-created and
21 what do I mean by self-created. What I mean is
22 that Moeller did make other choices in terms of
23 how they used their property. I don't really
24 have a preference on how they used the property
25 that does not encroach on my property. Again,

1 this is residential property that they are --
2 they want to use as a conditional. This is an
3 encroachment. This is a property that was
4 already theirs. That they for years that they
5 can build on. This is encroachment. I don't
6 care. But it's a self-created problem. It can
7 be addressed in other ways. I've heard
8 logistical barriers like parking guards,
9 busing, van service, have you done the
10 benchmarking with other private schools or
11 other local schools to see how they address
12 these issues? Have you? Have you really sat
13 down and taken the time, I mean, frankly, if I
14 were a parent and I'm not a parent okay. I am
15 the world's greatest great aunt and I'll
16 guarantee you my three grandnephews will tell
17 you that. My middle sister passed away over 20
18 years ago. She passed away before her kids had
19 kids so I'm equivalent to their grandparent.
20 If this were really that big an issue and there
21 were options, like, I don't know, I'm not going
22 to All Saints. I don't know anybody at All
23 Saints. I'm not a Catholic. I don't know
24 those people. But the parents do. The parents
25 have power. So there are things that could be

1 done and we have talked about this. Is this
2 really a safety issue. If it were really the
3 five-alarm fire that Marshall talked to us
4 about last year, and I believe if we look in
5 the record the words that were used were that
6 the first thing he talked about was safety.
7 You're absolutely correct. And at that time he
8 was thinking about school shootings. Overtime
9 he decided that this issue was as big as if not
10 bigger than school shootings. Again, let's go
11 back to that February open house at Moeller.
12 It's been months since the decision was made.
13 We're still in appeal. Realistically even if
14 you approve this plan, I'm going to appeal it.
15 I'm going to keep it in court as long as I
16 possibly can. So he's at least a year or two
17 years away from ever seeing a parking lot. So
18 I asked him I said, "So what have you been
19 doing in the meantime?" You know what he
20 answered me, I'm trying to get this parking
21 lot. So question to me is it just that he
22 wants a parking lot.

23 Again, from my standpoint I believe this
24 is a want it's not a need. And any need isn't
25 that self-created. And these are choices that

1 students and parents are making in terms of
2 allowing their students to drive to school.

3 MR. SCHEVE: You bring up an issue that I
4 was going to ask Mr. Miller about. Last time
5 we were here you said you were going to have a
6 mediation conference with former Judge Stich.
7 Can you tell us what's the status you brought
8 Plan A up -- or the convenience -- Plan A is on
9 appeal, what's the status of the current
10 appeal?

11 MR. MILLER: The current appeal?

12 MR. SCHEVE: Yes.

13 MR. MILLER: We have a couple of issues
14 that have been appealed to the judge. One is
15 the issue of Ms. Willis being able to intervene
16 in that first case.

17 MR. SCHEVE: They ended that didn't they?

18 MR. MILLER: Well, the magistrate ruled
19 that she could and Moeller appealed that, so
20 that issue is now in front of the judge.

21 MR. SCHEVE: So we're a long way from
22 settling the first case.

23 MR. MILLER: There's another -- there are
24 two more issues. One Moeller had filed a
25 motion to present additional evidence that was

1 denied by the magistrate and that is also on
2 appeal before Judge Luebbbers. And then
3 finally, the township had introduced a motion
4 to supplement the record as to the issue of
5 whether the witnesses were sworn in. The
6 magistrate granted that motion and that is also
7 on appeal before Judge Luebbbers.

8 MR. SCHEVE: When is the next hearing?

9 MR. MILLER: Well, we have a report with
10 the magistrate tomorrow at 1:30. And then
11 Judge Luebbbers wants us to stop by in her
12 courtroom after that because she informed the
13 parties last time that she lives in the
14 neighborhood. Her sister lives in the
15 neighborhood and she has some connections to
16 Moeller also, but that she felt she could be
17 impartial.

18 MR. SCHEVE: Either of you ask her to
19 recuse herself?

20 MR. MILLER: I have not had a chance to
21 talk to the trustees from our standpoint on
22 that issue --

23 MR. SCHEVE: How about Mr. Barrett?

24 MR. MILLER: -- which I will in the
25 morning at the trustee workshop. I don't know

1 where the other parties are on that issue.

2 MR. SCHEVE: So we have got a number --

3 MR. MILLER: We're basically no where. We
4 don't have a briefing scheduled on the original
5 appeal.

6 MR. SCHEVE: So just so the people
7 understand, you go in front of the magistrate
8 who initially hears the case. And then if
9 you're dissatisfied with the magistrate's
10 decision, you go to the judge to decide the
11 case?

12 MR. MILLER: Correct.

13 MR. SCHEVE: And she can either affirm or
14 overrule on the magistrate's decision.

15 MR. MILLER: Right. Any administrative
16 appeal is initially sent to the magistrate.
17 The magistrate will go through the judicial
18 process. And any party that is not happy with
19 the magistrate's decision when it's all said
20 and done has the right to go to the judge
21 assigned to the case who will basically you
22 start all over again in front of the judge and
23 will hear the thing. Given the nature of this
24 case, I'm kind of considering and I would have
25 to talk with my other counsel to just ask the

1 judge to pick the case up rather than it go
2 through the magistrate because it's probably
3 one way or another going to get appeal
4 regardless of the decision.

5 MR. SCHEVE: So we're a long way from
6 having that case resolved unless there's some
7 settlement, right?

8 MR. MILLER: Correct.

9 MR. SCHEVE: Your settlement talks have
10 gone nowhere, right?

11 MR. MILLER: Correct. We had mediation
12 last month and it didn't result in any type of
13 settlement.

14 MR. SCHEVE: Okay.

15 MR. MILLER: It's not to say we've given
16 up entirely, but it doesn't look promising.

17 MR. SCHEVE: Mr. Barrett, is that an
18 accurate representation of where we are?

19 MR. BARRETT: It's accurate, but it's not
20 totally complete. And the lack of completeness
21 is this hearing in front of you this evening.
22 As I indicated to opposing counsel and the
23 court, when I got involved in the case, I
24 looked at it and thought we could come back
25 with a plan that addressed the major issues.

1 So we proceeded to retain a landscape architect
2 and prepare a plan that had major changes. We
3 submitted that after trying to get that either
4 through mediation or remand, that was insisted
5 by opposing counsel. So we went ahead and
6 initiated a whole new application, that's why
7 we're here before you this evening. So as I
8 represented to the court, I represented to
9 opposing counsel, if we have this particular
10 plan approved we will withdraw the prior plan.
11 But I can't withdraw the prior plan because of
12 the legal impediments which counsel for the
13 township and opposing counsel have raised. I
14 have to protect --

15 MR. SCHEVE: You mentioned last time the
16 possibility of Res Judicata.

17 MR. BARRETT: Yes.

18 MR. SCHEVE: You're essentially saying
19 Plan B is the same as Plan A. If the court
20 turns down Plan A, you can't have a Plan B so
21 that's substantially similar to Plan A, right.

22 MR. BARRETT: Yes. As I also told the
23 court and opposing counsel, if I am pressured
24 to protect my client's interest we will proceed
25 in court on Plan A and I believe that the

1 record in that case is sufficient to establish
2 that a parking lot is a conditional use, meets
3 all the criteria for approval as a matter of
4 law, based upon the actual record that was made
5 before, we can prevail. But having said that,
6 trying to be a good neighbor, we reduced the
7 number of parking spaces. Reduced the height
8 of the lights. Doubled the size of the buffer
9 and made multiple improvements in the plan and
10 we're committed to doing that in a neighborly
11 fashion. That's why we're here this evening.

12 MR. SCHEVE: What if --

13 CHAIRMAN EICHMANN: You going to let these
14 folks seem to do the questioning first.

15 MR. SCHEVE: Let me ask you one more
16 question and I'm finished. If the court
17 reverses our decision on Plan A, would you then
18 proceed to implement, try to implement -- to me
19 it's very confusing. If the court opposes Plan
20 A what happens then?

21 MR. BARRETT: I'll answer the question for
22 you. I have not pursued that. I have not
23 asked for a hearing on the merits. If I'm
24 forced to by opposing counsel, then I'll
25 proceed. But our intent out of good faith and

1 out of good neighborly relations is to have a
2 modified plan approved rather than Plan A.

3 MR. SCHEVE: If you win Plan A would you
4 go with the original plan or would you go with
5 Plan B anyway?

6 MR. BARRETT: If I am forced to get Plan A
7 approved, without approval will still try to do
8 Plan B. That's our commitment.

9 MR. SCHEVE: Thank you. Sorry to
10 interrupt.

11 MS. WILLIS: I'd just like to comment on
12 two additional comments. One relative to Plan
13 B. Yes. There's increased height in terms of
14 the fence, the berm, the plants, but mine's a
15 two-story house. Unfortunately, somebody
16 locked all the windows. I was going to take a
17 picture out of a couple of my bedrooms, my
18 upstairs bedrooms. But right now even with the
19 40-foot trees that we have, I can see straight
20 into that area that's going to become a parking
21 lot. I think Margee can as well. I'm not sure
22 about Dave. And actually for the Navaros
23 because of this slope on their property,
24 they're probably going to be able to see it
25 even like the first floor level. Yes, I agree

1 there's been some attempts to make some
2 cosmetic changes, but those cosmetic changes do
3 not address the fundamental issues of the
4 parking lot encroaching into a residential area
5 to the extent this does.

6 The second thing is: I don't want to
7 sound like I'm the witch here who's not going
8 to let anything ever happen, in fact, I've
9 offered to buy the property so that Moeller
10 could use that money and find some other
11 solution. I'd love to buy that property. That
12 would make me feel more confident that the
13 neighborhood is going to stay the way I want it
14 to stay. I think it would make the rest of the
15 neighborhood feel more confident. But I was
16 told, no, they want that so. And I would be
17 willing to. We could make that deal very
18 quickly at market value.

19 CHAIRMAN EICHMANN: Is there any other
20 questions for them? Any other questions for
21 them?

22 MR. BARRETT: Are they finished --

23 MS. MYERS: I'm going to present some
24 argument, but if you want to ask Cathy
25 questions that's fine.

1 MR. BARRETT: Go ahead and give your
2 arguments then I will do the cross-examination.
3 Go ahead.

4 MR. MILLER: This is not testimony. She's
5 literally arguing.

6 MS. MYERS: This is just argument.

7 I think Mr. Scheve you've hit the nail on
8 the head here. This is a complicated
9 procedural situation to be in. Cathy and I
10 were at the last hearing that was here in May
11 2018. Upon the decision of this board, the
12 3-to-2 vote to deny the conditional use,
13 actually, it was appealed and then we filed a
14 motion to intervene in the summer of last year.
15 It's been moving slowly. As you heard, we have
16 a check in with the magistrate tomorrow and
17 although the magistrate ruled to allow Cathy to
18 intervene in the case a couple of months ago,
19 that issue is now on appeal. This is a slow
20 grinding case.

21 I present to you now that you've heard I
22 believe all of the factual testimony that
23 you're going to hear that this is a case that
24 is ripe for a decision that you all should not
25 make a decision on the grounds that it's Res

1 Judicata. I think the fact that we're
2 struggling so hard with these procedural issues
3 is indicative of the fact that it is Res
4 Judicata. And I understand that Res Judicata
5 is a complicated concept that is usually only
6 presented to lawyers and I respect the fact
7 that most of you up there are not lawyers, but
8 unfortunately, the magistrate put it in your
9 hands to make that decision.

10 MR. SCHEVE: What if we just continue the
11 case, continue Plan B until court decides Plan
12 A.

13 MS. MYERS: Well, that was going to be my
14 back-up suggestion, but if I can complete my
15 thought on Res Judicata first.

16 I think one prime example of why it's
17 appropriate for you all to determine that you
18 shouldn't rule on this on the grounds of Res
19 Judicata, but Res Judicata is in place for a
20 variety of reasons, but it's to keep people
21 from having to re-litigate the same issue.
22 It's to keep people from being in a situation
23 like we're faced with tonight. The last
24 decision was a 3-2 vote. And of those 3 votes
25 that went in my client's favor only one of you

1 is sitting up there tonight. So it's a
2 different make up. The other two yes votes
3 aren't present here this evening. So it lends
4 itself to a different decision on the same --
5 on essentially the same set of facts. From our
6 perspective, this is mostly some cosmetic
7 changes. As Kathy said, the substantive issues
8 here haven't changed. This is still a parking
9 lot that is encroaching dramatically into a
10 residential neighborhood. I'll get into
11 argument in a moment here about why that is.
12 But so little has changed that I basically
13 copied and pasted my argument from last year
14 except for this Res Judicata and continuance
15 section which I wrote this year, but the
16 substantive issues are the same.

17 We still have a parking very close to
18 these residents. We still have the concerns
19 about noise. We still have the concern about a
20 big swath of currently green space, a nice big
21 green buffer that's going to be replaced with a
22 hardscape. And no matter what drainage you do
23 on there -- when you take trees on a space like
24 that, especially when it's kind of this
25 landlocked space, you're going to just

1 naturally have environmental factors that
2 effect the neighborhood around it. The fact
3 that Doug is going to be in the untellable
4 position of arguing on both sides of this if
5 the decision goes the other way, is another
6 example of why this really should be determined
7 that it's Res Judicata and should not be
8 decided by you all. The magistrate put that
9 decision in your hands. I personally think
10 that's unfair. We all argued that it was Res
11 Judicata to the magistrate.

12 MR. SCHEVE: I'm not sure she has the
13 authority to put in our hands on the decision.

14 MS. MYERS: I agree. But we are where we
15 are so I respectfully ask first that you
16 consider declining ruling especially after
17 hearing all the evidence and hopefully you'll
18 determine for yourself that not much has
19 changed here that this is Res Judicata. If you
20 don't feel comfortable doing that or you don't
21 agree that you should do that, then the
22 alternative we suggest that you delay decision
23 on this case while the first appeal runs its
24 course in the courts.

25 MR. SCHEVE: Let me ask Mr. Barrett to

1 respond to. Let's say hypothetically we decide
2 to rule on this case and we turn it down. So
3 we've gone from Plan A was 130 spaces, Plan B
4 was 117 spaces. Can they come back next month
5 with a 100 spaces? Can they come back every
6 month with a modified plan to force people to
7 come here every month for in perpetuity?

8 MS. MYERS: Right, that's my concern.
9 That if you give him the second bite of the
10 apple then do they get a third, do they get a
11 fourth, do they get a fifth. You know, do they
12 just keep coming back reducing by 10 percent
13 each time until you finally approve it and the
14 neighbors have to go through this process each
15 time.

16 MR. SCHEVE: I do think they made
17 significant efforts to come up with a better --
18 Plan B is significantly better, not
19 significantly, but Plan B is better than Plan
20 A. They've made efforts to try to address the
21 concerns.

22 MS. MYERS: It's different. It's a little
23 prettier.

24 MR. SCHEVE: Well, it's fewer spaces, more
25 lighting. They did a number of things to try

1 to address the issues to be raised. I just
2 have a real problem procedurally when you got a
3 case pending in court for us to vote on another
4 case that while different and somewhat better,
5 is still can we have a parking lot on this lot.
6 I think the decision was 3 to 2 and you got a
7 judge that's going to decide the issue and they
8 made -- he or she may decide against us.

9 MR. BARRETT: Let me be heard.

10 MS. MYERS: And I'm not finished just to
11 be clear.

12 MR. BARRETT: Let me be heard though at
13 least to Res Judicata.

14 MR. SCHEVE: Well, let her finish and then
15 you can talk.

16 MR. BARRETT: Let me talk about Res
17 Judicata.

18 MR. SCHEVE: Can't she finish her
19 argument? I interrupted her; didn't I? Go
20 ahead.

21 MS. MYERS: So, finally, if you don't
22 determine that it's Res Judicata and you don't
23 feel it's appropriate to kind of stay or hold
24 in advance your decision on this case while the
25 first one runs its course, then we would ask

1 that you deny it on the grounds that this still
2 doesn't make the standard for conditional use.

3 We heard a lot tonight from both sides
4 really about the issue of safety. While that
5 is clearly an issue about which people are very
6 passionate and there's a lot of feelings on
7 both sides of that issue and certainly I don't
8 think anybody in this room would ever stand up
9 and say they want any child to be unsafe or any
10 young man to be unsafe, that's not the issue
11 here. The issue is whether Moeller has met its
12 burden to have its conditional use that they've
13 applied for approved. And while safety is
14 maybe something you think about when you
15 consider whether conditional use is
16 appropriate, that is by no means a standard and
17 it's certainly not the only factor that should
18 be considered. Interestingly the safety issue
19 is going to change in some way when this
20 roundabout comes in. It's just not going to be
21 the same set of circumstances. Maybe it will
22 be better, maybe it will be worse. I'm not an
23 engineer and don't pretend to be. But in any
24 case, that issue is going to change in the
25 coming months and years.

1 It's also not a new issue. I believe that
2 the director of facilities who testified a
3 month ago mentioned that he also, either he or
4 his friends also park in downtown Montgomery
5 and he mentioned he graduated from high school
6 in 1977. So while this may be a new issue that
7 Marshall is really pushing and I understand
8 that, you've only been here for three and a
9 half years, this isn't a new issue. So to say
10 that everybody needs to give up all of their
11 rights because of the safety issue and this is
12 the only way we're going to address it, gets
13 very much away from the fact that there is a
14 standard by which we -- by which this board
15 decides conditional use applications.

16 The conditional use zoning resolution in
17 17-6 outlines the general considerations for
18 this board and Cathy went through some of that.
19 But no adverse effect is a significant
20 consideration. It's one of the four
21 considerations. I think there's been lots of
22 testimony about the adverse effects that this
23 is going to have even the Plan B that it's
24 going to have a significant adverse effect.
25 It's going to diminish people's property

1 values. We're going to have noise issues, the
2 reduction of green space, the buffering that
3 that provides really between this beautiful
4 residential neighborhood and the Montgomery
5 Road corridor.

6 A vinyl fence that's a little bit taller
7 than maybe the standard, but it's a vinyl fence
8 instead of greenery. I think that all of us
9 that are homeowners would recognize that that's
10 a significant issue. Most people choose to
11 have that green space if they can have it and
12 so to suggest that's not going to somehow
13 impact that neighborhood, I think, is not being
14 very truthful.

15 I recognize that this is a landlocked
16 parcel, but I think that's also the reason why
17 these neighbors didn't expect it. If you come
18 into this space because there is no egress
19 except for Moeller's parking lot, you wouldn't
20 expect that this green space is going to go
21 away. Sometimes you hear about folks that
22 build next to a vacant lot that fronts on a
23 street, and then they get upset when somebody
24 builds on it. Well, you can get to a street
25 and it can be used independently. But here I

1 think it's probably reasonable for folks to
2 expect that this will remain green space
3 because of its landlocked nature.

4 The head of security who was here last
5 time said that the school is in operation from
6 6:30 in the morning till 10:00 p.m. at night,
7 yet he's only there until like 3:00 in the
8 afternoon. You do have to wonder what's going
9 to happen on this parking lot at least between
10 the hours of 3:00 and 10:00 and certainly are
11 you going to wake up in the morning to boys out
12 there at 6:30 in the morning. A couple of
13 folks have said that this is a very passive use
14 of this property, but I think for anybody who's
15 been in a high school parking lot any time in
16 their lives will recognize that it's not such a
17 passive use as you might exhibit for say an
18 office parking lot.

19 Another general consideration under the
20 conditional use zoning resolution is the
21 protection of public interest. And one of the
22 things that I think was missing in the staff
23 report here, was that it recognizes in the
24 protection of public interest that the proposed
25 use and development should respect to the

1 greatest extent practical the natural scenic
2 and historic features of significant public
3 interest. I think that every person from the
4 community who's spoken tonight has talked about
5 the significance of this green space. When you
6 go along Kennedy Lane, when you go along
7 Kennedy Cove, replacing that green space where
8 you have nice mature trees which Cathy
9 estimated were maybe 40 or 45 feet tall, taking
10 those down and replacing it with a hardscape,
11 it's hard to say how that is respecting the
12 natural and scenic properties of this area.

13 And the final consideration for this
14 zoning resolution is that the use needs to be
15 consistent with adopted plans. So the land use
16 plan which was adopted by the board of township
17 trustees has a lot of language in it that
18 suggests that this parking lot should not be
19 built. And so I'm just going to run through a
20 handful of them here. At Policy 3 south
21 Sycamore Township 2-13, it says that this is an
22 established residential area under the Sycamore
23 Township land use plan. This is an established
24 residential area. This parking lot violates
25 the land use policy because it results in

1 conflict and new negative conditions due to
2 incompatible use which is relevant to Policy 4
3 2-13. All of these are for south Sycamore
4 Township, by the way, I'll leave that part out
5 and try to hurry up a little bit.

6 The land use plan requires that
7 development proposed meet the high standards of
8 design desired by the community and to be
9 compatible with the residential character and
10 the natural features in this area. I think as
11 we can see especially on those drawings where
12 it shows kind of the gray block going into the
13 residential neighborhood, it shows that this
14 is -- that this doesn't meet this high design
15 standard and doesn't represent the natural
16 features. That's Policy 5 2-13.

17 The land use policy is to minimize the
18 exposure of residents to excessive noise by
19 requiring the preservation and/or development
20 of vegetation as green belts and buffers
21 between residential areas and nonresidential
22 developments. I think this green space is met
23 as that buffer, between the residential area
24 and the more mixed use as you get closer to
25 Montgomery Road. And we're looking at a plan

1 that would take that away. That's Policy 5
2 2-15.

3 The singular land use plan goal under
4 housing and residential character, under that
5 title, is to maintain the area's residential
6 areas and continue to promote the integrity of
7 the residential community. Three of the five
8 policies supporting this goal include one:
9 Protecting the residential neighborhoods from
10 adverse impacts of proposed development,
11 redevelopment and land use changes.

12 Number 2, provide adequate buffering,
13 screening, or other techniques which will
14 reduce nuisance when a residential development
15 will be next to a land use that produces
16 nuisances. And, 3, protect and enhance the
17 character and visual appearance of the
18 residential neighborhoods and that's found at
19 Policy 5, 2-15 and 2-16.

20 So while I think everyone here respects
21 that there's a safety issue, I simply don't
22 think that Moeller has met it's burden to show
23 that this is an appropriate conditional use.

24 MR. SCHEVE: Let me ask you one more
25 question. Let's say hypothetically the board

1 decided to approve the plan, would we have the
2 legal authority to say this far and no further?

3 MS. MYERS: I don't know. That's a good
4 question.

5 MR. MILLER: I'm not sure I know what you
6 mean.

7 MR. SCHEVE: Well, the residents have
8 expressed a concern that Moeller either
9 directly or indirectly has been trying to buy
10 property along Kennedy Avenue and their concern
11 that Moeller's next step is to, in their mind,
12 whether it's true or not, is going to try to
13 move the parking lot and the entrance onto
14 Kennedy. Are we able to legally say you can
15 have what's proposed this time but that's it?

16 MR. MILLER: No. They can always apply.
17 We see that tonight. That's what happened last
18 time.

19 MR. SCHEVE: We couldn't legally make that
20 a condition of the approval if we were so
21 inclined. That wouldn't be constitutional.

22 MR. MILLER: Well, they would simply make
23 an application to a future board to get rid of
24 that condition and go do whatever they want to
25 do. I don't think you can say forever no

1 because they always have the right to file a
2 new plan. Let's say if they acquired the
3 Clarke property or something.

4 MR. SCHEVE: I thought that was the
5 answer, but I wanted to make sure.

6 MR. MILLER: I don't see how that would
7 work. They'd always have the right to do that.

8 MR. SCHEVE: I know the board is always
9 looking for some place in the middle to come
10 down that satisfies the needs of the owners and
11 the neighborhood. I'm not sure there's any
12 place in the middle we can meet.

13 MS. MYERS: It's a hard one to split the
14 baby on.

15 MR. SCHEVE: We've done that in the past.
16 We've tried to come up with revised landscaping
17 plans or a whole variety of things, try to
18 weigh the differences. In this case I think
19 we've not going to be able to do that, are we?

20 MR. MILLER: I mean, a future board may
21 overrule this board.

22 MR. SCHEVE: Mr. Barrett?

23 MR. BARRETT: Let me address the issue of
24 Res Judicata. I didn't realize Kristen Myers
25 was going to make a closing argument. I was

1 going to save that till the appropriate time,
2 so I won't to respond to any of those points.

3 MR. MILLER: Before you do that, Fran, do
4 you have questions for Ms. Willis?

5 MR. BARRETT: I do, but I want to address
6 the issue of Res Judicata.

7 MR. MILLER: We procedurally we've been
8 all over the place tonight. Go ahead.

9 MR. BARRETT: I want for the record to
10 make the point of Res Judicata.

11 CHAIRMAN EICHMANN: And I'll just remind
12 you that we're at 10 after 10:00 in 20 minutes
13 we're going to adjourn.

14 MR. BARRETT: Yes. Usually Res Judicata,
15 administrative Res Judicata, when it's just
16 plain Res Judicata that's where the court case,
17 means the issue has been adjudicated, the
18 subject matter, the Res has been adjudicated.
19 So it's been adjudicated you can't come back
20 later and try to overturn that and that's why
21 you have appeals on judgments. We don't appeal
22 becomes Res Judicata or if you live on appeal
23 it becomes Res Judicata. The administrative
24 Res Judicata in zoning cases it pertains to
25 situations where someone makes an application

1 for a particular use or a particular plan and
2 is denied and comes back with the same plan.
3 Two circumstances are allowed. It's not Res
4 Judicata. One is if the plan itself changes
5 or, two, it can be the same plan but if the
6 external circumstances have changed. For
7 example, if somebody wants to, for example, get
8 an office on a particular piece of property and
9 the board turns it down saying, well, this is a
10 residential neighborhood. We're turning it
11 down. And then two years later there's offices
12 on both sides of the tract. You can come back
13 and say that the external circumstances have
14 changed.

15 Conversely, if you come in with an office
16 place that's considered to be too intensive.
17 The building's too high, there's no
18 landscaping. The parking is too close to the
19 residents that adjoin it, et cetera, et cetera,
20 and you get turned down. You can come back
21 with a modified plan. And it happens
22 practically all the time where boards of
23 township trustees, township zoning commissions,
24 boards of zoning appeals, city councils,
25 planning commissions, village councils, they

1 turn somebody down. They say you've got too
2 many units that's a multi-family building.
3 This office building is too high, if it's a
4 retail. You got too much site coverage. You
5 have too much hard surface impervious surface.
6 You don't have adequate landscaping or
7 buffering. And they encourage people after
8 they turn them down, to bring back a modified
9 plan. If you bring back a modified plan which
10 is acceptable, it can be approved and that's
11 what we've done here. We've made major, major
12 changes. And I would say that the bottom line
13 with the opposition is they basically told us,
14 we don't care what you do, we're opposed to it
15 and that's not the standard. Their standard is
16 we're opposed to a parking lot under any and
17 all circumstances.

18 We came back with a plan where we reduced
19 the parking spaces from 130 to 117 spaces. As
20 a 10 percent reduction, we implemented an
21 8-foot high perimeter fence from the previous
22 6-foot high fence just for the neighbors. And
23 also the fence materials are changed. Now,
24 they will be constructed of sound absorption
25 material. Before that was not the case. We

1 increased the buffer on the west side. We
2 doubled it from 10 feet to 20 feet. That's a
3 hundred percent increase on the entire western
4 property line to protect the closest residents
5 which is Cathy Willis.

6 We implemented enhanced landscape
7 plannings on the perimeter to include
8 additional trees and shrubs. We implemented a
9 staggered fence line on the perimeter to
10 accommodate increased landscape plans on the
11 exterior for the fence and to provide enhanced
12 esthetics for the benefit of the adjoining
13 owners. In other words, it's a staggered
14 fence. We used -- we're now putting in
15 mounding which will actually, on the perimeter,
16 which would increase the height of the fencing.
17 So even though the fencing's been increased
18 from 6 to 8 feet with mounding that's even
19 going to be higher than that. Again, this is
20 for the benefit of the neighbors.

21 A major, major change with reduction in
22 the height of the light poles. Light fixtures
23 were 25 feet before, they're now low level
24 Bollard lights 4 to 6 feet. They're basically
25 on a base of 30 feet which is the concrete base

1 for their protection so they can't be backed
2 into and damaged. And on top of that 30-inch
3 base, you have the Bollard light, which is
4 approximately 3 feet, so we're in the 4 -- to
5 6-foot range.

6 Also in the implementation of a drainage
7 system for the benefit of the neighboring
8 properties, including use of a French drain
9 system, et cetera, et cetera. I mean, these
10 are major, major changes to the plan. If you
11 take any parking lot plan and you compare one
12 parking lot plan to another parking lot plan,
13 you have to say that this is a significant and
14 major change. I understand fully the
15 opposition. They don't find any changes
16 acceptable, but still it's a valid plan for
17 avoiding Res judicata that is properly in front
18 of you.

19 Again, to answer the question we do not
20 want to go with Plan A, we want to go with Plan
21 B, but our hand's been forced in court to not
22 be able to withdraw Plan A. We'd love to
23 withdraw Plan A, but that can be used against
24 us. So that's why we're in the predicament
25 we're in. We're committed to Plan B which is a

1 better plan.

2 MR. SCHEVE: Is there a limit to -- my
3 prior hypothetical question as to how many
4 times you can come back say hypothetically the
5 board turns your Plan B down, can you come back
6 next month with Plan C with say instead of 117
7 spaces to have 110?

8 MR. BARRETT: It's not us. That's the
9 law. As long as you --

10 MR. SCHEVE: That's what I'm asking you
11 is. Is there a limit to how many times you can
12 come back or can you come back every month?

13 MR. BARRETT: There is no limit.

14 MR. SCHEVE: Come back every month with a
15 change in the plan?

16 MR. BARRETT: As a matter of law, there is
17 no limit. Property owners can seek rezonings.
18 They can seek plan approvals.

19 MR. SCHEVE: So the change in the plan to
20 avoid Res Judicata would have to be just --
21 wouldn't have to be significant, it would have
22 to have some change.

23 MR. BARRETT: It has to be material
24 change.

25 MR. SCHEVE: A material change?

1 MR. BARRETT: Yes.

2 MR. SCHEVE: So that would be up to us to
3 decide --

4 MR. BARRETT: Yes.

5 MR. SCHEVE: -- whether, for example,
6 reducing from 117 to 110 would be material?

7 MR. BARRETT: Yes.

8 MR. SCHEVE: I get, I think.

9 MR. MILLER: Yeah. And I would disagree
10 with Mr. Barrett in this regard on that is the
11 difference between what he was describing of
12 coming back with a landscape plan or coming
13 back with a smaller building, that is in every
14 case I can remember the matter was not voted
15 on. It was not turned down. It was a matter
16 of we want to see a different plan and then
17 they come back with the plan. In this case,
18 the plan was denied. There was no additional
19 plan in probably December of last year. I
20 mean, the motion to put a new plan in front of
21 this board or in front of the court was made
22 and there was no plan. That was my argument.
23 How do you rule on an additional plan when it
24 doesn't exist and it didn't exist at the time.

25 MR. SCHEVE: We did this last month with

1 the trustees where they initially wanted to put
2 this salt mine in the new building in the back.
3 They came in with a plan. We continued the
4 case --

5 MR. MILLER: But you hadn't turned the
6 plan down.

7 MR. SCHEVE: Right. No. We continued it
8 for the trustees to talk to the residents.
9 They came back with a modified plan that we
10 approved.

11 MR. MILLER: Correct. But you never
12 turned the first plan down. This one was
13 turned down.

14 MR. BARRETT: Doug, but the difference is,
15 just because -- if you haven't turned it down
16 there's no issue of Res Judicata. There's no
17 issue.

18 MS. MYERS: Exactly.

19 MR. MILLER: Right. I think you're making
20 my argument.

21 MR. BARRETT: No, I'm not. What I'm
22 saying is -- no, no. I don't know why it's
23 funny. People think it's funny, but it's not
24 funny all of this is a serious matter.

25 The point is that if you turn something

1 down Res Judicata bars you from bringing back
2 the same plan, but you can bring back a
3 modified plan with material changes and it's
4 not Res Judicata.

5 MR. MILLER: If it's substantial.

6 MR. BARRETT: Yes.

7 MR. MILLER: And it's for this board --

8 MR. BARRETT: And these are substantial
9 changes.

10 MR. MILLER: -- to decide whether it's
11 substantial.

12 MR. BARRETT: And these are substantial
13 changes.

14 MR. MILLER: But the difference being in
15 the case with -- he's referring to last month
16 and any other case you're referring to, it
17 never gets turned down in the first place.

18 MR. BARRETT: If it never gets turned down
19 there's no issue of Res Judicata.

20 MR. MILLER: No. If a final decision is
21 made, then there's nothing to change. You can
22 bring back a plan and if there's a substantial
23 change, it's not Res Judicata. The point that
24 you're making when somebody says the building's
25 too high. There's not enough landscaping. A

1 final decision hasn't been made in that case --

2 MR. BARRETT: Whoa, whoa, whoa.

3 MR. MILLER: -- this board is saying come
4 back and show us a different plan.

5 MR. BARRETT: No. No. No. I'm saying
6 they've made those observations and then turned
7 it down.

8 MR. MILLER: They didn't turn it down.

9 MR. BARRETT: You're talking about a
10 specification with township trustees.

11 MR. MILLER: I'm talking about any case
12 where they come back with.

13 MR. BARRETT: No. No.

14 MR. MILLER: Once a final decision's made,
15 it's made.

16 MR. BARRETT: Right, but I'm saying --

17 MR. MILLER: They can't reopen that
18 matter.

19 MR. BARRETT: No. But I've seen many
20 cases where somebody brings in a plan and the
21 board says we can't approve this, we're going
22 to turn it down. But if you bring back a
23 modified plan which addresses A, B, and C we
24 can look at that possibly favorably.

25 MR. MILLER: But they haven't turned it

1 down the first plan.

2 MR. BARRETT: Yes, they have.

3 MR. MILLER: No, they haven't.

4 MR. BARRETT: Yes, they have.

5 MR. SCHEVE: Okay, hey, hey. I think we
6 got --

7 MR. BARRETT: I see it happen all the
8 time.

9 MR. SCHEVE: I think we got the lawyers --

10 MR. MILLER: We agree to disagree.

11 MR. BARRETT: No, I've seen it happen.

12 MR. SCHEVE: Did we finish with the public
13 presentation?

14 CHAIRMAN EICHMANN: He wanted to make a
15 statement on Res Judicata first. Now, do you
16 have questions?

17 MR. BARRETT: Yes, I do.

18 CHAIRMAN EICHMANN: Please. We have 10
19 minutes remaining this evening. Are there any
20 other people who want to make a presentation?
21 One other, two others.

22 MR. BARRETT: Cathy, let me just ask you a
23 couple of quick questions if you don't mind.
24 Let me see if I'm correct in understanding this
25 that you understand that after the plan was

1 turned down, that last year the school retained
2 Gary Meisener?

3 MS. WILLIS: I understand that. I met
4 Gary. He's a great guy. I just don't think
5 the plan that's been presented is substantially
6 different and I don't think it's addressed the
7 issues.

8 MR. BARRETT: And you realize Gary came to
9 your house and met with you?

10 MS. WILLIS: I'm sorry.

11 MR. BARRETT: Gary came to your house and
12 met with you?

13 MS. WILLIS: Yes, he did.

14 MR. BARRETT: And you understand that he
15 doubled the buffer adjacent to your property?

16 MS. WILLIS: I do understand that.

17 MR. BARRETT: And he raised the height of
18 the fence?

19 MS. WILLIS: I do.

20 MR. BARRETT: Included mounding?

21 MS. WILLIS: I do.

22 MR. BARRETT: And he lowered the light
23 poles from 25 feet down to 4 to 6 feet?

24 MS. WILLIS: I remember that, too.

25 MR. BARRETT: He also -- there's a

1 drainage problem in your back yard?

2 MS. WILLIS: Sometimes there is, yes.

3 MR. BARRETT: And this is supposed to
4 correct that?

5 MS. WILLIS: That was discussed. I'm not
6 a drainage expert.

7 MR. BARRETT: And he reduced the number of
8 parking spaces?

9 MS. WILLIS: From 130 to 117.

10 MR. BARRETT: And when you bought next to
11 Moeller, Moeller was already there, correct?

12 MS. WILLIS: Moeller was there. It was at
13 least 35 yards away from my property and the
14 adjacent perimeter and part of my perimeter
15 that was adjacent was something like 15 percent
16 of the property.

17 MR. BARRETT: And your entire south
18 property line is against Moeller's existing
19 parking lot, correct?

20 MS. WILLIS: Yeah, pretty much.

21 MR. BARRETT: And that there's no
22 screening or buffering that Moeller provided
23 with that parking lot?

24 MS. WILLIS: No, Moeller really didn't
25 provide it, but the builders did. And in that

1 time there was a great deal of trees and
2 shrubs -- trees put in. Frankly, we had a lot
3 of issues with those trees.

4 MR. BARRETT: That's on your property
5 though?

6 MS. WILLIS: Some are on my property.
7 That's actually a good question because there's
8 been some issues with some trees and we're
9 trying to figure out which ones are my property
10 and which ones are yours. But Moeller did not
11 directly put that in. Our builder who
12 developed that land put those buffers in as
13 part of the --

14 MR. BARRETT: And there's no mounding
15 there?

16 MS. WILLIS: There's no mounding at this
17 point.

18 MR. BARRETT: There's no screened fence?

19 MS. WILLIS: No.

20 MR. BARRETT: No sound absorption fence?

21 MS. WILLIS: No.

22 MR. BARRETT: And the buffering which is
23 now proposed for your east property line is
24 substantially greater than the buffer that
25 exists on the south property line?

1 MS. WILLIS: There is a buffer that's
2 being proposed on the east side.

3 MR. BARRETT: And you attended the open
4 house back in February?

5 MS. WILLIS: I did.

6 MR. BARRETT: And as I recall it was the
7 consensus of you and your several neighbors who
8 were there, that the school should go to All
9 Saints, contact Father Jaspers and ask for
10 permission --

11 MS. WILLIS: That was one of the
12 decisions.

13 MR. BARRETT: -- to use their property for
14 parking?

15 MS. WILLIS: That was one of the things
16 that was discussed. One of the things
17 discussed.

18 MR. BARRETT: What other recommendations
19 were discussed?

20 MS. WILLIS: I believe Mindy raised the
21 potential of looking at property that was
22 across the street. I raised the question,
23 again, of what could be done short term, things
24 like shuttle buses and whatnot. That's when I
25 offered to do a creative session for you, you

1 may recall. And, frankly, I don't remember
2 what other -- exactly other things that were
3 discussed. But those some of the things that
4 were discussed. It's not our job to come up
5 with Moeller's solutions. I think we're going
6 out of our way to try to be neighbors.

7 MR. BARRETT: But you did propose, you did
8 request Marshall Hyzdu to contact Father
9 Jaspers at All Saints Church?

10 MS. WILLIS: That was requested.

11 MR. BARRETT: He got back to you. He
12 responded saying that he did contact the
13 parish, Father Jaspers had no interest?

14 MS. WILLIS: That's correct. However, the
15 neighbors also indicated that the best way to
16 approach All Saints would not just be sending
17 Marshall in there alone, but rather to look for
18 a way to find other people, whether they're
19 Moeller parents, et cetera, to go in and use
20 that leverage with All Saints. So it's not
21 completely correct to say that we just sent
22 poor Marshall in.

23 MR. BARRETT: Did you all do any follow-up
24 with Father Jaspers?

25 MS. WILLIS: Yes, there has been

1 follow-up. I did not personally.

2 MR. BARRETT: And you understand that all
3 the trees that are on the site could be removed
4 without question right now?

5 MS. WILLIS: I understand that.

6 MR. BARRETT: And have you ever seen a
7 parking lot that's been better buffered from
8 the residential?

9 MS. WILLIS: That's a great question. I'm
10 not a judge on parking lots --

11 MR. BARRETT: Have you ever seen --

12 MS. WILLIS: -- but I actually looked up
13 after last week or last month to see what were
14 the world's most beautiful parking lots. I got
15 to tell you there's some pretty gorgeous stuff
16 out there. So I cannot answer, yes, that I've
17 never seen anything that's better.

18 MR. BARRETT: Do you recall anything in
19 greater Cincinnati that's better buffered than
20 this as proposed?

21 MS. WILLIS: Fran, I cannot recall
22 anything because I haven't paid that much
23 attention to it.

24 MR. BARRETT: Thank you. And you
25 understand that schools are conditional uses in

1 this district?

2 MS. WILLIS: I understand that. I also
3 understand that the property at this point is
4 still zoned residential.

5 MR. BARRETT: You understand that a school
6 is a conditionally permitted use in the
7 residential district?

8 MS. WILLIS: And that they must meet
9 certain criteria.

10 MR. BARRETT: And of all the possible
11 school uses, wouldn't you agree this is about
12 the least active use you can make?

13 MS. WILLIS: No, because there's going to
14 be a whole bunch of noisy kids running around.

15 MR. BARRETT: Would you rather have an
16 athletic field there?

17 MS. WILLIS: I would rather not have
18 Moeller encroaching on this deeply into a
19 residential area.

20 MR. BARRETT: If you had a choice between
21 the athletic building or parking lot which one
22 would you use?

23 MS. MYERS: Objection. This calls for
24 speculation, but you can answer.

25 MS. WILLIS: I'd rather have a greenhouse.

1 MR. BARRETT: Would a building under any
2 circumstances be acceptable to you?

3 MS. WILLIS: That's really difficult to
4 answer. Speculatively you might come up with
5 something that was acceptable, but I don't know
6 what that would be. So don't ask me that.

7 MR. BARRETT: But you understand a parking
8 lot is an accessory use as opposed to a
9 principal use.

10 MS. WILLIS: What's an accessory use?

11 MR. BARRETT: You're not familiar with the
12 term?

13 MS. WILLIS: No.

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

16 UNIDENTIFIED SPEAKER: She's not an
17 attorney.

18 MR. SCHEVE: Mr. Chairman, I think we're
19 close to -- I'm willing to stay until 11:00 if
20 there are two more people that can say
21 something new that we haven't heard before and
22 wrap it up in five minutes to give Mr. Barrett
23 20 minutes to make a closing statement and we
24 could wrap it up by 11:00, I'm more than
25 willing to stay here until 11:00.

1 CHAIRMAN EICHMANN: If that's agreeable
2 with everyone. We'll make an exception for the
3 10:30.

4 UNIDENTIFIED SPEAKER: I'm here on behalf
5 of a client. I can't agree not to make a
6 record in the interest of speed to get this
7 hearing done. I've got to make my record and
8 if that takes 20 minutes, it's going to take 20
9 minutes. I can't limit myself to five minutes.

10 MR. SCHEVE: How long do you think it
11 would take?

12 UNIDENTIFIED SPEAKER: I'm hoping no more
13 than 20 minutes, but certainly --

14 MR. SCHEVE: Are you going to have a
15 witness?

16 UNIDENTIFIED SPEAKER: No, I'm not.

17 MR. SCHEVE: Just argument.

18 UNIDENTIFIED SPEAKER: Just argument.

19 MR. SCHEVE: Was somebody else going to
20 speak?

21 UNIDENTIFIED SPEAKER: There was some
22 gentleman down there.

23 CHAIRMAN EICHMANN: No, I mean with you.

24 MR. SCHEVE: You're going to have an
25 argument and Mr. Barrett is going to have an

1 argument.

2 MR. BARRETT: We have a witness.

3 MR. SCHEVE: You have one more witness.

4 Why don't you put your one more witness on and
5 then we can see where we stand.

6 CHAIRMAN EICHMANN: I think he was sitting
7 in the chair a month ago and you weren't just
8 here at the beginning of this meeting.

9 MR. SCHEVE: Why don't we see if we can
10 put you on and not duplicate the prior
11 testimony.

12 MR. HOLBERT: Does staff have any say
13 about this because you've already set up a
14 10:30 time? Why don't we just continue it?

15 MR. SCHEVE: Because they have to come
16 back next month.

17 MR. HOLBERT: Then that's part of the
18 process.

19 CHAIRMAN EICHMANN: We are going to have
20 to come back anyway and make our decision.

21 MR. SCHEVE: If we could be wrapped up by
22 11:00.

23 MR. HOLBERT: We don't know --

24 MR. MILLER: Sir, how long do you think
25 you're going to speak?

1 MR. NAUMANN: Five minutes at the most.

2 MR. HOLBERT: This is all hypothetical.

3 MR. MILLER: Five minutes he said.

4 UNIDENTIFIED SPEAKER: Can we ask a
5 question, please?

6 MR. SCHEVE: I think we can wrap it up.
7 If you take five minutes and we give 20 minutes
8 for argument and 20 minutes for you, we can
9 wrap it up by 11:00.

10 MR. HOLBERT: You can't do that. You
11 can't limit their time. You have to give them
12 full opportunity to speak their mind which I'm
13 all for. But if we set a dictation -- if we
14 set a time of 10:30 tonight, I think that's
15 what we hold to.

16 MR. SCHEVE: We can limit legal argument.
17 We can't limit testimony, but we can
18 limit legal argument.

19 MR. BARRETT: Let the witness testify so
20 we're done with at least testimony.

21 MR. SCHEVE: Let's do that.

22 MR. MILLER: I don't disagree with Harry,
23 but this guy's been here for two months now.

24 MR. SCHEVE: I think we can at least do
25 the witness and let him wrap it up.

1 MR. MILLER: No offense to my reference of
2 "this guy".

3 UNIDENTIFIED SPEAKER: I am here for the
4 next case and I want to make sure that is -- if
5 I walk out this door that's not --

6 CHAIRMAN EICHMANN: We're not going to
7 hear that case tonight it sounds like.

8 UNIDENTIFIED SPEAKER: Well, it certainly
9 doesn't seem like we're going to hear it, but
10 we don't want to walk out --

11 MR. SCHEVE: You're here for the church?

12 UNIDENTIFIED SPEAKER: Yes. Can you
13 officially say it?

14 CHAIRMAN EICHMANN: We apologized ahead of
15 time to the gentleman in back that we may not
16 get to it tonight.

17 MR. HOLBERT: We won't hear it until the
18 next meeting. Now, Mr. Miller do we have to do
19 anything legally? Do we have to get the
20 applicant to request that?

21 MR. MILLER: I would open the public
22 meeting and continue it to next time because he
23 has to have a meeting within 62 days or
24 something like that or have a hearing within
25 the 62 days of application.

1 MR. NAUMANN: Todd Naumann, 7645 Kennedy
2 Lane. I'm a resident and a -- also Moeller
3 employee. And first and foremost, I want to
4 say that I love my neighborhood and I really
5 appreciate my neighbors. I'm also grateful to
6 be an employee of Archbishop Moeller. I'm
7 grateful that the Sycamore Township and the
8 City of Montgomery recognized that there are
9 legitimate safety concerns in the area.
10 There's a joint effort to put a sidewalk on
11 Kennedy Lane this summer.

12 Its been mentioned many times that the
13 Moeller students do not park on Kennedy Lane,
14 but I will tell you that there's a tremendous
15 amount of traffic on Kennedy Lane and most of
16 the time those are the neighbors that live in
17 the neighborhood. They have a tendency to
18 drive extremely fast down Kennedy Lane. And as
19 a father of five children whose kids like to
20 play outside, I will tell you that it's a daily
21 concern of mine that one of my own kids will be
22 injured by somebody that's driving down Kennedy
23 Lane typically at a high rate of speed in a
24 residential neighborhood. And I think that
25 both the City of Montgomery and Sycamore

1 Township finally recognized the fact that there
2 were legitimate safety concerns and decided to
3 add a sidewalk and I think that that should be
4 duly noted.

5 Like I said as a parent of five children,
6 the oldest of which is 14, the youngest of
7 which is 19 months old who like to play in the
8 neighborhood, I recognize the fact that that
9 it's a wonderful residential neighborhood and
10 that's part of the reason why it's such a
11 desirable place to live.

12 Also, as an employee of Moeller High
13 School, I believe in the good faith effort of
14 the school. I know that it's been mentioned
15 many times that the school doesn't seem to do
16 it's fair share when it comes to safety
17 concerns. I'm not sure if it's been noted or
18 not by anybody previously, but at dismissal
19 everyday, the school has several uniform police
20 officers to help with the flow of traffic, both
21 in and out of the parking lot and on Montgomery
22 Road. And I think that the school has made
23 very reasonable attempts to try and secure the
24 interest of the safety of its own students, but
25 also the safety of other folks who travel up

1 and down Montgomery Road particularly at the
2 time of dismissal.

3 I'm also the head football coach. And as
4 the head football coach I've got responsibility
5 for some 185 young men that are in our program.
6 We just played a game this past Friday night.
7 At the conclusion of the game, by the time the
8 buses pulled into Moeller High School's parking
9 lot, it was about 10:30. So by the time our
10 young men had unloaded, got downstairs to the
11 locker room and were headed home, it was
12 somewhere between 11:00 and 11:30 at night.
13 That's on a Friday night. Many of our students
14 because of the parking restraints, have to park
15 in public in the City of Montgomery. And being
16 that we play our games on Friday and Saturday
17 nights, I just don't know too many parents that
18 really want their kids walking, walking down
19 the road even into the beautiful City of
20 Montgomery at potentially 11:30, 12:00 at night
21 and try to find their car in public parking.

22 It's the head football coach to be
23 responsible for the safety and the well being
24 of those student athletes. I do find that to
25 be tremendous concern. We also have young men

1 that work out early in the morning. And the
2 reality is for them to park in public and to get
3 themselves to a 6:00 a.m. workout, that means
4 that they're probably down there 5:15, 5:30 in
5 the morning. A lot of times that's in January,
6 February, and March. And the school makes
7 every effort it can to try and minimize the
8 risk that these students would face just to get
9 themselves to school. But the reality is that
10 those are significant challenges and it's been
11 acknowledged that there's not enough parking
12 for the students at Moeller.

13 Whatever options might be available, it
14 seems like those have been pretty well
15 discussed. But I can tell you as the head
16 football coach, I can tell you as a resident, I
17 can also tell you as a father of five that I
18 think that this parking lot has significant
19 merit and it does address legitimate concerns.

20 I also want to share with you briefly a
21 letter that was addressed by a fellow resident
22 that I've given to you from James A. Donnellon,
23 7735 Kennedy Lane, which I think adequately
24 sums up all of the concerns, yet very much
25 supports this effort to build a parking lot.

1 "Marshall, I want to express my support
2 for the construction of the parking lot. I
3 watched many students walking downtown
4 Montgomery and other places in inclement
5 weather during the heighth of winter, when it's
6 dark until almost 8:00 a.m. Montgomery Road is
7 extremely busy and the students have no cross
8 exit and entrance ramps from Ronald Reagan
9 Highway and also I note some cross Montgomery
10 Road. I think it is a safety issue for our
11 students.

12 Of course, as a property owner, I want to
13 protect my property value. It's important that
14 the landscaping, water retention, and the
15 pavement are first class. I reviewed the plans
16 and note that all appear to be addressed. I'm
17 confident the ongoing maintenance will be
18 consistent with the maintenance of the existing
19 school property. The bottom line it is strong
20 and viable and Archbishop Moeller High School
21 is good for surrounding homeowners and I
22 endorse the proposed plan. Sincerely, James A.
23 Donnellon."

24 So I thank you for your time and
25 opportunity to express these legitimate

1 concerns.

2 CHAIRMAN EICHMANN: Thank you. Are there
3 any questions for him?

4 MR. HOLBERT: Can we get a copy of that
5 letter? Staff does not have a copy of it.

6 CHAIRMAN EICHMANN: You have a question.

7 MS. MYERS: Yes, very briefly. You
8 mentioned students, football players coming
9 back after an away game and coming back very
10 late. Do they have any time between the end of
11 school and the start of football practice or
12 events for football?

13 MR. NAUMANN: No effective time to move
14 their cars or to get down there and get back.

15 MS. MYERS: You couldn't offer them 20
16 minutes to go up and get their cars and move
17 them down?

18 MR. NAUMANN: It's not really -- it's not
19 really doable especially in this particular
20 case on game days because of the tight schedule
21 that we have to run on.

22 MS. MYERS: So there's no time to take the
23 safety concern into issue and address it?

24 MR. NAUMANN: Well, I think that we're
25 addressing safety concerns in this meeting with

1 building the parking lot.

2 MS. MYERS: Thank you.

3 CHAIRMAN EICHMANN: Thank you. And at
4 this time I think we're talking about extending
5 this case till next month at this point.

6 MR. SCHEVE: Closing the public record
7 here.

8 CHAIRMAN EICHMANN: So we're going to
9 close --

10 MR. MILLER: No, you're going to continue
11 it in progress until next month.

12 CHAIRMAN EICHMANN: We're going to close
13 this case -- we're going to continue this case
14 next month that's what I said. We're now
15 closing the meeting.

16 MR. MILLER: You're not closing the public
17 hearing.

18 CHAIRMAN EICHMANN: No, because you want
19 to make a motion to --

20 MR. SCHEVE: Can we close -- I don't want
21 to come back next month and people come back
22 and say I forgot to say that last month. Can
23 we close comments from the floor?

24 MR. MILLER: No, that's your public
25 hearing.

1 CHAIRMAN EICHMANN: One exception you were
2 there --

3 MR. MILLER: And besides you're going to
4 have comments from the floor. Plus you may get
5 somebody who comes in and says you had it wrong
6 on your website.

7 MR. SCHEVE: We had the wrong date so
8 somebody might come in.

9 MR. MILLER: I would suggest you just
10 continue it in progress until whatever the next
11 date --

12 MR. SCHEVE: You're our lawyer.

13 MR. MILLER: -- which is 10/21/19.

14 MR. HEIDEL: Do we have to do the 21
15 days --

16 MR. MILLER: That's why you're continuing
17 it instead of closing.

18 MR. HOLBERT: Mr. Miller, do we need 21
19 day? Can we go with the standard BZA meeting?

20 MR. MILLER: No, you're 21 day starts to
21 run when you close the public hearing. You are
22 not closing the public hearing at this point in
23 time. You are voting to continue the public
24 hearing until whatever the date is that you're
25 meeting.

1 MR. SCHEVE: And then at the next meeting
2 we had two other cases continued so the people
3 from the church property will be second in line
4 since that sat here all night.

5 MR. MILLER: That's a staff question. I
6 would assume so.

7 CHAIRMAN EICHMANN: And do we have to
8 propose that we continue that case as well?

9 MR. MILLER: Yes, but one at a time.

10 MR. SCHEVE: Well, I'll move that we
11 continue the Moeller case, which is Case Number
12 SYCB190010 until our next regularly scheduled
13 meeting which would be --

14 CHAIRMAN EICHMANN: October 21st.

15 MR. SCHEVE: -- October 21st.

16 CHAIRMAN EICHMANN: Any discussion?

17 MR. HOLBERT: At 6:30.

18 CHAIRMAN EICHMANN: Do I hear a second?

19 MR. HEIDEL: I second.

20 CHAIRMAN EICHMANN: Mr. Secretary.

21 MR. HEIDEL: Mr. Scheve?

22 MR. SCHEVE: Yes.

23 MR. HEIDEL: Mr. Leugers?

24 MR. LEUGERS: Yes.

25 MR. HEIDEL: Mr. Eichmann?

1 CHAIRMAN EICHMANN: Yes.

2 MR. HEIDEL: Mr. Heidel, yes.

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4 (PROCEEDINGS CONCLUDED.)

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