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Mr. Eric Roos
530 West Saddle River Road
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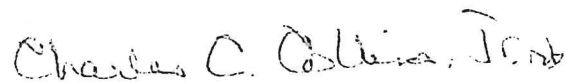
Re: Ridgewood Gardens

Eric:

I am enclosing herewith a transcript of the deliberations by the Zoning Board for your file, together with a bill which I ask that you pay directly to Maria Link at your earliest possible convenience.

We are coming up on the time within which the appeal must be filed if there is to be one and I'll keep you advise if I hear anything.

Very truly yours,



Charles C. Collins, Jr.

CCCJr:rb
Enclosures

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B E F O R E :

THE VILLAGE OF RIDGEWOOD BOARD OF ADJUSTMENT
THERE BEING PRESENT:

LEONARD JACOB
CHAIRMAN

DAVID LARSEN
MEMBER

MICHAEL SPINATO
MEMBER

RONALD APOSTLE
MEMBER

JAMES CAUTHEN
MEMBER

ALEXANDER JACOBS
MEMBER

SUSAN CASSELL
MEMBER

TONY MERLINO
BOARD SECRETARY

A P P E A R A N C E S :

KARAS, KILSTEIN, HIRSCHKLAU, FEITLIN & YOUNGMAN
BY: MORTON HIRSCHKLAU, ESQ.
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Fair Lawn, New Jersey 07410
Counsel to the Board

CHARLES C. COLLINS, JR., ESQ.
135 Prospect Avenue
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Counsel for the Applicant

ROBERT J. INGLIMA, JR., ESQ.
7 East Ridgewood Avenue
Paramus, New Jersey 07635
Counsel for The Commons at Ridgewood

1 CHAIRMAN JACOB: Thank you, Mr.
2 Collins. This hearings is closed.

3 Any comments? Discussion?

4 MR. LARSEN: I hope so.

5 MR. SEEVERS: I'll start. I'll be
6 glad to start.

7 Certainly, when we discussed this before
8 I think Mr. Collins is right, they should have
9 received the sense that it was too big and
10 there were certain aspects that needed to be
11 resolved.

12 Some of the items that he mentioned, in
13 particular, the elimination of the parking that
14 was head on towards the condominium property I
15 think is a major plus. The fact it's an east
16 west orientation now should eliminate a lot of
17 the concerns with respect to that parking that
18 was proposed there.

19 In fact, in addition to the buffer that's
20 placed along the property there's now somewhat
21 of a sales area which is really effectively
22 more of a buffer to that area.

23 I know Mr. Inglema said something about
24 being able to see over the buffer, being able
25 to see some of these other things there. He

1 also said, of course, those things are there
2 right now.

3 I think that's the point; those things
4 are there right now. And we call this an
5 expansion of a non conforming use because it
6 clearly is a non conforming use and any change
7 that you make, whether it would be increasing
8 the building size or reducing the building
9 size, would be called an expansion because
10 you're taking down a building and putting up
11 something else.

12 The focus of this property would seem to
13 be more -- although there's a lot of retail
14 sales, it's all done on the outside now. The
15 buildings that are there don't function as
16 retail space. They function as, I guess,
17 offices or a place for people to keep warm in
18 the wintertime when they're selling Christmas
19 trees.

20 I see this as moving some of the sales
21 inside, and maybe they'll be some change in
22 some of the things they're selling. What
23 you're also doing you're creating an area that
24 is clearly designated for organized,
25 compartmentalized selling areas outside

1 that will have to be maintained very
2 differently than the haphazard way they are
3 now.

4 A clear area for parking. That's
5 different than the haphazard parking that
6 occurs there right now. And even the rear
7 area which is designated for all the additional
8 outdoor plantings that are there, it would seem
9 to me that the type of activities that we heard
10 complaints about such as the chain saws; you're
11 going to have that if you're selling Christmas
12 trees. To the extent there maybe other things
13 including the deliveries at midnight and stuff
14 like that, I think some of that has to become
15 minimized because of the type of minimizing of
16 the old type of use and the maximizing of the
17 new type of use, which is a more organized,
18 more modern garden center as compared to maybe
19 what appeared to be much more of certainly a
20 wholesale distribution of these types of things
21 and a lesser extent retail, other than at
22 Christmas time or pumpkin time or something
23 like that.

24 So to me it's a plus. And I think that
25 the changes to the location of the building,

1 the size of the building, the size of the
2 garage, the elimination of that separate
3 structure are all positives.

4 There maybe a few conditions that need to
5 be added. I certainly think there are a few.
6 We talked about them the last time, but
7 conceptually I think they've gotten to the
8 point where this would justify approval of the
9 variance.

10 CHAIRMAN JACOB: Anybody else?

11 MR. LARSEN: My comment would be
12 it is an expansion, obviously, of a non
13 conforming use which is undesirable,
14 categorically, I think, in my own opinion.

15 The enhanced retail sales, the twelve
16 month operation that's logically going to rise
17 out of a bigger building with the extended
18 product lines and new things to sell is going
19 to change it dramatically. It's no longer a
20 nursery center that sells stuff seasonally out
21 of doors. It's going to be a retail drive up
22 to the spot, and you have to presume, although
23 there's no way we know today that that's going
24 to be a twelve month operation. I don't think
25 these people are going to put in this kind of

1 money and stock merchandise of various natures,
2 which they've described in documentation, and
3 just do it seasonally.

4 So the expansion of the non conforming
5 use is my biggest concern. Certainly, the
6 nursery was there before the condominiums were
7 there. They were there in a different form.
8 We've heard about this before with hospitals
9 and other places where an expansion of a non
10 conforming use in a residential zone is deemed
11 by many as not what we really want to do in
12 Ridgewood. I have a big concern with that
13 aspect.

14 If they were to come in with, after
15 finally getting rid of the garbage and
16 everything else, with a much smaller building
17 I would be much more comfortable.

18 I believe there is a clear need for a
19 building. Yes, it can be attractive to enhance
20 what's already there, but that's the
21 issue. They're coming in with a store. Yes,
22 they're getting rid of the shacks. There's not
23 a store here today.

24 I think it's a dramatic change of use.
25 Whether it enhances the site overall, getting

1 rid of the shacks and making it pretty, is that
2 the tradeoff we have to give? I don't know. I
3 don't think so.

4 I'm concerned with the vehicles on site
5 which no longer can be stored. There's no
6 place to store them by the testimony. You have
7 to have more vehicles. You're going to have
8 more business. It would be obvious your lights
9 are going to be on more. You're going to have
10 longer hours of operation, more months of
11 operation. And the parking I think is limited.
12 The number of stalls for a retail store seem
13 awfully small. It seems there will be a lot of
14 congestion and limited site in this limited
15 paved area.

16 So whereas I think it's an existing use
17 that should be allowed and continued, you can't
18 do that. The nature of the expansion troubles
19 me.

20 And I have a question, Mort. Legally,
21 Mort, can we control the hours of operation at
22 this point?

23 MR. HIRSCHKLAU: Within reason,
24 yes.

25 MR. LARSEN: What would your

1 definition of within reason be?

2 MR. HIRSCHKLAU: I don't know if I
3 have a definition of within reason.

4 Reasonable regulations are enforceable.
5 I would think you cannot tell him he can be
6 open between 1 o'clock and 3 o'clock two days a
7 week. It would certainly be feasible to say he
8 has to stop all outdoor activity as of 11
9 o'clock at night and not begin until 7 o'clock
10 in the morning, or find another hour that would
11 be more sensible.

12 I think that, within reason, that's
13 enforceable.

14 MR. LARSEN: Are there any other
15 businesses in town anywhere besides bars which
16 are controlled by someone else?

17 MR. HIRSCHKLAU: They're
18 controlled by statute.

19 MR. LARSEN: Any other businesses
20 that have such regulations? Anybody know? I
21 don't know.

22 MR. HIRSCHKLAU: I think we've
23 done that a few times. Most particularly was
24 with the outdoor sales of cars.

25 CHAIRMAN JACOB: Yes.

1 MR. HIRSCHKLAU: Where we had
2 specific regulations.

3 MR. LARSEN: Do you know what they
4 are?

5 MR. HIRSCHKLAU: I don't remember
6 anymore.

7 CHAIRMAN JACOB: No later than 10
8 o'clock.

9 We also had a situation where we had a
10 store where we talked about the hours they
11 could be in operation on the avenue.

12 So we have in the past, you know,
13 established certain parameters as far as hours
14 of operation.

15 MR. SEAVERS: Several of the
16 learning centers, the karate schools, we've
17 done it with many of them.

18 MR. HIRSCHKLAU: We've set times.

19 MR. LARSEN: That's the tradeoff.
20 We can't prevent the guys that have a business
21 that exist, we certainly owe it to them to get
22 rid of the shacks and put a clean building up.
23 We owe that to everybody. That's the tradeoff.
24 If all that gives rise to a twelve month a year
25 long-term day-to-day retail operation, that's

1 extraordinary in my opinion of the use, which
2 I would oppose.

3 If someone could show me a way of
4 mitigating some of the negative thoughts I
5 would approve it.

6 MR. SEAVERS: The focus goes more
7 to the retail than what they are doing now.
8 That necessarily carries with it change. If
9 they want to change that focus they have to
10 adopt those type of typical hours.

11 MR. LARSEN: Can you have both?
12 That's my problem.

13 MR. SEAVERS: Suggesting it as a
14 condition that might be appropriate to allow
15 this to happen.

16 MR. LARSEN: As I say the
17 vehicles, the lights, the hours, the limited
18 parking, the expansion, those are my
19 reservations.

20 MR. SPINATO: Along those lines,
21 David, the hours of operation and the lighting
22 that would take place, I think that's where we
23 could put limitations on it, as Ed eluded to,
24 to be kind of conducted around the retail sales
25 aspect of the business.

1 I agree with you. I think that other
2 aspect, that late night delivery, those kinds
3 of things are items of concern.

4 I don't know if we heard any particular
5 testimony with respect to deliveries and things
6 like that, but my concern would be, or I guess
7 my statement or comment would be I think that's
8 going to go on. That aspect of the business is
9 going to go on notwithstanding this change.

10 So that the retail sales, if we put a
11 constraint on those hours, that's the expansion
12 and we are going to constrain it.

13 So I think that's where the possibility
14 exists of doing something positive.

15 Maybe I can just go forward. I will be
16 very brief in my comments. I was in favor of
17 this application before and, you know, when we
18 get these kinds of arguments, both sides here
19 have put in tremendous amounts of time, effort,
20 energy and money into this application.

21 You know, its been before us for two
22 years. And so we have to now sit here and
23 essentially balance this between the two,
24 because they both make compelling arguments.
25 There's no question about it. I'm sure if we

1 were the neighbors to the property we might be
2 here as objectors as well. I guess that might
3 well be the case, but that unfortunately or
4 maybe fortunately is not what our job is. Our
5 job is to look at it from the zoning aspects.

6 I think when you look at it from those
7 aspects, when you look to the fact Mr. Roos
8 could never use this property as a residential
9 property, that's unrealistic given the way this
10 property is, given access off of Route 17.
11 That this will only enhance this property. It
12 will improve the property aesthetically.

13 And I hear your concerns, David. And
14 I've heard the concerns of the surrounding land
15 owners or homeowners, and I think that that is
16 something that we should consider, that we
17 should consider putting some kind of
18 restriction on the hours and perhaps the
19 lighting being on, and that sort of thing
20 without, of course, hampering the business.

21 But I have to say that when I listened to
22 Mr. Inglema make a very strong argument for his
23 clients, and I think he's done a wonderful job,
24 but I also listened to Mr. Collins' arguments,
25 which tend I think to be more compelling.

1 And so I'm in favor of the application.

2 CHAIRMAN JACOB: Anybody else?

3 MR. APOSTLE: Thank you. I'm in
4 favor of the application. I'll tell you why.
5 I think there's a lot that has been done to
6 improve this property to accommodate a lot of
7 problems that exist, and I really would like to
8 see the property improved and cleaned up.

9 I think there's been so many abuses that
10 have affected the property owners to the north.
11 And is it seasonal? Is that going to change?
12 I think it's a year round business today. If
13 it's not the nursery business in the spring and
14 the summer it's pumpkins in the fall and
15 Christmas trees in the winter, and that's going
16 to stay the same.

17 So there's activity on this property year
18 round now. And what they're proposing will be
19 a continuation of that.

20 There might be a slight increase in it,
21 but it's going to be more organized. I don't
22 think it's going to be more offensive than what
23 it is now. And that's why I'm leaning in favor
24 of it, even though I have lot of empathy,
25 certainly, for the property owners to be

1 concerned.

2 It's a tough decision. But I'm leaning
3 that way.

4 MS. CASSELL: I too am very
5 sympathetic to the property owners plight, but
6 having heard all the testimony I do think that
7 the granting of these variances will in the
8 long run make the property more attractive to
9 the Village. It will improve what is not such
10 an aesthetically pleasing site at the moment,
11 and I think in the end you'll probably be less
12 affected by the new business than by this one.

13 There seems to be several major ways in
14 which the complaints that you've shared with us
15 will be mitigated by what both the applicant
16 has agreed to do and what my sense is that the
17 Board will ask him to do. And although change
18 is always unsettling, I think in the end with
19 these restrictions that will likely be imposed
20 the change will be beneficial.

21 CHAIRMAN JACOB: Anybody else?

22 MR. JACOBS: I initially was in
23 favor of expanding the non conforming use. I
24 didn't see a problem with it, as I said before
25 about being able to upgrade the property,

1 getting rid of sheds that have been there for
2 years and years.

3 They're entitled to a new modern facility.

4 Before I had objections to the size of
5 this. The application, I think now has been
6 greatly reduced. I think the applicant has
7 gone a long way to try to meet a lot of the
8 neighbors concerns, especially with regard to
9 the buffer. The existing septic field which is
10 now pretty much abutting the neighbors
11 property is being moved far away from the
12 neighbors property. The parking, again, has
13 been moved so that the lights don't face the
14 neighboring property.

15 I would be in favor of this application.

16 MR. APOSTLE: You would?

17 MR. JACOBS: Yeah.

18 MR. CAUTHEN: I guess initially I
19 would like to say I think in my short time on
20 the Board in all the applications we've had I
21 give credit to Mr. Collins and Mr. Inglima in
22 terms of presenting arguments on their behalf
23 to the Board. I agree with Mr. Spinato that it
24 really is a balancing of the interest of one
25 party against the other.

1 I think I would agree with most of those
2 who said that this improving the property is
3 going to be a benefit. I agree with Mr. Larsen
4 that you can have different types of
5 improvements. If they wanted to put up new
6 sheds, etcetera, that's one type of
7 improvement. But this certainly is an
8 enhancement.

9 But, you know, in the same vein even as
10 Mr. Inglima mentioned that they're going to
11 continue to do the same activity on the
12 property regardless of how we vote today. But
13 I think I agree with Mr. Larsen that in all
14 likelihood it's going to be enhanced because of
15 the change of the size of the structure.

16 But I tend to lean in favor of the
17 application with the condition that Mr. Larsen
18 mentioned that maybe we could put some
19 limitations on the retail activity at the site
20 that are going to take into account the
21 concerns of the neighbors.

22 When you balance the benefits of the
23 improvements to the site against their
24 concerns, that may be one way to alleviate at
25 least some of their concerns.

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CHAIRMAN JACOB: Okay. As last time the expansion of the non conforming use I do not see as a real issue, and I was in favor of allowing the expansion of the non conforming use. I was opposed to the plan that was before us because I felt it was too big, and I had other concerns about it.

I think the applicant has responded to our concerns as well as to the neighbors concerns. I think the process has improved the application.

I do have a concern that by improving the size of the building, downsizing it, we now have less space for storage of vehicles, and perhaps a condition, if we were to approve this, maybe that storage of vehicles, if they have to be outside, be away from the condominiums so that the neighbors don't have to stare at a stored vehicle overnight.

I think the opportunity that's presented to us at this point to improve the property, I think we all agree that it's not going to be a residential lot. It will probably remain a garden retail center of some kind, but the opportunity is being presented to, if we were

1 to approve this, to attach some conditions
2 that, you know, might address the concerns of
3 the neighbors.

4 For instance, the hours of operation.
5 For instance, not having deliveries at 3
6 o'clock in the morning or 1 o'clock in the
7 morning or 7 o'clock in the morning. Not
8 having operations at 12 o'clock or 11 o'clock
9 or 10 o'clock at night.

10 I think these are reasonable conditions
11 that could be imposed, and this application
12 gives us the vehicle to do that.

13 So that as I was opposed to the
14 application before as submitted, I'm in favor
15 of the plan that's now before us, but I still
16 think there are certain conditions that should
17 be attached to it based upon the comments we've
18 heard since December that would make the
19 application that much better.

20 If we have the opportunity to do that I
21 think we should seize that opportunity and do
22 it as far as the hours, as far as the storage
23 of vehicles away from the condominiums. I
24 think the change in the parking is clearly an
25 improvement. The downsizing of the building is

1 clearly an improvement. And those were the
2 major concerns that I still had as far as the
3 conditions that I was thinking of.

4 Anybody else want to comment or someone
5 want to make a motion some way?

6 MR. SEAVERS: I make a motion to
7 approve subject to conditions to be discussed.
8 Just so we get it started.

9 CHAIRMAN JACOB: Is there a second
10 to the motion?

11 MR. SPINATO: I would second it.

12 MR. SEAVERS: As far as
13 conditions, why don't we start first with
14 hours. And I think I would be concerned that
15 some of the deliveries that would need to be
16 made to this site would need to be made not
17 during regular business hours. The simple fact
18 is because of the type of trucks that would
19 need to come in, that type of activity. I
20 don't think you would want that going on for
21 the protection of the retail aspect of it and
22 for the protection of the customers that are
23 going to be there. I don't think you'd want
24 that going on while that was there.

25 So I think you have to allow a little bit

1 of time. Whether that's like between 9 and 11
2 p.m., 7 and 9 a.m., or 7 and 10 a.m. Or
3 something along those lines. I think that
4 certainly would be reasonable.

5 CHAIRMAN JACOB: Would it be more
6 appropriate to discuss the hours of operation
7 first?

8 MR. SPINATO: Retail operation.

9 CHAIRMAN JACOB: Then discuss the
10 deliveries.

11 MR. SEAVERS: No retail operation
12 after 9 o'clock at night other than I would say
13 I think you have to make an exception during
14 Christmas season.

15 MR. SPINATO: That's what I was
16 going to say.

17 MR. SEAVERS: I think at that time
18 11 o'clock at night since the property is on
19 17.

20 MR. SPINATO: I would agree with
21 that.

22 MR. APOSTLE: Between Thanksgiving
23 and Christmas.

24 MR. SPINATO: Up to 9 p.m. and
25 then up to 11 p.m. between Thanksgiving and

1 Christmas.

2 MR. SEAVERS: I think in reality
3 for the type of business that it is, although
4 there was testimony that they essentially
5 shutdown after Christmas, there's at least a
6 two month period of time where nothing is going
7 on with a retail operation. There will be
8 something going on. There will be a retail
9 operation. I have the feeling Mr. Roos will be
10 sitting in a store frequented by one or two
11 customers a day, because the call for that type
12 of business at that time of year is rather
13 limited.

14 So if he chooses to be open, which may
15 happen, it may be a change from what's there
16 right now, I don't think that the volume could
17 be anywhere significant. You know, he may
18 chose to close down for a month anyway at that
19 time. I wouldn't require it. I'm sure he
20 would shorten his hours. I'm sure during the
21 late spring and summer you would have longer
22 hours. I'm sure as fall comes around, you
23 know, there's times in August and September he
24 probably won't be open passed 6 o'clock at
25 night because of that.

1 CHAIRMAN JACOB: As a condition
2 right now no work after 9 p.m. except between
3 Thanksgiving and Christmas.

4 MR. APOSTLE: That's retail?

5 MR. SEEVERS: Yes.

6 CHAIRMAN JACOB: What about
7 starting time?

8 MR. LARSEN: 10 a.m.

9 MR. SPINATO: People start coming
10 in in the morning. They want to start early.

11 MR. APOSTLE: I think you have to
12 go to 7.

13 MR. LARSEN: 8.

14 You're talking about 7 o'clock on a Sunday
15 morning?

16 MR. SPINATO: We could say
17 weekdays. Saturday is probably their biggest
18 day.

19 MR. APOSTLE: At least.

20 MR. LARSEN: One thing to keep in
21 mind in connection with what Ed was saying, the
22 product line, you know, we haven't even defined
23 or we haven't even gotten down and said what's
24 limited, though that was admitted that the
25 product line would be no power mowers,

1 etcetera. They could be selling sixteen
2 different things all year round. They could
3 start to sell ice cream.

4 CHAIRMAN JACOB: Let's see a show
5 of hands for an 8 o'clock starting time.

6 Anybody have any other time?

7 MR. APOSTLE: 7 o'clock.

8 MR. SPINATO: I would have to say
9 not earlier than 8 a.m.

10 CHAIRMAN JACOB: As far as retail.

11 MR. SEEVERS: I think the demand
12 is going to dictate the hours that he's open.
13 And even if we said 8 a.m. I can't see him
14 doing that year round.

15 CHAIRMAN JACOB: The point we're
16 making, he can't open before that.

17 MR. SEEVERS: During the heavy
18 times.

19 CHAIRMAN JACOB: Yes.

20 MR. LARSEN: 8 to 9. Weekends 8
21 to -- seasonally, it's 8 to 11.

22 MR. SPINATO: Thanksgiving to
23 Christmas.

24 CHAIRMAN JACOB: Let's go back to
25 the first condition which was deliveries.

1 MR. SEEVERS: You know, I think I
2 would like to say no deliveries between 11 p.m.
3 and 7 a.m. so there's clearly no activity on
4 the site between 11 p.m. to 7 a.m.

5 CHAIRMAN JACOB: Anybody have a
6 problem with that?

7 MR. SEEVERS: I think that's where
8 it can be a plus as compared to what's
9 happening right now.

10 MR. SPINATO: I don't know enough
11 about the business to say that. Certainly
12 those hours seem reasonable, you know.

13 MR. SEEVERS: Not only do they
14 seem reasonable they seem to be something that
15 I think the applicant would be able to work
16 with, or if it's so unreasonable he's either
17 going to challenge it in court or he's going to
18 come back to you for some change to that
19 condition.

20 We've had applicants come back for
21 changes to one or more conditions.

22 MR. LARSEN: The applicant and
23 partner Cerillo. I don't want him to step up
24 himself and say he's not a party so that he
25 can bring his own stuff in.

1 MR. CAUTHEN: I guess also even
2 though there's not deliveries, no activities
3 from 11 p.m. to 7 a.m. No activities on the
4 site.

5 MR. SEEVERS: No activity.

6 MR. CAUTHEN: No activity on the
7 site.

8 What about motorized vehicles? I don't
9 know how you would do that. They can be out
10 there with moving.

11 MR. SEEVERS: No business
12 activity. Business activity.

13 MR. SPINATO: Just remember one
14 thing, what you just said during the holiday
15 season about being able to work to 11 o'clock
16 at night. They're not going to be able to --

17 MR. SEEVERS: During that time
18 period they have to close down, whatever,
19 midnight to 7 a.m. You have to give them an
20 hour to close up.

21 MR. SPINATO: You have to be able
22 to restock and do different things that have to
23 be done.

24 CHAIRMAN JACOB: We're now saying
25 no business activity between one hour after

1 closing 'till 7 a.m.

2 That's why they give me the big bucks.

3 MR. LARSEN: Wait 'till you see
4 the pension check.

5 CHAIRMAN JACOB: I can't wait.

6 MR. LARSEN: You better wait.

7 CHAIRMAN JACOB: Business
8 activities as opposed to deliveries. Correct?

9 MR. SPINATO: You're saying both;
10 any business activities including business
11 activities or operation of the business?

12 CHAIRMAN JACOB: Business
13 activities is more encompassing.

14 MR. JACOBS: If there's any
15 request to modify this he has to come back to
16 the Zoning Board?

17 CHAIRMAN JACOB: Yes, to change
18 that condition.

19 MR. JACOBS: Or the neighbors can
20 come to Board, or not?

21 CHAIRMAN JACOB: No.

22 MR. JACOBS: Complaints about
23 certain conditions --

24 CHAIRMAN JACOB: If these
25 conditions are not met the neighbors can make a

1 complaint and it's sent up to another party
2 enforce the conditions.

3 They can, of course, appeal this
4 decision.

5 MR. JACOBS: If these hours are
6 too disruptive for them, as it were --

7 MR. LARSEN: They can appeal it.

8 CHAIRMAN JACOB: They can appeal
9 the decision.

10 Anybody want to comment on the storage of
11 vehicles?

12 MR. LARSEN: I would suggest the
13 storage of vehicles be only allowed in the rear
14 fifty percent of the depth of the property.
15 That puts them way back.

16 MR. COLLINS: But there's also
17 residents back there.

18 UNIDENTIFIED VOICE: His
19 residence.

20 MR. LARSEN: Yes.

21 MR. SEEVERS: He's directly behind
22 it. There are other neighboring properties,
23 also.

24 MR. LARSEN: On one side.

25 MR. SEEVERS: Well, to both sides.

1 There's houses to the sides of him.

2 MR. APOSTLE: The east and the
3 north.

4 MR. SEAVERS: Certainly east but
5 north and south.

6 CHAIRMAN JACOB: South. No,
7 north. I think the applicant is to the east.

8 MR. SEAVERS: The applicant is to
9 the east. Then you also have Lot 4.02 to the
10 north. You have Lot 7.01 to the south and 7.02
11 beyond that. These are all residences.

12 MR. JACOBS: Something like that.

13 MR. SEAVERS: Back fifty percent
14 and southern fifty percent.

15 MR. LARSEN: Do you have the map?

16 CHAIRMAN JACOB: The southern part
17 is away from the condominiums.

18 MR. SEAVERS: I'm not sure they
19 won't be more viewable over there.

20 MR. JACOBS: Because they're
21 higher up.

22 MR. SEAVERS: No, further away the
23 easier the site line.

24 MR. LARSEN: The back property has
25 nothing on it. We know that there used to be

1 storage out in that area. Mr. Roos' house is
2 behind that. He has a hedge row on the other
3 side.

4 MR. SEEVERS: How about any
5 storage of vehicles, we can limit the number.
6 It has to be within fifty feet of that hedge
7 row.

8 MR. LARSEN: Which hedge?

9 MR. SEEVERS: The one that blocks
10 the view from this property.

11 MR. LARSEN: That puts it in a
12 little box.

13 I'm trying to make it more general than
14 that.

15 MR. SEEVERS: The problem is the
16 back fifty percent still overlaps part of where
17 the condominiums are.

18 MR. SPINATO: That's true.

19 MR. LARSEN: The back twenty-five
20 percent.

21 My only goal was to push it in the back
22 where they wanted the original garage to be.

23 MR. COLLINS: Yes, all the way in
24 the back.

25 MR. LARSEN: If they wanted the

1 garage there --

2 CHAIRMAN JACOB: Fifty feet from
3 the hedge row.

4 MR. LARSEN: That sounds good to
5 me.

6 MR. SEEVERS: This way it won't
7 break up any of the other outdoor displays of
8 material that they would have.

9 MR. LARSEN: They want to park in
10 the front, anyway.

11 CHAIRMAN JACOB: Any other
12 conditions?

13 MR. LARSEN: How about the product
14 line. We went into that early on. We haven't
15 touched on that in a long time.

16 MR. SPINATO: That I think is
17 actually pretty clear with regard to what the
18 limitations were. Its been such a long time.
19 The record is pretty clear.

20 MR. CAUTHEN: Before we get to
21 product lines, Ed briefly mentioned about the
22 number of vehicles.

23 MR. SEEVERS: Yeah.

24 MR. LARSEN: You have to consider
25 what constitutes a vehicle.

1 MR. SEAVERS: There's a lot of
2 smaller things; forklift trucks, Bobcats,
3 pickup trucks, tractor. They could certainly
4 go inside because they're smaller.

5 MR. LARSEN: There's going to be
6 merchandise in there. Some of the garage was
7 intended to be merchandise storage. Some of
8 the garage was intended to be storage for other
9 things.

10 It was two bay then it's suddenly one
11 bay, and now it's suddenly retail.

12 MR. JACOBS: The testimony was it
13 would be partially for retail.

14 MR. LARSEN: Partially.

15 MR. JACOBS: Partially.

16 MR. LARSEN: A one bay garage for
17 partial retail.

18 MR. SEAVERS: One bay. One door.

19 MR. CAUTHEN: Actually, I listened
20 to the tapes today and the testimony was that
21 there was room for a vehicle and some tractor
22 or Bobcat plus a little storage area for
23 retail. But they could use more of it for
24 retail if they wanted to.

25 MR. LARSEN: You have your answer.

1 CHAIRMAN JACOB: If we're limiting
2 the vehicles to fifty feet from the hedge,
3 let's say from the full width of the property,
4 do we really care how many vehicles there are?

5 MR. LARSEN: I think you can
6 reasonably assume they're not going to have
7 them in the parking lot, I think, for openers.

8 MR. SEEVERS: Fifty feet by
9 whatever the width is. You can put a lot of
10 vehicles there.

11 MR. LARSEN: That takes up a lot
12 of their display area.

13 CHAIRMAN JACOB: That would be a
14 detriment to him. It would be taking away from
15 where he could have his plants.

16 MR. SPINATO: This is going way
17 back there. Wasn't there something about a
18 delivery truck that would come in, a layover
19 from Maryland?

20 MR. LARSEN: Bobcat, pickup,
21 flatbed.

22 MR. SPINATO: He was indicating a
23 Bobcat. The other thing was going to be stored
24 in the garage. We're talking on site maybe
25 two. No more than two.

1 MR. LARSEN: I have a problem with
2 that.

3 MR. SEEVERS: Then you get into
4 what's a vehicle? Is a Bobcat vehicle?

5 Keep them in the back. Forget it.

6 MR. APOSTLE: Keep them from the
7 area we don't want them in.

8 MR. LARSEN: That overcomes the
9 neighbors objections.

10 CHAIRMAN JACOB: I think that's
11 sufficient.

12 MR. SEEVERS: Vehicles and other
13 mechanical equipment used, motorized
14 equipment.

15 MR. APOSTLE: Motorized equipment.

16 MR. LARSEN: Product line.

17 MR. SPINATO: That was defined.

18 It would not include gas powered
19 equipment, meaning lawn movers. They agreed to
20 that. I remember that in the beginning.

21 MR. SEEVERS: Are you going to
22 sell bird baths?

23 MR. LARSEN: Ornamental statues?

24 CHAIRMAN JACOB: Is that something
25 we need to spell out?

1 MR. HIRSCHKLAU: It might be
2 easier to say what he's not going to sell.

3 MR. SPINATO: It's garden
4 supplies, right, and maybe we have to put it
5 under a general heading and then from there,
6 you know, I don't think we can sit here and
7 start enumerating those items.

8 MR. HIRSCHKLAU: There were some
9 items they agreed they would not sell.

10 MR. SPINATO: Power equipment. No
11 gas powered equipment.

12 David had a number of things, as I
13 recall, that you were not going to sell.

14 MR. JACOBS: Food.

15 MR. COLLINS: Greenhouses,
16 swimming pools, lose wood bundles. No
17 playgrounds, swing sets, no propane, no gas
18 powered equipment, no storage sheds. I wrote
19 those down.

20 He said fertilizer, hoses, tools for
21 gardening, and one word that I can't read;
22 seed, seed.

23 MR. SPINATO: So garden related
24 supplies.

25 MR. LARSEN: And hand equipment.

1 MR. SPINATO: Hand equipment,
2 shrubbery.

3 MR. LARSEN: Obviously, anything
4 that grows.

5 CHAIRMAN JACOB: Can we defer to
6 Mr. Hirschklau on those?

7 MR. SPINATO: I would be happy to.

8 CHAIRMAN JACOB: I'm trying to
9 move this along.

10 MR. HIRSCHKLAU: No gas powered
11 equipment. No storage sheds.

12 CHAIRMAN JACOB: Any other
13 conditions that we want to impose?

14 MR. LARSEN: Lighting. Were there
15 any issues with the light towers? I don't know
16 where they ended up. The site plan people
17 might have an idea.

18 MR. SEAVERS: It was also the
19 hours that the lights could be on.

20 MR. LARSEN: Concurrent with the
21 operation. The lighting may only be within the
22 hours of operation.

23 MR. SEAVERS: One hour after
24 closing.

25 MR. SPINATO: All exterior

1 lighting to be extinguished within one hour
2 after closing.

3 MR. SEEVERS: I had a question on
4 fourteen.

5 MR. LARSEN: The lights are
6 concurrent with the business hours.

7 MR. HIRSCHKLAU: What about
8 security lights?

9 MR. SPINATO: I don't think you
10 can restrict reasonable security lights.

11 CHAIRMAN JACOB: Anything else?

12 MR. LARSEN: That's enough.

13 MR. SEEVERS: I'm just looking at
14 some of my notes.

15 I wanted some condition that the second
16 floor, or the building at all, is not to be
17 used for overnight accommodations. It's not a
18 residence. It's not designed as a residence.
19 It's not to be used as that even for overnight
20 stays. I had concerns about that.

21 CHAIRMAN JACOB: No residential
22 use.

23 MR. SEEVERS: No residential use.

24 I had suggested they should make the
25 second floor into a residence which would

1 compliment the residential use, but --

2 MR. LARSEN: Why say not do it?

3 MR. SEEVERS: Because of the type
4 of use they were using it for, which was
5 someone who comes and brings this truck in at
6 11 o'clock at night, or someone staying there
7 and watching the property, you know, going to
8 sleep upstairs. They were using it as a place
9 which you might call an employee lounge. It's
10 not designed for that.

11 MR. LARSEN: Make it a residential
12 use or don't use it at all.

13 MR. SEEVERS: They didn't want to
14 make it a residential use. So no residential
15 use.

16 CHAIRMAN JACOB: Anything else?

17 MR. JACOBS: Just increase the
18 septic tank to a thousand gallons as per the
19 testimony.

20 MR. SEEVERS: We had an issue
21 about the berm with the trees along the
22 property line. The berm goes to the point
23 where you get to that extra area in the back
24 and then they dropped it down and they have a
25 fence along there. We had talked about whether

1 the fence was sufficient. Whether we wanted to
2 continue any landscaping back there, because my
3 point was it is condominium property. It's
4 residential property. It may not have a
5 current use, but my belief is that the Planning
6 Board must have wanted that area to be used for
7 some type of use associated with the
8 condominiums, whether that was intended to
9 ultimately be a swimming pool, a tennis court,
10 some passive recreational area.

11 I would rather see the berm continue all
12 the way down with the trees on it, only because
13 if ultimately that property is used for the
14 residential purpose that it's there right now
15 you're going to have just a five foot fence.

16 MR. LARSEN: The condo people can
17 put what they want there, if they decide they
18 want to do it.

19 MR. SEEVERS: It's not their
20 problem. They could have put a fence up long
21 ago to prevent the use back there, but they
22 didn't.

23 MR. LARSEN: They allowed it.
24 They had an agreement, an unwritten agreement.

25 MR. SEEVERS: That's not what the

1 condominium people say.

2 MR. LARSEN: Somebody said it in
3 here. I read it.

4 MR. SEEVERS: The applicant said
5 it.

6 CHAIRMAN JACOB: Is there any
7 other sentiment for having the berm extended?

8 MR. CAUTHEN: I would agree with
9 that.

10 CHAIRMAN JACOB: So would I.
11 Oh, see. That's three. Come on.

12 MR. APOSTLE: I don't.

13 MR. SEEVERS: I would disagree
14 with it. Alexander won't disagree.

15 CHAIRMAN JACOB: That's a double
16 negative, isn't it?

17 MR SEEVERS: You're in favor of
18 extending the berm?

19 MR. JACOBS: I'm in favor of the
20 berm.

21 CHAIRMAN JACOB: Add that as a
22 condition.

23 MR. HIRSCHKLAU: Is that it?

24 MR. LARSEN: The fence can come
25 down. The berm can't come down.

1 MR. SEAVERS: If you put up a
2 fence you can then take down a section and put
3 in a gate and they'll keep using it the way
4 they were using it, or they'll start throwing
5 things over the fence.

6 MR. LARSEN: I think your
7 policemen are all here. They're going to take
8 care of that, the owners.

9 MR. SEAVERS: You put up a berm
10 that I think is three feet high, you put trees
11 on top of it they're not going through it.
12 They're not.

13 MR. JACOBS: And the fence --

14 MR. SEAVERS: It also provides a
15 barrier to the storage of the trucks back
16 there, which if they do end up having some back
17 there --

18 CHAIRMAN JACOB: You're saying the
19 berm is in lieu of the fence in your opinion?

20 MR. SEAVERS: Yes, yes.

21 MR. JACOBS: I say it's in
22 addition to.

23 MR. SEAVERS: Now he wants both.

24 The fence is right on the line and the
25 berm is in front of that. So, sure. The fence

1 keeps going all the way around.

2 MR. JACOBS: How high was the
3 berm?

4 MR. SPINATO: What are we voting
5 for?

6 MR. LARSEN: Arguing.

7 MR. SPINATO: I heard the berm,
8 and I heard the fence and the berm.

9 CHAIRMAN JACOB: What am I hearing
10 now, both?

11 MR. SEEVERS: Yes, fence and berm.

12 CHAIRMAN JACOB: What's the extent
13 of that?

14 MR. SEEVERS: Well, the fence goes
15 all the way back. I would put the berm as far
16 back as the property line of the
17 condominium association, which is on a
18 diagonal. And there's a residential property
19 next to that, but that corner matches up with
20 this retaining wall and line of pine trees that
21 forms the barrier to Mr. Roos' home. So it's a
22 good location to end it.

23 MR. JACOBS: The fence is shown
24 all the way.

25 CHAIRMAN JACOB: Okay. Any other

1 conditions?

2 Okay. I will not repeat the motion other
3 than it's a motion to approve subject to a
4 bunch of conditions that Mr. Hirschklau will
5 memorialize in a resolution if it's approved.

6 Any further discussion on the motion?

7 Roll call, please.

8 MR. LARSEN: Yes.

9 MR. SEEVERS: Yes.

10 MR. APOSTLE: Yes.

11 MR. SPINATO: Yes.

12 MR. JACOBS: Yes.

13 MR. CAUTHEN: Yes.

14 CHAIRMAN JACOB: Yes.

15 The application is approved.

16 MR. COLLINS: Thank you.

17

18 (Whereupon the proceedings are
19 concluded in this matter. The time is
20 10:55 p.m.)

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C E R T I F I C A T I O N

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I, MARIA A. LINK, a Certified Shorthand Reporter, License No. XI01432 and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the proceedings in the above entitled matter as taken by and before me on the above date, to the best of my skill and ability.



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