

COUNTY OF BERGEN
VILLAGE OF RIDGEWOOD

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IN THE MATTER OF THE)	TRANSCRIPT
APPLICATION OF LES)	OF
DANN, LLC,)	PROCEEDINGS
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Tuesday, October 24, 2023
7:30 p.m.
Ridgewood, New Jersey

BOARD MEMBERS:

- GREG BROWN, Chairman
- MATTHEW BANDELT, Vice Chairman
- GARY NEGRYCZ, Chairman Pro Tem
- HAROLD MAXWELL
- JASON CURRERI
- DIANA RUHL **(Absent)**
- JONATHAN PAPIETRO
- JAMIE FOX **(Absent)**
- MICHAEL PICKHOLZ

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ALSO PRESENT:

McDONNELL & WHITAKER, LLC
BY: BRUCE E. WHITAKER, ESQ.
Attorney for the Zoning Board
of Adjustment

CHRIS RUTISHAUSER
Village Engineer

HEYER, GRUEL & ASSOCIATES
BY: JOHN BARREE and MCKINLEY MERTZ
Village Planners

JANE WONDERGEM
Board Secretary

APPEARANCES:

SEMERARO & FAHRNEY, LLC
BY: MARK J. SEMERARO, ESQ.
Attorney for the Applicant, LES Dann, LLC

ROBERT J. INGLIMA, JR., ESQ.
Attorney for Religious Society of Friends,
Ridgewood Friends Meeting, Friends Nursery School

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>
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1 CHAIRMAN BROWN: Okay. We're going to go
2 ahead and start for Les Dann, LLC.

3 It's an application for preliminary and
4 final major site plan approval, expansion of a
5 nonconforming use variance approval, and use
6 variance approval for the construction of an auto
7 body shop, which will serve as principal use at
8 246-264 South Broad Street, Block 3905, Lots 12,
9 13, and 14, in a R-3 Zone.

10 It's continued from August 8, 2023;
11 carried from October 10th, 2023.

12 Good evening. How are you today?

13 MR. SEMERARO: Good evening, Mr. Chairman.
14 How are you?

15 CHAIRMAN BROWN: Good, thank you.

16 MR. SEMERARO: Mr. Chairman, the
17 application was subsequently amended to also
18 request a certificate of nonconforming use for
19 Lots 12 and 14.

20 And due to, I guess, conversations that
21 I've had both with Mr. Whitaker, as well as the
22 objectors' attorney, I think that there was a
23 consensus among the three of us that this
24 certificate of nonconforming use would best be
25 addressed initially.

1 And I would respectfully ask that the
2 Board then render a decision because that impacts
3 the nature of the relief with regard to the
4 balance of the application.

5 To that end, we do have testimony here
6 this evening. We have Mr. Karl E. Montick, Jr.,
7 who was the witness that was flying in from out of
8 state that we had discussed with the Board
9 previously.

10 We also have a private investigator to
11 authenticate some documents that were secured.

12 And then we also have our planner.

13 Then I think that we probably might have
14 some testimony, some additional testimony from the
15 applicant themselves.

16 But we're going to start with Karl E.
17 Montick, and this is with regard to the
18 certificate of nonconforming use for Lots 12 and
19 14 pursuant N.J.S.A. 40:55D-68.

20 CHAIRMAN BROWN: Okay.

21 MR. SEMERARO: Thank you.

22 CHAIRMAN BROWN: Mr. Whitaker --

23 MR. WHITAKER: Yes.

24 CHAIRMAN BROWN: --just so the Board is
25 clear, so we're bifurcating the application

1 considering the -- is that correct?

2 MR. WHITAKER: Yes, that's correct.

3 CHAIRMAN BROWN: Okay.

4 MR. WHITAKER: But what we had determined
5 is that before they can go back to the relief
6 that's being sought in connection with their site
7 plan application and their expansion or
8 modifications to what exists there now, we're
9 working on the premise that the use itself is
10 nonconforming.

11 In order to work on the premise of the use
12 being nonconforming, they have to prove to the
13 Board, the burden of proof is on an applicant to
14 show that the use basically preexisted the
15 ordinance that created requirements or conditions
16 that no longer permitted the use.

17 So that's the proffer that the applicant
18 has to bring forward tonight. It's brought under
19 a Section 68 of the Municipal Land Use Law and
20 this Board has the ability to approve or not
21 approve the certificate of nonconformity.

22 You've done this in the past with other
23 applications. If some Board members will recall
24 how we went through that and made a decision.

25 So with that we'll let the applicant bring

1 forth their witnesses, and the hearing will be
2 conducted like any other hearing for that purpose.

3 CHAIRMAN BROWN: Thank you, Mr. Whitaker.

4 MR. WHITAKER: Mr. Inqlima, can we have
5 your appearance.

6 MR. INGLIMA: Yes. Robert Inqlima, Jr.,
7 representing the Religious Society of Friends,
8 Ridgewood Friends Meeting and the Friends Nursery
9 School. These are both occupants of 224 Highwood
10 Avenue, Block 3908, Lot 2, the Religious Society
11 of Friends owns the property. I've appeared at
12 prior hearings on their behalf.

13 I, again, would repeat an instruction that
14 was given to the individuals who are identified as
15 representatives, officials, who are managers of
16 the two different institutions, the house of
17 worship as well as the nursery school, that they
18 are being represented by me and that they should
19 not appear and ask questions or make statements
20 unless they're called as a witness by me in the
21 course of future proceedings.

22 I would like to just clarify one quick
23 issue involving procedure.

24 I believe I heard for the first time
25 tonight in Mr. Semeraro's opening that the request

1 for the nonconforming use certification is only as
2 to Lots 12 and 14.

3 I'm not sure whether there was ambiguity
4 or confusion on my part in the past. But I
5 thought that the request was being made as to all
6 three lots. That would include Lot 13, which is
7 the middle lot that has the existing dwelling on
8 it.

9 So if that's the case, if they're only
10 asking for the nonconforming use certification as
11 to Lots 12 and 14, I would just ask for that to be
12 confirmed before we start the testimony.

13 MR. WHITAKER: Counsel.

14 MR. SEMERARO: It's confirmed.

15 MR. INGLIMA: Thank you.

16 MR. SEMERARO: Mr. Chairman, I'd like to
17 call Karl E. Montick, Jr.

18 MR. INGLIMA: If I may, before this
19 gentleman is sworn.

20 I have previously asked that any witnesses
21 appearing before this Board in connection with the
22 application testify only with respect to their
23 personal knowledge.

24 I understand from a lot of documentation
25 that was submitted to the Board this afternoon by

1 Mr. Semeraro's office that there are documents
2 from way back in time, if you will, that are going
3 to be or are going to be offered as exhibits in
4 this proceeding. So I would ask once again that
5 if this gentleman is going to give testimony as to
6 things that have happened in the past, he only
7 testifies within his personal knowledge.

8 MR. SEMERARO: Mr. Chairman, I object to
9 that. There's no such limitation in the Rules of
10 Evidence that apply to hearings of this nature.

11 Certainly, the objector attorney can pose
12 whatever objection he wishes on the record and to
13 the extent that he formulates any type of argument
14 that the Board wishes to give credence to, he
15 certainly is free to do that.

16 But to prohibit testimony before it comes
17 in is just not realistic, it's not appropriate.
18 There's not authority for it.

19 MR. INGLIMA: If I may? This is not an
20 objection. It's a cautionary statement. I don't
21 want to be jumping up and down like a
22 jack-in-the-box.

23 It is my understanding that this gentleman
24 is going to testify as a fact witness and not as
25 an expert. If he was an expert, he might be able

1 to rely upon the foundation provided on another
2 person's testimony or documentation.

3 But if he's appearing here as a fact
4 witness, he should only be testifying, especially
5 in a sensitive matter like this having to do with
6 nonconforming use, and what type of activities
7 were present at the site over a period of time
8 that predated or was subsequent to the adoption of
9 the ordinance, I believe its only fair to the
10 public and to this Board, as well as to the rules
11 of procedure and the standards for this type of
12 proceeding in the Municipal Land Use Law and
13 interpretive authorities, that this gentleman only
14 testify as to matters within his personal
15 knowledge and that he not offer speculative or
16 other types of conjectural testimony based on
17 things that may be presented to him to review.

18 MR. SEMERARO: Again, I maintain my
19 position.

20 Mr. Inqlima's objection stands to right in
21 a court of law, but this isn't a court of law.
22 The Rules of Evidence are inherently relaxed with
23 respect to applications of this nature.

24 And he could pose his precautionary
25 statement, but I would certainly ask that there be

1 no sort of prohibition on any witness's testimony.

2 I mean, testimony is dynamic. We don't
3 know exactly where it goes all of the time, and he
4 certainly can pose an objection and jump up and
5 down with regard to any question he feels that he
6 may need to.

7 MR. WHITAKER: I think it's, from my
8 perspective, premature to raise an objection
9 before we've heard a witness.

10 I suggest he be sworn in. And I don't
11 think the Board needs to be cautioned, Mr.
12 Inglima, as to what the witness is going to
13 testify to. Let the Board listen to what the
14 witness testifies to.

15 If you object to any of the testimony,
16 we'll raise your objection at that time and we'll
17 evaluate it at that time.

18 I agree that the Rules are relaxed. But
19 at the same time it's understood that the Rules of
20 Evidence still prevail and I cannot have, per se,
21 speculative testimony.

22 But I haven't heard testimony yet. I
23 haven't heard a witness yet. So I'll take any
24 objection you raise, quite frankly, it's
25 premature.

1 Let's move on and get to the crux of this
2 and have a witness sworn in and proceed.

3
4 K A R L E. M O N T I C K, 2800 Spring
5 Meadows Drive, Bozeman, Montana 59715, having been
6 duly sworn, testified as follows:

7
8 MR. WHITAKER: Counsel.

9 MR. SEMERARO: Thank you.

10

11 DIRECT EXAMINATION BY MR. SEMERARO:

12 Q Good evening, Mr. Montick.

13 You understand that this application relates to
14 the properties known as Lots 12, 13, and 14 of Block
15 3905; 246, 256, and 264 South Broad Street. Correct?

16 A Yes.

17 Q Okay. Did you at any point in time own
18 those properties?

19 A Yes.

20 Q And did you, in fact, sell those
21 properties to the applicant?

22 A Yes.

23 Q And when was it that you acquired title to
24 those properties?

25 A 256 I acquired in early 2000s. And the 46 and 264

1 I acquired when my father passed in '18.

2 Q Okay. And did you operate any businesses
3 on any of those lots?

4 A There was a collision repair auto body business
5 operated on 246, Ridgewood Vehicle.

6 And there was an auto body, Ridgewood Auto Body
7 operating on 264.

8 And also E & J Auto Repair on 264.

9 Q Okay. Were those two subsequent
10 businesses that you had indicated were located on Lot
11 264, were those tenants or were those businesses that you
12 operated?

13 A Those were tenants.

14 Q Okay. And those were tenants at the time
15 of transfer of title to my client?

16 A Yes.

17 Q Okay. And you had made mention to the
18 fact that there was Ridgewood Vehicle at the property at
19 the address of 246 South Broad Street. Correct?

20 A Yes.

21 Q For clarity sake, the property bearing
22 address 246 is also Lot 12, correct?

23 A I'm not sure which... I can't tell you exactly
24 which lot it is, but it's 246 South Broad.

25 Q Okay. So the business that you operated

1 on 246 South Broad Street, that was Ridgewood Vehicle.

2 Correct?

3 A Yes.

4 Q What was the nature of that business?

5 A Auto body repair.

6 Q Okay. And did you start that business or
7 did you acquire it?

8 A No, I acquired that in mid '80s.

9 Q Okay. And who did you acquire it from?

10 A My father, Karl Montick, Sr.

11 Q And at the time that you acquired that
12 business, did you also come to possess all the records
13 attentive to that business?

14 A Whatever was available, yes.

15 Q Okay. And being the owner of the
16 business, do you understand when that business was
17 formed?

18 A Ridgewood Vehicle, Inc. was incorporated in 1946.

19 Q Okay. And did it always operate at this
20 property, 246 South Broad Street?

21 A No, it originally operated a small two-car garage.
22 I'm not sure of the lot number but it was right next to
23 the old Brogan Cadillac.

24 Q Okay.

25 A Just south of it.

1 Q And at some point in time, did that
2 business relocate to the property of the address 246
3 South Broad Street?

4 A Yes. In 1962 they built an auto body shop at 246
5 South Broad. It was moved there.

6 Q Okay. And at that point in time did your
7 father also own that lot at 246?

8 A Yeah, that was actually partnership with two
9 others. It was Kadnic (Phonetic) Realty, I think what it
10 was called. But it was, you know, a partnership with
11 him, two partners in the business.

12 Q And from the year 1962, did the business
13 continue on that property known as 246 South Broad Street
14 through the date you acquired it?

15 A Yes.

16 Q Okay. What year were you born?

17 A 1955.

18 Q Okay. And as a child, were you familiar
19 with this property?

20 A Yes.

21 Q And were you also familiar with the
22 property known as 264 South Broad Street, which is two
23 lots to the south; Is that correct?

24 A As a young child, I was not, you know, privy to,
25 you know, that property.

1 Q And at what age would you estimate that
2 you became knowledgeable as to --

3 A I would say like '67, '68, you know, when I was
4 old enough to start to understand what was going on next
5 door.

6 Q Okay. And at that point in time, did you
7 understand who owned the property at 264 South Broad
8 Street?

9 A My grandfather at that point still owned the
10 property.

11 Q Okay. And at that point in time, who
12 owned 246?

13 A My father.

14 Q Okay. And you had indicated earlier that
15 Ridgewood Vehicle Body Shop was operating on that site.
16 Correct?

17 A Yes.

18 Q And your earliest firsthand recollection
19 you estimate to be in calendar year 1967?

20 A Yes.

21 Q Okay. And at that point in time are you
22 aware of the fact that Ridgewood Vehicle was operating on
23 246 South Broad Street?

24 A Oh, yeah, my father's business, so.

25 Q Okay. And did you have any particular

1 involvement with that property back at that point in
2 time?

3 A I used to work, you know, sweeping floors around
4 the shop in the summers.

5 Q Okay. During school break?

6 A Yes.

7 Q Okay. And did you continue to do that for
8 several years?

9 A Yeah, through high school graduation '73.

10 Q Okay. And through that time, was the auto
11 body shop known as Ridgewood Vehicle, continuously in
12 operation at that location?

13 A Yes.

14 Q Okay. During that same time period, did
15 your grandfather continue to own the property known as
16 264 or did it transfer?

17 A I'm not familiar when it exactly transferred to my
18 father, but he bought it at some point.

19 Q Okay. And were you familiar with the
20 businesses that operated on that site --

21 A Yes.

22 Q -- through those years?

23 A Yes.

24 Q And the businesses that were on that site
25 consisted of what?

1 A It was an auto body shop, Ridgewood Auto Body, and
2 at that time there was a taxi garage, repair garage.

3 Q So two separate businesses?

4 A Yes.

5 Q Let's talk about 264. That body shop's
6 name was?

7 A Ridgewood Auto Body.

8 Q Okay. Did Ridgewood Auto Body, where did
9 they store their vehicles that they were working on?

10 A On the lot.

11 Q Whereabouts on the lot?

12 A Anywhere from the street to the back. You know,
13 there was parking in front, parking in the back and out
14 on the sides.

15 Q And where did they store car parts?

16 A Wherever it was convenient at the time in the
17 area. Sometimes, you know, basically right outside, you
18 know, wherever was easiest to get to whatever they need.

19 Q Okay. And were those parts on the ground,
20 near the surface on the ground? Were they on racks or
21 some other means?

22 A Probably all of the above. Racks and some stuff
23 on the ground.

24 Q Okay. And when you say "probably", do you
25 have firsthand memory of that?

1 A I remember going over there to, you know, I'd be
2 sent over to pick up parts or supplies or something.
3 They had an amicable relationship, so at time I would get
4 something like a tool or whatever.

5 Q Okay. And so while you were doing that
6 you would end up seeing the vehicles that were in the
7 process of being worked on --

8 A Yes.

9 Q -- outside?

10 A Yes.

11 Q As well as parts?

12 A Yes.

13 Q On the ground?

14 A Yes.

15 Q And on racks?

16 A Yes.

17 Q And what about on Lot 246, which was your
18 father's auto body shop, where were the vehicles stored
19 that he worked on?

20 A Well, there was parking in the front of the
21 building for maybe a half dozen cars, and then the rest
22 of them were stored in the back.

23 Q Were they stored inside or outside?

24 A Outside.

25 Q Okay. And what about parts, parts that

1 were taken off damaged parts and cars, where were they
2 stored?

3 A Well, some were stored in the front depending on
4 where, you know, what process the car was in, and the
5 rest would be outside in the back.

6 Q Okay. Would they be on the ground outside
7 in the back or would they be on top of racks?

8 A There were racks for some of the parts, and the
9 rest of the them would be on the ground, depending on
10 what part it was.

11 Q And what about the storage parts in front?

12 A There were no racks in the front. So they would
13 be up against the wall or stored on the ground.

14 Q Okay. And that's what your memory is
15 throughout those years?

16 A Yes.

17 Q Okay. And you had indicated that in 1973
18 you had graduated high school?

19 A Yes.

20 Q Following high school, did you still have
21 any sort of opportunity to make observations on any
22 business operations on these two lots?

23 A Yeah, I would come back in the summer and spend
24 time in the summer.

25 Q And during those years, did Ridgewood

1 Vehicle continue to engage in business?

2 A Yes.

3 Q And that business was owned by your father
4 still?

5 A Yes.

6 Q And certainly you were aware through those
7 communications that the business was continuing?

8 A Yes.

9 Q Okay. And with regard to Ridgewood Auto
10 Body on Lot 264, do you know if that business continued
11 to operate during the years following your graduation?

12 A Yes.

13 Q And did you know the people that owned or
14 operated it?

15 A Yeah, it was acquired by Barry Rozema, who
16 actually had worked for my father and he acquired it. So
17 that's when it became Barry's Ridgewood Auto Body.

18 I can't tell you the exact year. But he acquired
19 the body shop and ran it as a body shop.

20 Q Okay. Do you know firsthand whether or
21 not the body shop continued to function as a body shop
22 from the time that it was Ridgewood Auto Body until the
23 time that Barry's purchased it?

24 A Yes.

25 Q Okay. And do you know that from your

1 firsthand observations when you were present at the
2 property?

3 A Yes.

4 Q Okay. And let's talk about Ridgewood Auto
5 Body for a few minutes.

6 Do you know whether or not any relatives of yours
7 had owned it at any point in time?

8 A To my knowledge, my grandfather owned it.

9 Q Okay. But he didn't operate it during
10 your years of observation?

11 A No.

12 Q It was always a tenant?

13 A My grandfather?

14 Q No, no, the operator of Ridgewood Auto
15 Body?

16 A It was always a tenant, yeah.

17 Q Are you aware of any owners of that body
18 shop before Barry acquired?

19 A It was, I believe his name is Ed Kaniff
20 (Phonetic). Again, I was very young at the time. But
21 there was somebody else running Ridgewood Auto Body at
22 the time.

23 Q So through the years that you worked as a
24 child with your father, the two businesses would share
25 parts, et cetera or tools or things of that nature?

1 MR. INGLIMA: Wait, wait, this is a new
2 subject that's being introduced by Counsel.
3 Shouldn't this be coming from the witness rather
4 than a leading question.

5 MR. SEMERARO: It isn't new. He had said
6 it before.

7 MR. WHITAKER: He testified earlier he
8 went from one lot to the other lot to get tools.
9 He said that in the testimony. I have it in my
10 notes.

11 Ask the question again, Counsel.

12 MR. SEMERARO: Yes.

13 Q You testified previously that you would go
14 back and forth between the two shops with respect to
15 sharing tools; is that correct?

16 A Yes.

17 Q Okay. And in that process, I imagine
18 that's where you met the owners of the various
19 businesses?

20 A Barry I knew from when he worked for my father.

21 Q Okay. And how would you characterize the
22 nature of the relationship between your father and Barry
23 once Barry opened up the shop on 264?

24 A They had a very amicable relationship. They
25 actually, when they first started, my father sublet him

1 or sent him work.

2 MR. INGLIMA: I'm sorry. I can't
3 understand what you're saying.

4 MR. WHITAKER: I couldn't hear you.

5 A Yeah, so they had a very amicable relationship.
6 And when he first started, my father would actually send
7 on occasion work over there, you know, to keep him busy.

8 Q Okay. And did you have any sort of
9 friendship with Barry or anyone in his family?

10 A Yeah, we were, I mean, he was an older gentleman,
11 so, you know. But I was friendly with him certainly.

12 Q Okay. With regard to the body shop on
13 264, did that body shop also have painting booths, spray
14 booths?

15 A Yeah. All body shops had painted cars, all body
16 shops.

17 Q Okay. What other businesses do you recall
18 functioning on that site during the years that Ridgewood
19 Auto Body operated on that site?

20 I'm talking about Lot 264?

21 A There was a taxi garage, repair garage there.
22 Ridgewood Taxi was the title.

23 Q At some point in time following your high
24 school graduation, did you again begin to work with
25 Ridgewood Auto Body?

1 A I worked there on occasion in the summers and
2 that's it.

3 Q Okay. And that's following high school?

4 A Yes.

5 Q And did there come a time where you
6 engaged full-time employment at that body shop?

7 A 1984 or '5.

8 Q Okay. And so up until that point in time,
9 did you still have an opportunity -- so between the time
10 that you started working full time in 1984, '85 and the
11 time that you graduated high school, did you still have
12 regular opportunities to make observations of those two
13 lots, 246 and 264?

14 A When I would come to visit, yes.

15 Q Okay. And that would happen --

16 A On holidays and for lengthy visits sometimes in
17 the summer.

18 Q Okay.

19 A Two, three times a year.

20 Q So it was something that would happen
21 multiple times a year?

22 A Yes.

23 Q Okay. And the operations that you just
24 explained occurring on both lots, the body shop, the
25 storage of cars outside, and the storage of parts

1 outside, was that something that continued through the
2 that period?

3 A Yes.

4 Q Okay. And at the time that you started to
5 work full time in 1984, 1985 at Ridgewood Vehicle those
6 operations were still continuing at Ridgewood Vehicle as
7 well, correct?

8 A Yes.

9 Q Okay. Could you explain the nature of
10 your work when you began to work there full time in '84
11 or '85?

12 A Originally, I worked as mechanic on the shop
13 floor.

14 Q Okay.

15 A And then over time I moved into the management
16 position.

17 Q Okay. At any point in time during the
18 time period before you started to work at Ridgewood
19 Vehicle in '84 or '85, did the auto body shop operations
20 on Lot 246 ever stop?

21 A No.

22 Q And did your father ever express any
23 intent to you that he wanted it to stop?

24 A No.

25 Q And with respect to 264, up until the time

1 that you started working there again full time in '84,
2 '85, did body shop operations on Lot 264 ever stop?

3 A No.

4 Q And did your father ever have expressed to
5 you any intent to have it stopped on that lot?

6 A No.

7 Q Are you aware as to whether or not your
8 father made any applications to actually expand body shop
9 operations on Lot 264?

10 A Well, he tried - I'm not sure exactly when it was
11 in the '70s - to put up, you know, some buildings there
12 and change that property and to have it be Ridgewood Auto
13 Body, a transmission guy, and a glass guy. They were
14 going to do two or three different things.

15 There was an application for the town that was
16 eventually withdrawn.

17 Q But the body shop operations were always
18 going to continue?

19 A Yes.

20 Q Okay. And it was under the name of the
21 Ridgewood body shop, correct?

22 A Ridgewood Auto Body.

23 Q And with respect to when you started
24 working at Ridgewood Vehicle in '84 or '85, you were
25 working with your father at that point in time. Correct?

1 A Yes.

2 Q Was there a time that you began to take
3 over management of that business?

4 A Mid to late '80s.

5 Q Okay. And did your father continue to
6 work with you through that period of time?

7 A Yes.

8 Q Was there a time where you made an
9 application to expand that business?

10 A We did an addition in '87 or '88, changed the roof
11 line, and that was completed in the late '80s.

12 Q Okay. And that application was an
13 application that was made here in Ridgewood before the
14 land use boards, correct?

15 A Yes.

16 Q And it was granted?

17 A Yes.

18 Q Did it include an expansion to include a
19 spray booth?

20 A Yes.

21 Q And expanded the building to accommodate
22 the same?

23 A Correct.

24 Q Officially, when did you take ownership to
25 Ridgewood Vehicle?

1 A I believe it was '88.

2 Q Okay. And when you sold the properties
3 Lots 12, 13 and 14 to the Daniels, did you also sell
4 Ridgewood Vehicle?

5 A Yes.

6 Q And was it the intent to sell them the
7 business so the business would continue?

8 A Yes.

9 Q During the time period that you owned
10 Ridgewood Vehicle, did you ever stop auto body operations
11 on that property?

12 A No.

13 Q Did you ever stop storage outside with
14 respect to vehicles that you were working on?

15 A No.

16 Q Did you ever stop outside storage parts?

17 A No.

18 Q Okay. And on Lot 264 where Barry's Auto
19 Body shop was, did you continue to be a landlord of the
20 body shop on that property?

21 A Yes.

22 Q And up until the time that you sold the
23 property to the Daniels, did there continue to be a body
24 shop on that property 264 up through the date of sale?

25 A Yes.

1 Q Okay. Was there signage on the property
2 that Barry's body shop was there?

3 A It was *Barry's Ridgewood Auto Body*.

4 Q And did they have signage that was visible
5 from South Broad Street?

6 A Yeah, right on the front. Right on the road.

7 Q And was there signage on 246 advertising
8 Ridgewood Vehicle?

9 A Yes.

10 Q Okay. So the uses were quite apparent to
11 the public?

12 A Yes.

13 MR. INGLIMA: If I may just interject one
14 quick clarification. I think Mr. Semeraro is
15 referring to Ridgewood Vehicle Company as
16 Ridgewood Auto vehicle or Ridgewood auto company.

17 I just want to make sure we're referring
18 to the same business entity each time.

19 My understanding is it should be called
20 Ridgewood Vehicle Company; is that correct?

21 MR. SEMERARO: It should be Ridgewood
22 Vehicle on Lot 246.

23 MR. INGLIMA: Thank you.

24 Q With respect to Ridgewood Vehicle that
25 operated on address 246 South Broad Street, where would

1 you store fluids that were taken from vehicles or put
2 into vehicles?

3 A I think we had a small storage area in the back
4 inside. But there's very few fluids involved with auto
5 body repair.

6 Q At any point in time, to your
7 recollection, did you ever see the storage of other
8 vehicles or equipment on either Lots 264 or 246?

9 A Yes.

10 Q Okay. And how far back do those memories
11 go?

12 A That was late '90s, early 2000s.

13 Q Okay. Now, Lot 2 -- I apologize. I'm
14 talking about too many properties here.

15 256, you had indicated that you acquired that in
16 the early 2000s, correct?

17 A Yes.

18 Q At some point in time prior to your
19 acquisition, did you use any part of that property for
20 any of your business operations?

21 A No.

22 Q Okay. You didn't store anything on that
23 property prior thereto?

24 A No.

25 Q Okay. And after you acquired it, did you

1 store any cars or parts or anything?

2 A We were able to access both properties through the
3 back of that property.

4 Q Okay. And then some of the storage of
5 parts or cars encroached on that property?

6 A Never any parts. But there may have been an
7 occasional car that encroached on the property in the
8 back.

9 Q At any point in time during the time
10 period that you owned the properties at 246 and 264, did
11 you ever intend to stop body shop operations on either
12 one?

13 A No.

14 CHAIRMAN BROWN: While we have a little
15 pause, I would just like the record to reflect
16 that Mr. Bandelt arrived at 8:04 p.m. Thank you.

17 Q I'm going to show you what was previously
18 marked as A-1?

19 CHAIRMAN BROWN: Can you just grab that
20 mic, the handheld. Thank you.

21 Q I'm going to show you what was previously
22 marked as A-1 for identification. That's a black and
23 white exhibit with photographs on the top and the bottom.
24 Is that correct?

25 A Yes.

1 Q Are you familiar with that photograph?

2 A Yes.

3 Q Okay. Did you provide that photograph to
4 the applicant?

5 A Yes.

6 Q Okay. Where did you get that photograph
7 from?

8 A My grandmother.

9 Q And do you know what that photograph
10 depicts?

11 A This is what is now Barry's Auto Body. It was
12 Barry's Ridgewood Auto Body.

13 Q And do you have an idea as to the time
14 frame when that photograph was taken?

15 A I'm looking at the car. I'm thinking '50s. But
16 I'm not sure.

17 Q Okay. And so those photographs depict
18 damaged vehicles in front of the body shop on that
19 property?

20 A Yes.

21 Q And that's the address of 264 South Broad
22 Street, correct?

23 A Yes.

24 Q Thank you.

25 MR. SEMERARO: Mr. Chairman, if I may

1 distribute some exhibits?

2 CHAIRMAN BROWN: Sure.

3 MR. SEMERARO: I'm going to distribute a
4 series of exhibits. But I'm giving you one pile
5 and I'm going to take the exhibit out of order
6 because he could discuss that.

7 I'll just explain what I'm doing, so you
8 understand. I'll refer to the exhibit number as
9 it's marked. I took the liberty of pre-marking
10 these exhibits.

11 So for everyone's reference, I'm going to
12 refer to Exhibit 82.

13 Q So, Mr. Montick, I'm showing you an
14 exhibit marked A-82, correct?

15 A Yes.

16 MR. INGLIMA: Just so everyone's aware,
17 I'm going to have an objection to this exhibit.

18 Q I'm going to bring your attention more
19 specifically to the aerial photograph that's dated 1979.
20 Because the earlier photographs you had testified you
21 don't have a recollection of the property, correct?

22 A Yes.

23 MR. INGLIMA: Could I ask --

24 A I didn't testify to that, but...

25 MR. INGLIMA: I'm sorry. Can I ask for a

1 proffer? What's the source of this document? Who
2 prepared it? Instead of just directing questions
3 to this witness. It's not already been placed in
4 evidence.

5 MR. SEMERARO: Well, they're not in
6 evidence yet. They're marked as an exhibit.

7 MR. WHITAKER: They're not in evidence.

8 MR. INGLIMA: I understand.

9 MR. SEMERARO: And the foundation for
10 these are going to be laid at a later time through
11 a different witness. But at this point in time I
12 want him to provide some testimony regarding them.

13 MR. INGLIMA: Well, I'm going to repeat
14 the objection. Because I anticipate that the
15 witness is going to be asked to confirm the
16 conditions that are shown in these photographs,
17 which bear dates which have not been
18 authenticated, have not been the subject of any
19 prior testimony by the preparer of this exhibit,
20 and there's no reliability or foundation for the
21 individual photographs.

22 I don't know how many slides there are
23 here, but for the photographs or for the dates
24 that are shown on them.

25 And, in addition, there's a number of

1 comments that are set forth along the left margin
2 of each photograph that, again, are from an
3 unknown source, and this Board is now being asked
4 to indulge testimony about this without having had
5 the exhibit authenticated properly. So I place my
6 objection on the record.

7 MR. SEMERARO: I understand the objection
8 and I'm asking for the Board's indulgence. I will
9 have our planner, who prepared this exhibit, to
10 provide them the authentication that's needed.

11 I'm not asking any questions regarding the
12 commentary on the left.

13 I'm going to simply ask this witness some
14 questions regarding the photographs which the
15 Board is certainly free to discount in the event
16 that an unsatisfactory foundation is laid with the
17 planner who will testify subsequently.

18 MR. WHITAKER: You're going to have a
19 planner testify next?

20 MR. SEMERARO: No, there's one other
21 witness to testify in between. But the planner
22 will be testifying before I ask this Board to vote
23 on the certificate of nonconforming use.

24 MR. WHITAKER: So why not take your
25 witness through all the other testimony, have the

1 planner authenticate this, and re-call your
2 witness and go through this.

3 Then we can eliminate any objection that
4 can be raised by Mr. Inglima assuming that they're
5 authenticated properly.

6 I'm trying to just preserve the record.

7 MR. SEMERARO: No, I understand, and I'm
8 not quite sure that it's worth the challenge which
9 is going to be forthcoming without him completing
10 his testimony.

11 So let me think about that for one minute,
12 Mr. Whitaker, if I may.

13 MR. WHITAKER: I'm assuming we're going to
14 get all this done tonight.

15 MR. SEMERARO: I understand. Thank you.

16

17 (Brief pause)

18

19 MR. WHITAKER: Let's take a three minute
20 recess.

21

22 (Recess)

23

24 CHAIRMAN BROWN: It is 8:31. We're back
25 on the record.

1 MR. SEMERARO: Thank you.

2 Q So continuing with Mr. Montick.

3 I want to talk a little bit about the nature of
4 the outside storage on both these lots.

5 Was the storage with respect to the number of cars
6 or the amount of car body parts always the same or did it
7 fluctuate and go up and down throughout the years?

8 A I would say it goes up and down throughout the
9 years, goes up with how much business we had at the time.
10 Sometimes we were extremely busy; sometimes we were not
11 quite as busy. So obviously there wouldn't be as much
12 stored there at the time.

13 Q Okay. And was it your intent to always
14 use the property to store either cars or parts to
15 whatever extent was necessary to continue operations?

16 A Yes.

17 Q Okay. Just to get a better sense as to
18 the type of storage.

19 Were there tires on occasion that would get
20 stacked on the property?

21 A Yeah, you know, if they needed to be replaced in
22 the course of repair. We would put them out and store
23 them until such time as we had enough quantity where we'd
24 get somebody to take them away.

25 Q Okay. Fenders?

1 A Yes.

2 Q Hoods?

3 A Yes.

4 Q Bumpers?

5 A Yes.

6 Q And this would all be regularly observable
7 from South Broad Street?

8 A Yes.

9 Q On both lots?

10 A I'm not sure what was, you know, visible on the
11 264. But certainly our parts were visible in the front.
12 We tried to, you know, keep it as nice we could. But
13 it's a body shop and there are going to be damaged parts
14 around.

15 Q Okay. Now with respect to Lot 264, did
16 that lot have a parking lot that went all the way up to
17 South Broad Street?

18 A Yeah, right up to the front.

19 Q And would cars that were in progress be
20 parked in those parking spaces that went right up to the
21 roadway?

22 A Yes.

23 Q And would those cars be in various stages
24 of being disassembled?

25 A Yes.

1 Q There would be cars visible without
2 fenders on it, for example?

3 A Yes.

4 Q Okay. So is it fair to say from your
5 earliest recollection, which we know is 1967 or '68, the
6 latest, that you have always observed body shop uses on
7 both lots, Lots 12 and 14, 246 and 264 South Broad
8 Street?

9 A Yes.

10 MR. SEMERARO: Thank you. I don't think I
11 have any other questions at this time. But I do
12 reserve the right to re-call him back.

13 CHAIRMAN BROWN: Okay. Mr. Inglima.

14 MR. INGLIMA: Thank you, Mr. Chairman.

15

16 CROSS-EXAMINATION BY MR. INGLIMA:

17 Q Mr. Montick, you have testified that your
18 father was the first operator of an auto body repair shop
19 on Lot 12. That's 246 South Broad?

20 A Yes.

21 Q There was no prior use of the property,
22 Lot 12, as an auto body shop before your father bought
23 the property?

24 A I don't know what the prior use was.

25 Q With respect to 264, you indicated that

1 your grandparents had owned that property previously?

2 A My grandfather owned it originally, yes.

3 Q And he sold that property to your father?

4 A Yes.

5 Q And during the period of your
6 grandfather's ownership, there was an auto body shop
7 there?

8 A Yes.

9 Q And you said there was auto body in one
10 building and Ridgewood Taxi in another building?

11 A When my grandfather owned it, I'm not sure if
12 Ridgewood Taxi was in that back building. But I know
13 there was a body shop in the front building.

14 MR. INGLIMA: All right. It may make this
15 easier if I ask to distribute a copy of the
16 applicant's survey on which I have placed a
17 notation just to identify individual buildings
18 that are scattered throughout the property.

19 So I'll represent to the Board that this
20 is a full size copy of the survey bearing the
21 markings.

22 I'll show a copy to Mr. Montick, Mr.
23 Semeraro.

24 MR. WHITAKER: Is it already marked?

25 MR. INGLIMA: No, it was not marked

1 previously. The survey was marked, but not any of
2 the notations.

3 MR. WHITAKER: For the record, this will
4 be marked as an exhibit without the notation.

5 MR. INGLIMA: This should be A-4, I
6 believe.

7 I'm sorry, O-4.

8 MR. WHITAKER: This is the engineer
9 survey.

10 MR. INGLIMA: Are there any objections to
11 that exhibit being marked?

12 MR. WHITAKER: Any objections?

13 MR. SEMERARO: No objection.

14 MR. INGLIMA: Okay. So that everybody
15 isn't lugging around an 11 by 17 piece of paper, I
16 have excerpted the part that shows the buildings,
17 and I would like to distribute that excerpt. It
18 just makes it a little easier.

19 MR. SEMERARO: This particular document I
20 do, for the record, place an objection on, for the
21 record. I don't know if it's been altered or not.

22 MR. INGLIMA: I'm making a representation
23 to the Board Counsel that it is an exact copy of
24 what has been presented in an 11 by 17 form. It's
25 just to make it easier.

1 MR. WHITAKER: It's an 11 by 17. I don't
2 think anybody has a problem.

3 MR. INGLIMA: I don't have extra copies.

4 Q Mr. Montick, if I could direct your
5 attention to what's been marked as Exhibit O-4.

6 When you described the building that was
7 originally occupied by an auto body shop during the
8 period of your grandfather's ownership of Lot 14, would
9 that be building number four as identified on this
10 exhibit?

11 A 4 and 5.

12 Q 4 and 5.

13 At the time that your grandfather owned the
14 building, building number 5, did it consist of both parts
15 A and B as noted on the exhibit or is part B an addition
16 that was built later in time?

17 A I can't testify to that.

18 Q Are you testifying that the entire
19 building that is marked on the survey and identified as
20 building 5 was there when your grandfather owned the
21 property?

22 A Yes.

23 Q And when your grandfather owned the
24 property, what was in building 6? Is that Ridgewood
25 Taxi?

1 A I don't know.

2 Q Do you know where Ridgewood Taxi was on
3 Lot 14?

4 A Eventually, it was on building 6.

5 Q Do you know when building 6 was built?

6 A No. But I think the date's on that picture.

7 Q The date is on what picture?

8 A The exhibit.

9 Q Well, you're talking about the A-1
10 exhibit?

11 A Whichever one we looked at.

12 Q You're talking about the building that
13 appears in the lower frame of A-1?

14 A Yes.

15 Q That's building 6 and building 5 is what,
16 the building --

17 A That's building 4.

18 Q Building 4 is the one in the upper frame?

19 A And building 5, you can see just back to the
20 corner with the little chimney sticking out of it, in
21 that frame.

22 Q And you don't know when those two
23 buildings were built?

24 A No.

25 Q Were there any other tenants of or

1 occupants or uses of Lot 14 when your grandfather owned
2 that property?

3 A Not to my knowledge.

4 Q You referred earlier in your testimony to
5 your father obtaining an approval for addition, or was it
6 you?

7 A I was in the business at the time, so I guess we
8 can say "we".

9 Q You're anticipating that I'm asking about
10 building number 1 on Lot 12?

11 A Yes.

12 Q Is part C, as generally depicted on that
13 exhibit, the area that you were describing as the
14 addition previously?

15 A Yes.

16 Q When your father first started operating
17 the business of Ridgewood Vehicle Company on Lot 12, were
18 parts A and B both in existence at that time?

19 A He built it.

20 Q He built it as an L-shaped building, is
21 that what you're saying?

22 A Yes.

23 Q So the entire L-shaped building with the
24 exception of part C was there from the beginning of the
25 ownership of the property by your father?

1 A Yeah, that was a purpose built auto body shop.
2 The cars were repaired part A, and they were painted part
3 B.

4 Q Let's go back to Lot 14. That's the one
5 that has buildings 4, 5, and 6 on it.

6 Was there also previously a resident or a dwelling
7 building on that lot?

8 A Not to my knowledge.

9 Q You indicated that you purchased Lot 13
10 from a prior owner you said in the early 2000s. Would
11 that have been September 2002 when you bought the
12 property from Cecelia Cortstra (Phonetic)?

13 A Yeah, it was a life estate transaction.

14 Q And then subsequently the property was
15 transferred to you by virtue of death?

16 A Upon her passing, yes.

17 Q So she had a life estate in the property.
18 When she died she was no longer a resident of the
19 building and you acquired title of the property?

20 A Correct.

21 Q And then you transferred the property into
22 an LLC that you formed for that purpose?

23 A Yes.

24 Q What was the use of that property after
25 you acquired it in the LLC form?

1 A It was a single-family rental.

2 Q Were there ever any tenants of that
3 building other than a resident of the dwelling?

4 A Building 2?

5 Q That's correct.

6 A No, just rental tenants.

7 MR. SEMERARO: Just for the record, do you
8 want to clarify what building 2 is?

9 That's the building that's closest to
10 South Broad Street.

11 THE WITNESS: That's the house.

12 MR. INGLIMA: Just for clarification,
13 every building that's identified on the survey, I
14 understand, is still at the property. This is a
15 recent survey of the property by the applicant's
16 surveyor.

17 Q So you had residential tenants in building
18 number 2.

19 What was building number 3 used for?

20 A They used it for storage.

21 Q Who used it for storage?

22 A Ridgewood Vehicle.

23 Q During Miss Cortstra's ownership of the
24 property or after?

25 A No, during her -- when she was there, yes.

1 Q You're saying Ridgewood Vehicle used that
2 building for storage?

3 A Yes.

4 Q Did you have a lease with Miss Cortstra?

5 A No.

6 Q What was the basis, legal basis if you
7 understand it, for your use in a business of a
8 residential framed garage on Lot 13?

9 A We asked Mrs. Cortstra, she was not using the
10 garage, if we could use it for storage. She said yes.

11 Q And do you remember the dates that that
12 building number 3 was used for storage for Ridgewood
13 Vehicle Company?

14 A No.

15 Q Was that during the period of ownership
16 of -- I'm sorry -- was that during the period when your
17 father owned Lot 12?

18 A No.

19 Q During the period of your father's
20 ownership or your ownership of Lot 1, other than the
21 application for the expansion --

22 MR. SEMERARO: Lot 1?

23 MR. INGLIMA: Did I say Lot 1? I'm sorry.

24 MR. WHITAKER: Lot 12. You said Lot 1.

25 Q Lot 12. During the period of ownership of

1 Lot 12 by either your father or yourself, are you aware
2 of any other applications for development, site plan
3 applications, variance applications --

4 A No.

5 Q -- or other types of -- let me finish the
6 question, please, sir.

7 Or other requests for approvals, administrative
8 approvals from land use agencies of the Village of
9 Ridgewood other than the application you described
10 earlier for the addition to building 1?

11 A Well, we renovated the office, which was, you
12 know, totally internal and there was a permit issued for
13 that.

14 Q But that didn't involve an application to
15 or hearings before a --

16 A No.

17 Q -- an administrative agency, land use
18 board, board of adjustment, planning board?

19 A No.

20 Q Right?

21 A No, no.

22 Q Did you ever have any site plan
23 applications for Lot 12 during the period of either your
24 father's ownership or your ownership of that property
25 other than the application to build the addition to

1 building number 1?

2 A No.

3 Q During his testimony, Mr. Daniel - when I
4 say "his testimony", I'm referring to testimony in this
5 particular proceeding - Mr. Daniel described the number
6 of tenants, he characterized them as tenants, tenants of
7 Lot 12.

8 During the period of your father's ownership or
9 your ownership of Lot 12, were there any tenants of Lot
10 12?

11 A The last couple of years that I rented --

12 MR. SEMERARO: I'm sorry, go ahead.

13 A I rented some space to a landscaper that had done
14 some work for me that needed a place to park his trucks.

15 Q He does what?

16 A He did some work for me and he needed a place to
17 park his trucks. So I gave him some room in the back.

18 Q What would that tenant's name have been?

19 A M & K Landscaping.

20 Q And do you recall the name of the
21 principal or owner or operator of M & K Landscaping?

22 A I just know his first name is Tom.

23 Q Tom.

24 Mr. Daniel also testified that there was a second
25 tenant named Rick's, R-i-c-k-'-s, Pool Service. Do you

1 recall that party or tenant?

2 A Yes.

3 Q Were they a tenant of Lot 12 during your
4 ownership or your father's ownership?

5 A No.

6 Q Well, Mr. Daniel indicated that vehicles
7 were or a vehicle owned by Rick's Pool Service were
8 stored in the rear of Lot 12. Do you know anything about
9 that?

10 A He may have been in the spot there at some point
11 in time, but he kept his vehicle on Lot 14.

12 Q So he wasn't on Lot 12; he was on Lot 14,
13 correct?

14 A That's where he was supposed to be.

15 Q Was he a tenant of yours or someone else?

16 A He was a tenant of mine.

17 Q A tenant of yours on Lot 14.

18 How many vehicles was M & K Landscaping permitted
19 to store on Lot 12?

20 A One trailer and one truck.

21 Q And how many vehicles was Rick's Pool
22 Service permitted to store on Lot 14?

23 A Two.

24 Q Do you recall the dates when M & K
25 Landscaping or Rick's Pool Service stored vehicles on

1 Lots 12 or 14?

2 A No, not exactly.

3 Q Would it have been within the last 15
4 years?

5 A Yes.

6 Q Did they pay a fee or rent to you for the
7 services that were provided, the storage of the vehicles?

8 A Yes.

9 Q Did you apply to any land use agencies,
10 administrative agencies, land use boards, planning board,
11 Zoning Board of Adjustment of the Village of Ridgewood
12 for permission of any kind to have areas of Lots 12 or 14
13 used by third parties for vehicle storage?

14 A No.

15 Q There was another individual that was
16 identified by Mr. Daniel in his testimony named Michael
17 Dunegan. I hope I'm getting that right. Do you recall
18 that name?

19 A Yes.

20 Q And who was Mr. Dunegan?

21 A He was a contractor.

22 Q And what was your relationship with him?

23 A He was in a similar situation and he needed a spot
24 for two of his vehicles. So we were able to find room
25 for them.

1 Q And where was he permitted to store those
2 vehicles?

3 A Lot 12 -- I'm sorry -- 14.

4 Q Did you receive a fee or rent or any other
5 type of remuneration for the storage of vehicles by Mr.
6 Dunegan?

7 A Yes.

8 Q Okay. Other than the tenants or vehicle
9 storage parties that have been described in your
10 testimony, did you rent any other portion of Lot 12 to
11 any third party not associated with the business of
12 Ridgewood Vehicle Company during the period of your
13 ownership?

14 A There was a period during the construction of the
15 West Bergen Mental Health facility that the contractor
16 asked if he could use that area for staging. And during
17 the construction of that West Bergen Mental Health
18 facility they were allowed to use a section of the back
19 property on Lot 12 for their trailer and a couple of
20 other pieces of equipment that they had because they
21 didn't have room on the property.

22 Q That was only during the construction
23 activities and not after the construction was completed?

24 A Correct.

25 Q You described earlier the business of

1 Ridgewood Vehicle Company. Would it be a fair statement
2 that it was an automobile repair and paint shop?

3 A It was a collision repair facility and it included
4 chop parts on it.

5 Q Did you do any other services such as
6 windshield repair?

7 A We would sublet windshield repair to a...

8 Q To a? To someone who is not on the
9 premises?

10 A Correct.

11 Q Is that correct?

12 You didn't do anything like ceramic coatings of
13 vehicles, did you?

14 A No.

15 Q You testified earlier about the activities
16 that you observed on Lot 14 with respect to an auto body
17 shop that was located there during your grandfather's
18 ownership, is that correct?

19 A Yes.

20 Q And that was your grandfather's business,
21 was it not?

22 A Originally.

23 Q When did he discontinue that business?

24 A He never discontinued it. It was sold to
25 somebody. I was too young at the time. I'm not sure

1 exactly who it was. I believe it was a K.

2 Q And then it's your understanding that
3 subsequently Barry --

4 A Barry Rozema bought it, yes.

5 Q Bought it. And how long did Barry operate
6 the auto body shop on Lot 14?

7 A Until he sold it to his son Barry, Jr. I'm not
8 sure exactly when that transpired. Barry ran it from
9 then on -- Junior ran it from then on.

10 Q You previously indicated that Barry's Auto
11 Body and the rear of the building was occupied by
12 Ridgewood Taxi, right?

13 A Yes.

14 Q Did Ridgewood Taxi store vehicles on the
15 property on Lot 14?

16 A Yes.

17 Q And you say they repaired them in the
18 garage?

19 A Correct.

20 Q And the garage would have been building
21 number 6 shown on Exhibit O-4?

22 A Yes.

23 Q Were there any other tenants at the same
24 time that -- I've already asked this.

25 When did Ridgewood Taxi leave Lot 14, do you know?

1 A I'm thinking like '17 or '18. Whenever they --
2 when they lost their lease here in town, when they left
3 the car shop.

4 Q You said in '17 or '18?

5 A I believe so, yeah.

6 Q 2017 or 2018?

7 A That's when Ridgewood Taxi left and E & J came in.

8 Q Can you describe E & J, please? The
9 business of E & J?

10 A Auto repair.

11 Q So they are a business that was engaged in
12 the repair of automobiles that they didn't own
13 themselves; is that correct?

14 A Yes.

15 Q As opposed to Ridgewood Taxi which was
16 repairing its own vehicles, correct?

17 A Yes.

18 Q Okay. Did you enter into a lease with E &
19 J?

20 A No.

21 Q How is it that E & J was permitted to
22 occupy building number 6 on Lot 14 after you acquired
23 title to it?

24 A Ridgewood Taxi was leaving and they were looking
25 for a place to run a business for repair, so they moved

1 in.

2 Q Without a written lease?

3 A Yes, we had an agreement.

4 Q So you basically had an oral agreement to
5 allow E & J to occupy building 6 in the property?

6 A Yes.

7 Q Is that fair?

8 A Yes.

9 Q When did that start?

10 A I don't know the exact date.

11 Q But it would have been after Ridgewood
12 Taxi left the property in 2017 or '18?

13 A Yeah, one left and the other moved in immediately.

14 Q Was E & J still in building number 6 or
15 still an occupant of Lot 14 at the time that you sold the
16 property to LES Dann?

17 A Yes.

18 Q Were you receiving rent from E & J in
19 connection with their use or occupancy of building 6 on
20 Lot 14?

21 A Yes.

22 Q So when E & J was there, was Barry's Auto
23 Body, Barry's Ridgewood Auto Body still located on Lot
24 14?

25 A Yes.

1 Q So you were receiving rents from those two
2 tenants of Lot 14 at the same time?

3 A Yes.

4 Q Did you have any business relationship,
5 apart from renting Lot 14 to E & J with that business?

6 A No.

7 Q So you didn't trade -- you referred
8 earlier in the testimony to the fact that your father had
9 sent work from his shop, Ridgewood Vehicle Company over
10 to Barry's Auto Body from time to time. Right?

11 A Yes.

12 Q And is it fair to say that Barry's
13 Ridgewood Auto Body also sent work to Ridgewood Vehicle
14 Company?

15 A No.

16 Q So it was really a one way deal?

17 A Yes.

18 Q Okay. The same relationship did not exist
19 with E & J, right?

20 A No.

21 Q It was just a straight tenant?

22 A Yes.

23 Q Okay. Have you had an opportunity to
24 review the exhibits that were previously placed in the
25 record of these proceedings and offered by Mr. Daniel

1 during his testimony?

2 A No.

3 Q If I may, I'm going to give you some time
4 to look these over. I'm just going to pull them over so
5 they're a little more clear.

6 I'm going to show the witness what has been
7 previously marked during Mr. Daniel's testimony as
8 exhibits A-8, A-9, A-12, A-13, A-14, A-15, A-16, A-17.

9 MR. SEMERARO: Let me see them first.

10 MR. INGLIMA: If you have the original
11 exhibits, I'd be happy to defer to having them
12 shown to the witness. I was just trying to speed
13 things up.

14 I find that all of the exhibits starting
15 with A-20 to the end, that's A-20 through A-49
16 inclusive, also would be helpful to the line of
17 questioning. So I would like to show them to the
18 witness also.

19 Q In the photographs that I've just
20 identified for the record by their exhibit number, have
21 you had an opportunity to review all of them?

22 A Yes.

23 Q Mr. Daniel in his testimony, and I'm just
24 going to generalize his statement. Please correct me if
25 I'm wrong --

1 MR. SEMERARO: I'm going to object to the
2 characterization. I think Mr. Inglima is
3 perfectly capable of asking this witness
4 questions, but he need not characterize Mr.
5 Daniel's testimony to do so.

6 MR. INGLIMA: I'm just trying to keep it
7 quick.

8 Q Mr. Daniel has previously testified that
9 the photographs --

10 MR. SEMERARO: Same objection.

11 Q -- that have been placed before you on the
12 table that are identified by number, which were all
13 introduced by the applicant, show the conditions of the
14 three properties Lots 12, 13, and 14 more or less as of
15 the date that LES Dann purchased the property from you.

16 Do you disagree in any respect or as to any
17 photograph with that statement by Mr. Daniel?

18 A Could you repeat that?

19 Q The photographs that have been placed
20 before you, which I have identified on the record by the
21 their exhibit number were all placed in the record of
22 these proceedings by Mr. Daniel during his testimony.

23 He testified that those photographs depict the
24 conditions that were found at Lots 12, 13, and 14 as of
25 the date that LES Dann, LLC acquired those properties

1 from you, Mr. Montick.

2 Do you disagree in any respect with his testimony
3 to that effect?

4 Is that the condition of the property, what's
5 shown in the photographs on the date of closing?

6 A So the equipment is different and some of the
7 fence is missing in one of them. There's a few things
8 that are changed since the date of the sale.

9 Q Well, there are photographs that show
10 storage containers on Lot 13 and Lot 12. Were those
11 there at the time that you owned the property and sold it
12 to LES Dann?

13 MR. SEMERARO: Please refer to the exhibit
14 number.

15 A Which photo?

16 Q That would be Exhibit A-15, A-31, A-32,
17 A-34. So I'll repeat the question.

18 As to the storage containers that are depicted in
19 these photographs, were they there during the ownership
20 of Lots 12, 13, and 14?

21 A A-31, A-32. There's no container on A-34. A-15,
22 were not there.

23 Q The containers shown on A-15 were not
24 there when you owned the property?

25 A No.

1 Q Without going through every single
2 photograph, there are a number of photos that depict the
3 conditions of Lot 12 and show various state of repair of
4 vehicles or parts that Mr. Daniel indicated were the
5 by-products of the operation of the Ridgewood Vehicle
6 Company on Lot 12.

7 Do those photographs depict the conditions of the
8 operation of Ridgewood Vehicle Company at the time you
9 owned it?

10 A Which photos?

11 Q A-12, A-16, A-17, A-20, A-32.

12 A I don't recognize all the vehicles, but we had
13 cars during the various states of disassembly and repair
14 at the time of sale.

15 Q So irrespective of who placed those
16 vehicles there, you're suggesting that maybe it was
17 somebody who owned the building after you sold it; is
18 that right?

19 MR. SEMERARO: I'm going to object to the
20 question.

21 A Not necessarily.

22 Q But when you were operating Ridgewood
23 Vehicle Company on Lot 12, did you place those types of
24 materials in the locations that are shown on the
25 photographs that were previously identified?

1 A We may have on occasion, yes.

2 Q Would it be a fair statement that the
3 materials that are depicted in the photographs showing
4 the rear area, I'll say the area to the west from the
5 existing dwelling on Lot 13, that appear on Exhibit A-16,
6 A-17, A-20, that those are materials that are associated
7 with the operation of the business of Ridgewood Vehicle
8 Company on Lot 12?

9 A Yes.

10 Q There are a number of conditions that are
11 shown on photographs of Lot 14. During the period of
12 your ownership, did Ridgewood Vehicle Company store
13 materials or vehicles on Lot 14?

14 A No.

15 Q Would it be fair to say that during the
16 period of your ownership, any materials that would have
17 been stored on Lot 14, such as the materials that were
18 described previously by Mr. Semeraro, like tires or
19 fenders or bumpers or materials that are being painted,
20 would the materials that were found on Lot 14 be
21 associated with the business activities of the tenant of
22 Lot 14 or would they be associated with the business of
23 Ridgewood Vehicle Company on Lot 12?

24 A They'd be associated with the tenants of Lot 14.

25 Q During the period of your ownership of Lot

1 14, did you ever receive any notices from the zoning
2 official or the property maintenance official of the
3 Village of Ridgewood with respect to materials that were
4 stored on Lot 14?

5 A No.

6 Q Do you know if your tenants ever received
7 such notices?

8 A Not to my knowledge.

9 Q During the period of your ownership of Lot
10 14, did you ever receive any notifications from the
11 zoning officer or the building maintenance or property
12 maintenance officials of the Village of Ridgewood with
13 respect to the maintenance of Lot 14 generally, things
14 like the condition of fences, trees, buildings,
15 undergrowth, grass, weeds, et cetera?

16 A No.

17 Q Do you know if your tenants received any
18 such notices?

19 A Not to my knowledge.

20 Q During the period of your ownership of Lot
21 14, are you aware of whether Barry's Ridgewood Auto Body
22 was storing materials outside?

23 A Yes.

24 Q Can you elaborate on the knowledge that
25 you had with respect to that condition?

1 A Well, I was over there on a regular basis and
2 there would be parts, cars disassembled, vehicles stored
3 outside.

4 Q During the period of either your father's
5 ownership, and this is just to your knowledge, during the
6 period of your father's ownership of the Ridgewood
7 company or your subsequent ownership of Ridgewood Vehicle
8 Company, did you ever use Lot 14 for the business
9 activities of Ridgewood Vehicle Company?

10 A No.

11 Q During the period of your ownership of Lot
12 14, did you ever enter into or grant any easements,
13 licenses or other agreements with owners of adjacent
14 properties?

15 When I say "adjacent properties", I mean those
16 properties or lands that directly abut and share a common
17 boundary with Lot 14?

18 A No.

19 Q Did you ever permit the storage of
20 vehicles from any occupant, lessee, or owner of Lot 29 in
21 Block 3905?

22 This would be the lot -- I'll point it out to you
23 on the map.

24 This would be this lot -- I'm sorry.

25 40.01, Lot 40.01, are you familiar with that

1 property?

2 A Yes.

3 Q Did you ever permit the
4 owner/occupant/tenant, et cetera of Lot 40.01 to store
5 vehicles on Lot 14?

6 A No.

7 Q It was observed during cross-examination
8 of another witness that there appears to be a --

9 MR. SEMERARO: Same objection.

10 Q -- gravel connection leading from Lot
11 40.01 to Lot 14.

12 Are you familiar with that gravel connection in
13 the rear, just in front of the building number 6?

14 A No.

15 Q It is shown on the survey. If you look at
16 the survey where the words *Lot 40.01* appear on that lot,
17 there's an indication of a gravel surface between the
18 dashed lines.

19 MR. SEMERARO: Objection to the form of
20 the question.

21 Q You never consented to any use of that
22 gravel area for access to or from Lot 14?

23 A No.

24 Q Are you aware of any of the tenants of Lot
25 14 using Lot 40.01 for the storage of vehicles?

1 A No.

2 Q You described the arrangements you had
3 with Barry's Auto Body -- well, actually, I don't know if
4 you ever answered this because I don't know if I ever
5 asked it.

6 Did you enter into a written lease agreement with
7 the owner of Barry's Ridgewood Auto Body for its use or
8 occupancy of the building or any areas of Lot 14?

9 A Yes, we had a lease with Barry's.

10 Q Do you have a copy of that lease with you?

11 A No.

12 Q And is it your understanding that that
13 lease terminated upon your sale of the property?

14 A Yes.

15 Q So it didn't terminate before you sold the
16 property?

17 A No.

18 Q Barry's had not vacated the building,
19 building number 5 or building number 4 on Lot 14 before
20 the sale to LES Dann?

21 A Barry was still operating at the sale of the
22 property.

23 Q In your lease with Barry's Ridgewood Auto
24 Body and your lease arrangement, oral agreement,
25 whatever, with E & J, who was responsible for the

1 maintenance and repair of buildings?

2 This would be building number 4 and 5 in the case
3 of Barry's, and building number 6 in the case of E & J?

4 A The tenants.

5 Q Same question, but as to the maintenance
6 of the property itself, Lot 14.

7 In either of those lease arrangements or
8 agreements, who was responsible to perform maintenance of
9 the land?

10 A The tenant.

11 Q When you sold the property to LES Dann,
12 you owned each of the lots, correct?

13 You had transferred the ownership of Lot 13 from
14 your LLC back to yourself, correct?

15 A Yes.

16 Q Immediately prior to the transfer to LES
17 Dann, right?

18 A Yes.

19 Q And then you had three different deeds
20 that conveyed each of the lots, separate deed for Lot 12,
21 separate deed for Lot 13, and separate deed for Lot 14.
22 Correct?

23 A Yes.

24 Q Even though all three properties were
25 being sold by one individual, yourself, to one business

1 entity, LES Dann, LLC?

2 A Yes.

3 Q Was there a reason why three deeds were
4 used to convey title to the three lots?

5 A I don't know. You'd have to ask my attorney.

6 Q Who was your attorney?

7 A Ralph Ferro.

8 Q Does Mr. Ferro have any records pertaining
9 to the use or activities, business activities on Lots 12
10 or 14?

11 A I don't think so.

12 Q Have you checked with Mr. Ferro or Mr.
13 Collins who represented your father in the course of
14 prior land use applications?

15 A No.

16 Q So you haven't sought copies of any
17 documents relevant to this issue, the issue of
18 nonconforming use from either of those two attorneys?

19 A No.

20 Q When you sold the property to LES Dann,
21 you entered into a mortgage with LES Dann, did you not?

22 A Yes.

23 Q So would it be fair to say that this is
24 essentially a seller finance transaction?

25 A Yes.

1 Q I assume that the mortgagor still owes
2 money to you pursuant to that mortgage agreement?

3 A Yes.

4 Q Is the obligation of LES Dann, LLC, the
5 mortgagee, to repay any portion of the outstanding
6 principal contingent upon the issuance of certificates of
7 occupancy, permits or approvals for any uses or
8 structures, construction permits for land use
9 applications made by LES Dann with respect to the site?

10 A No.

11 Q So the mortgage arrangement, the note and
12 mortgage are not dependent in any way on the development
13 rights that are obtained by LES Dann after the closing?

14 A No.

15 MR. INGLIMA: If I could just have a
16 minute. I want to check through my notes.

17 I just have one additional question.

18 Q Is there a gentleman by the name of George
19 who was associated with E & J?

20 A Yes.

21 Q And what is his role within that
22 organization?

23 A He was the proprietor.

24 Q What is his last name?

25 A I don't know.

1 Q Did George ever occupy the dwelling that's
2 located on Lot 13?

3 A No.

4 Q So if Mr. Daniel testified about a person
5 named George who lived in the building, that wasn't the
6 same George who was involved with E & J?

7 A No.

8 MR. INGLIMA: Thank you. I have no
9 further questions at this time.

10 CHAIRMAN BROWN: Do you have any?

11 MR. SEMERARO: No.

12 CHAIRMAN BROWN: We're going to go ahead
13 and quickly open it up for questions from the
14 public. Time for members of the public to ask any
15 questions they might have of the applicant's
16 witness.

17 Okay. Seeing none. I'm going to open it
18 up to the Board members for questions.

19 MR. WHITAKER: Just a few on the
20 testimony.

21 Do you recall when Ridgewood Taxi occupied
22 the building on building 6?

23 MR. MONTICK: No, I was too young. I
24 believe it was in the '50s. But I don't know for
25 sure.

1 MR. WHITAKER: Did you witness what they
2 did on that site during the years?

3 MR. MONTICK: Yeah, as I got older, they
4 were doing repairs of the taxis.

5 MR. WHITAKER: Did they use that also as a
6 dispatch office?

7 MR. MONTICK: I don't know for sure.

8 I believe the dispatch office was in the
9 train station here in town at the time, and they
10 were used to store their extra taxis and to repair
11 the ones that needed to be repaired.

12 MR. WHITAKER: In connection with the
13 operation of the ongoing -- when you were a kid
14 later on with working there in high school, et
15 cetera, did tow trucks come to the site with
16 vehicles that needed repair?

17 MR. MONTICK: Yeah, on a regular basis.

18 MR. WHITAKER: Were there any tow trucks
19 stored on the site during the course of you being
20 there as a worker or employee in your younger
21 years and later when you operated the business
22 itself?

23 MR. MONTICK: Not to my knowledge.

24 MR. WHITAKER: There was never a tow truck
25 company operating from that site that you recall?

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MR. MONTICK: No.

MR. WHITAKER: Thank you.

CHAIRMAN BROWN: Thank you, Mr. Whitaker.

Board members, do you have any questions?

Hearing none, professionals, do you have any questions?

Okay. With that, we're going to take five minutes for the stenographer to take a break. Thank you.

(Recess)

CHAIRMAN BROWN: It is 9:41.

Jane, do the roll call.

(Roll call was taken, all Board Members present respond in the affirmative)

MR. SEMERARO: Thank you, Mr. Chairman.

I'd like to call Alex Saavedra.

A L E X A N D E R S A A V E D R A, 259 Union Street, Hackensack, New Jersey, having been duly sworn testified as follows:

1 MR. SAAVEDRA: Business is under Alexander
2 Saavedra, LLC. We also do business under Saavedra
3 & Associates.

4 MR. WHITAKER: Counsel.

5

6 DIRECT EXAMINATION BY MR. SEMERARO:

7 Q Good evening, Mr. Saavedra.

8 Can you please advise the Board under what
9 company you were retained to provide services
10 here?

11 A I believe Alexander Saavedra, LLC.

12 Q Okay. And is that a private investigation
13 company?

14 A Yes.

15 Q Okay.

16 CHAIRMAN BROWN: I'm sorry. Can you talk
17 a little closer to the mic, so we can hear you.

18 MR. SAAVEDRA: Sure, yes.

19 Q And what is your relationship to that
20 entity?

21 A I'm the owner and operator of the entity.

22 Q Okay. And are you a licensed private
23 investigator?

24 A Yes.

25 Q When was that entity found?

1 A About 15 years ago.

2 Q Okay. And prior to your establishment of
3 that firm, how were you employed?

4 A I retired from the Bergen County Prosecutor's
5 Office as a detective; and for a short time I had a
6 commission from the Governor of the State of New Jersey.
7 So that was my prior experience.

8 Q Okay. And you understand that we're here
9 this evening seeking certification for a preexisting
10 nonconforming use on both properties. Correct?

11 A Yes.

12 Q And that was with regard to auto body
13 shops, correct?

14 A Correct.

15 Q And were you engaged by the applicant in
16 that capacity?

17 A Yes.

18 Q And what were you asked to do?

19 A To establish a history of those addresses being
20 used as such.

21 Q Okay. And those two properties were which
22 lots?

23 A 256 and -- 246 and 264 South Broad Street,
24 Ridgewood, New Jersey.

25 Q Okay. And what did you do with regard to

1 your investigation?

2 A So we started to get historical proof, if you
3 will, and approached the Ridgewood Public Library, which
4 is right next door here, and fortunately they keep
5 records in collaboration with Newspapers.Com. They've
6 collaborated with newspapers, some of which has gone
7 extinct, as you know.

8 And they have direct access to the Newspapers.Com
9 database, some of which is proprietary at this point to
10 them and not available through the Newspapers.Com that
11 actually I am a subscriber to. So it's augmented at
12 their level here in the building next door, and it's
13 accessible through their, through their computer, their
14 search computer. It has a search engine.

15 The lady there, a very accomplished librarian,
16 Miss Kiefer, made some appointments with her. And she
17 allowed us to come in and explained the system and opened
18 it up to us. And we used their search computer to
19 identify certain news articles and different tidbits of
20 print that gave us historical perspective to the use of
21 the property.

22 Q Okay. And does she serve in the role of
23 archiving these records officially for the Village?

24 A Yes. So there's a locked off room available only
25 through appointment and agreement from her that is used

1 for archive, to search archived documents. One of which
2 is a map that is used, a fire map which is historical and
3 tracks historical use of properties and where properties
4 land and so on, and in addition to that I was involved
5 with the searching as well.

6 Q Okay. And with regard to this
7 collaboration with Newspapers.Com, was there some sort of
8 agreement between the library and Newspapers.Com with
9 respect to archiving official newspapers?

10 A It's my understanding that the library, Ridgewood
11 Library, agreed to do this collaboration and archives in
12 the past.

13 Q Okay. And these archived records that
14 Newspaper.Com has, they collected from the library to
15 some extent as well, correct?

16 A Yes, yes.

17 Q Okay. And they were only accessible from
18 the library's computer?

19 A Yes. I did a comparison as to my access through
20 my Newspaper.Com subscription that I paid for
21 independently, and their access was completely enhanced.

22 Q Okay. And we have a series of exhibits
23 that I'm going to ask you some questions about.

24 Those exhibits were accessed from the library,
25 correct?

1 A From and at the library and printing was made at
2 the library, printing, printer located in the library.

3 Q Okay. With regard to the newspaper
4 articles, those were all accessed on the library's
5 computer and then printed on the library's printer?

6 A Yes.

7

8 (Sanborn Fire Insurance Company map of
9 Ridgewood, 1930/1948 was received and marked
10 Exhibit A-50 for identification.)

11

12 (Photo of two businesses was received and
13 marked Exhibit A-50A and A-50B for
14 identification.)

15

16 Q Okay. So I'm going to bring your
17 attention to Exhibit A-50 and ask you what that document
18 is?

19 A So A-50 is known as the Sanborn Fire Insurance
20 Company map of Ridgewood, 1930/1948, and Miss Kiefer was,
21 the librarian, was kind enough to sign it below to show
22 that it was a true copy of such.

23 Q Okay. And what did that map show you?

24 I see that you have Exhibit 50A and 50B, which are
25 related, correct?

1 A Yes.

2 Q Please explain what they are.

3 A So Exhibit A-50A shows two businesses, among other
4 structures, there are depicted two businesses. One of
5 which clearly states: Auto Body Repair and Printing
6 (sic). And I believe, and it is marked on the edge of
7 that property line as number 264, and it is taken from
8 the South Broad Street portion of the map.

9 MR. INGLIMA: I'm sorry to interrupt. May
10 I ask for a clarification?

11 Did you say printing or painting?

12 MR. SAAVEDRA: *Auto Body Repair &*
13 *Painting*. I'm sorry. Obviously, this is blown
14 up. So it's not the best...

15 MR. INGLIMA: Okay. Thank you.

16 Q And that was back in -- that map was dated
17 1930, correct?

18 A Yes.

19 Q Okay. And that was her certification on
20 the date as to the authenticity of the Sanborn map,
21 correct?

22 A Yes.

23
24 (Advertisement dated March 8th, 1942, the
25 Sunday News Ridgewood was received and marked

1 Exhibit A-51 for identification.)

2 Q Okay. Can you please talk about Exhibit
3 A-51.

4 A A-51 is an enlargement of a section of a -- I'm
5 sorry. It's incorrect.

6 A-51 is an advertisement dated March 8th, 1942,
7 the Sunday News Ridgewood, New Jersey advertisement
8 referencing Michael Montick, Ridgewood Auto Body with the
9 address 264 South Broad Street.

10 Q Okay. And doesn't that ad read: "Has
11 opened a new shop at 264 South Broad Street"?

12 A That's correct.

13 Q So it looks like that shop was opened in
14 1942; is that right?

15 A That would be the math, yes.

16

17 (Advertisement dated December 20, 1942,
18 the Sunday News Ridgewood was received and marked
19 Exhibit A-52 for identification.)

20

21 Q Okay. A-52?

22 A A-52 is a copy of an advertisement dated
23 December 20, 1942, the Sunday News Ridgewood, New Jersey
24 advertisement referencing Ridgewood Auto Body Shop and
25 Mike Montick as the proprietor, addressed also at 264

1 South Broad Street.

2 (Newspaper Publication was received and
3 marked Exhibit A-53 and A-53A for identification.)

4

5 Q Okay. The next page, next two pages?

6 A A-53 gives us the actual date for that previous
7 A-52.

8 I'm sorry. I'm sorry. Conversely, A-53 gives us
9 the date for the following page copy, which is...

10 Q A-53A, correct?

11 A A-53A which is a newspaper publication dated
12 January 29th, 1948, the Ridgewood Herald News, New Jersey
13 titled: Fire damages car in garage. Article described a
14 fire that damaged two-car Ridgewood Auto Body, 246 South
15 Broad Street, Ridgewood, New Jersey, and the article
16 details the fire was contained to one section of the long
17 building which was located several hundred feet back from
18 the street.

19

20 (Advertisement for a Want Ad was received
21 and marked Exhibit A-54 for identification.)

22

23 Q Okay. A-54?

24 A A-54 depicts an advertisement for a Want Ad, if
25 you will, for a painter; experienced, good salary, five

1 and a half days a week, and so on.

2 So it's looking for a painter to work at 264 South
3 Broad Street Ridgewood Auto Body.

4

5 (Advertisement dated 12/21/1958, Sunday
6 News, Ridgewood was received and marked Exhibit
7 A-55 and A-55A for identification.)

8

9 Q A-55 and A-55A seem to go together, and
10 what do they show?

11 A A-55 is an advertisement dated -- actually, A-55A
12 is an advertisement dated 12/21/1958. Sunday News
13 Ridgewood, New Jersey advertisement referencing auto body
14 addressed at 264 South Broad Street.

15 Q And as its heading it has Ridgewood Auto
16 Body again, correct?

17 A Yes. "Ridgewood Auto Body, American and foreign
18 cars expertly repaired, insurance work, estimates".

19

20 (Auto body mechanic ad was received and
21 marked Exhibit A-56 for identification.)

22

23 Q Okay. How about A-56? Auto body mechanic
24 ad?

25 A Classified advertisement also for hiring, seeking

1 to a hire an auto body mechanic to inquire to work with
2 Ed Kaniff at the Ridgewood Auto Body shop at 264 South
3 Broad Street. It also mentions moving to a new shop.
4

5 (Classified advertisement dated
6 October 31, 1965, Sunday News referencing Barry
7 was received and marked Exhibit A-57 for
8 identification.)
9

10 Q Okay. A-57?

11 A A-57 is a classified advertisement dated
12 October 31, 1965, Sunday News Ridgewood, New Jersey,
13 referencing Barry.

14 Q Okay. How do you know that that Barry
15 relates to this particular piece of property?

16 A Because the phone number that's on the
17 advertisement itself relates back to the phone numbers in
18 other advertisements that are for Barry.

19 Q And Barry's Auto Body, to your knowledge,
20 was located at what location? Is that 264?

21 A 264 South Broad Street.

22 Q Okay. What about A-58?

23 MR. INGLIMA: Excuse me. Can you --
24 objection.

25 Can you set forth the basis for concluding

1 anything about an address from A-57?

2 MR. WHITAKER: Well, you can conclude it's
3 a phone number.

4 MR. INGLIMA: It says a phone number. But
5 he said an address. There's no address in the ad.

6 I'm just asking how he concluded that that
7 was for that address.

8 MR. SAAVEDRA: Well, I can answer that, if
9 you wish.

10 MR. SEMERARO: Go ahead.

11 MR. SAAVEDRA: I happen to be a certified
12 anti loan specialist. I do this all day long for
13 banks, and we use this regularly, an address to
14 relate to a phone, and conversely. It's standard.

15 Q And did you link that phone number to that
16 particular address?

17 A Yes.

18 Q Okay.

19 MR. INGLIMA: Do you have any
20 documentation supporting your conclusions about
21 the address and the phone number?

22 MR. SAAVEDRA: Yes, the number appears on
23 other ads and it links back to those ads.

24 MR. INGLIMA: Same objection.

25 MR. WHITAKER: You conducted that search?

1 MR. SAAVEDRA: Yes, sir.

2 MR. WHITAKER: Thank you.

3

4 (Ridgewood Auto Body ad was received and
5 marked Exhibit A-58 for identification.)

6

7 Q A-58, Ridgewood Auto Body ad.

8 A "Ridgewood Auto Body body and fender repair,
9 expert collision work, painting, refinishing at 264 South
10 Broad Street, Ridgewood, New Jersey."

11 Q And what's the date of that ad?

12 A February 6, 1966.

13

14 (Public notice dated September 15, 1974
15 was received and marked Exhibit A-59 for
16 identification.)

17

18 Q What about A-59?

19 A That's a copy of public notice dated September 15,
20 1974, Ridgewood News referencing car wanted, construction
21 of an auto body shop at Lot 14, Block 3905, 264 South
22 Broad Street Ridgewood, New Jersey.

23 Q Okay. A-60?

24

25 (Newspaper publication dated April 3,

1 1983, the Sunday News was received and marked
2 Exhibit A-60 for identification.)

3

4 A Newspaper publication dated April 3, 1983, the
5 Sunday News Ridgewood, New Jersey, establishing the
6 presence of Barry's Ridgewood Auto Body, Incorporated.

7 Q Okay. So that was April 3, 1983. Now,
8 was that establishing -- what did the ad read or was it
9 just an advertisement?

10 A An advertisement explaining the service.

11 Q Okay.

12 A And its location.

13 Q And then an enlarged copy of that ad is
14 A-68, correct?

15 A Correct.

16

17 (Advertisement for Barry's Ridgewood Auto
18 Body was received and marked Exhibit A-61 for
19 identification.)

20

21 Q Okay. The next exhibit, A-61?

22 A It's an advertisement for Barry's Ridgewood Auto
23 Body, body and fender repair expert collision, and that
24 was printed or published Sunday, July 31, 1983.

25 Q Okay. And the address noted on the ad is

1 264 South Broad Street?

2 A 264 South Broad Street, Ridgewood, New Jersey.

3 Q So this first bundle and everything you
4 testified to so far applies to 264 South Broad Street,
5 correct?

6 A That's correct.

7 MR. INGLIMA: Objection.

8 Q What's the next ad?

9 MR. WHITAKER: What's the objection?

10 MR. INGLIMA: The objection is as to
11 Exhibit A-57. If it's included in the category of
12 documents relevant to 264, Lot 14, 264 South Broad
13 Street, I object.

14 There's no basis for saying that that ad
15 has anything to do with 264 --

16 MR. SEMERARO: Okay. Objection noted.

17 MR. INGLIMA: -- South Broad Street.

18 MR. WHITAKER: Let's clear this up.

19 There's a phone number on Barry's ads that you
20 presented here as exhibits.

21 MR. SAAVEDRA: Yes, sir.

22 MR. WHITAKER: The phone numbers are no
23 different. Did you do a phone number and search
24 all to go back?

25 MR. SAAVEDRA: No, just compared to the

1 previous advertisements and saw that they were the
2 same number.

3 MR. WHITAKER: Lot 6139, there's another
4 one that's different, 1566.

5 MR. SAAVEDRA: At some point I noted that
6 it was the same as other advertisements which
7 related to 264.

8 To reconstruct that investigation, it
9 would take me a moment, right. If you care, I can
10 do that, but...

11 MR. WHITAKER: So you went back to other
12 ads and identified the phone with the address?

13 MR. SAAVEDRA: Yes.

14
15 (Advertisement dated October 9th, 1983,
16 Sunday News Ridgewood was received and marked
17 Exhibit A-62 for identification.)

18
19 Q A-62?

20 A A-62 is an advertisement dated October 9th, 1983,
21 Sunday News Ridgewood advertisement referencing Ridgewood
22 Auto Body Shop and Barry Rozema as the owner, address 264
23 South Broad Street.

24 Q Okay. And that date was October 9, 1983?

25 A That's correct.

1

2

(Advertisement for Ridgewood Auto Body,
was received and marked Exhibit A-63 for
identification.)

4

5

6

Q A-63?

7

A A-63 is an advertisement for Ridgewood Auto Body,
Incorporated, with the address 264 South Broad Street,
Ridgewood, New Jersey. Barry Rozema being the person
noted as the owner of it.

10

11

Q And that's dated January 29, 1984?

12

A That's correct.

13

Q Now in your testimony you just said

14

Ridgewood Auto Body. But if you look in the upper

15

left-hand corner, the word *Barry's* is before it, correct?

16

A Yes, it says *Barry's* in script logo-ish thing, and
then the *Ridgewood Auto Body, Incorporated* as the
moniker, if you will.

18

19

Q Fair enough. Okay. A-64?

20

21

(Advertisement for Ridgewood Auto Body,
was received and marked Exhibit A-64 for
identification.)

23

24

25

A A-64 is an advertisement for Barry's Ridgewood

1 Auto Body, Incorporated, explaining it's a father and son
2 operation, both Barry Rozema and Barry, Jr., and
3 explaining their services dated November 9, 1986.
4

5 (Dated September 16, 1990, Sunday News
6 Ridgewood, New Jersey titled: Barry's Ridgewood
7 Auto Body, Incorporated was received and marked
8 Exhibit A-65 and A-65A for identification.)
9

10 Q Okay. A-65 and A-65A.

11 A A-65 dated September 16, 1990, Sunday News
12 Ridgewood, New Jersey titled: Barry's Ridgewood Auto
13 Body, Incorporated, a father and son operation, both
14 Barry Rozema and Barry, Jr., referencing Barry's
15 Ridgewood Auto Body as being located at 264 Broad Street.

16 Q And the date of that was September 16th?

17 A 1990.

18 Q Okay. So did those exhibits, A-51 through
19 A-65, represent the result of the newspaper research that
20 you had done?

21 A Yes.

22 Q Okay. Now did you do some more research
23 for the other lot, 246?

24 A Yes.
25

1 (Newspaper article dated June 16, 1963,
2 was received and marked Exhibit A-66 for
3 identification.)

4

5 Q Okay. And can you go through those
6 exhibits starting at A-66?

7 A So A-66 dated June 16, 1963, is a newspaper story,
8 the Sunday News Ridgewood, New Jersey, referencing a
9 variance request by Karl Montick for the property at 246
10 South Broad Street, Ridgewood.

11 Q And in that article does it give any
12 indication as to the use of the property?

13 It does not seem to, correct?

14 A It does not seem to. It's looking for a variance
15 for a fence approval.

16 Q Okay. Next article?

17 A A-66 or 66A, newspaper publication, dated April --
18 May 23, 1963, Ridgewood Herald News, New Jersey
19 referencing Karl Montick and 246 South Broad Street,
20 Ridgewood, New Jersey.

21

22 (Classified advertisement dated
23 November 4, 1965, Ridgewood Herald News was
24 received and marked Exhibit A-67 for
25 identification.)

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Q Okay. November 4, '19 -- I'm sorry. The next exhibit, A-67?

A Classified advertisement dated November 4, 1965, Ridgewood Herald News, Ridgewood referencing a vehicle for sale at the 246 South Broad Street, Ridgewood.

Q Okay. There's no reference to the company at that as well?

A No.

Q Same thing with A-68?

BOARD MEMBER BANDELT: Can I interject and just ask a question?

MR. SEMERARO: I'm sorry?

BOARD MEMBER BANDELT: Can I interject and just ask a question.

MR. SEMERARO: Sure.

BOARD MEMBER BANDELT: So the phone number on A-67, the bottom, is that the same phone number as what's on A-57? 67 and 57, those phone numbers?

MR. SAAVEDRA: Let's check. 57, is that right?

BOARD MEMBER BANDELT: That was the exhibit that Mr. Inglima had a question about. Just to clear that up.

1 MR. SAAVEDRA: Yeah, that's correct.

2 BOARD MEMBER BANDELT: Thank you.

3 MR. SAAVEDRA: Thank you for pointing that
4 out.

5 Q So that ad is a little peculiar because it
6 actually references 246 South Broad Street but references
7 a number that was tied to Barry's. Is that correct?

8 A Correct.

9 MR. INGLIMA: Objection. Same objection
10 as before. There's no basis for saying that that
11 phone number is established for Barry's. It's a
12 phone number of Ridgewood Vehicle Company.

13 MR. WHITAKER: 858, A 67.

14 MR. INGLIMA: It's also on A-68.

15 MR. SEMERARO: Mr. Chairman, I was just
16 provided with a peculiar piece of information from
17 our former witness, Mr. Montick, who happened to
18 understand what was going on, and he can explain
19 what happened with the ad that was Exhibit A-57
20 that the Board member had an interest in it.

21 We can call him up for a second to
22 clarify.

23 MR. WHITAKER: Let's take him out of
24 sequence for that purpose.

25 MR. SEMERARO: Okay.

1 MR. INGLIMA: I think we can stipulate to
2 it.

3 I believe that the witness, Mr. Montick,
4 previously testified that Barry worked for his
5 father. So if Barry was putting an ad in the
6 newspaper, he may have used his place of business
7 phone number.

8 It doesn't mean that he was associating
9 either the ad or the phone number with 264 South
10 Broad Street. I think it's pretty simple to
11 figure out. I don't think we need to go into any
12 further testimony.

13 MR. SEMERARO: Well, I may have agreed if
14 I didn't have that dissertation on the record.
15 Now I feel I have to. So I'd like to call Mr.
16 Montick up just for one second.

17 MR. WHITAKER: You're still under oath.

18 MR. SEMERARO: So for the limited purpose
19 of Exhibit A-57, Mr. Montick, I just want to show
20 you what's been marked as A-57. It's a newspaper
21 article entitled 19 -- it's dated October 31,
22 1965.

23 Do you know if Barry was operating his
24 independent body shop at that point in time or was
25 he still just working for your father's company?

1 MR. MONTICK: I can't be certain that he
2 was operating his body shop at that time --

3 MR. SEMERARO: Okay.

4 MR. MONTICK: --if he moved there or not.

5 MR. SEMERARO: So we will withdraw A-57 as
6 being related to 264 South Broad Street.

7 MR. SEMERARO: I'd like to call back Mr.
8 Saavedra.

9
10 (Classified advertisement dated
11 November 7, 1987, Sunday News Ridgewood was
12 received and marked Exhibit A-68 for
13 identification.)

14
15 Q So Mr. Saavedra, I think we're up to A-68.

16 A A-68 is another classified advertisement. This
17 one dated November 7, 1987, Sunday News Ridgewood, New
18 Jersey, referencing a vehicle for sale at 246 South Broad
19 Street, Ridgewood.

20
21 (Public notice dated October 18, 1987,
22 Sunday News Ridgewood was received and marked
23 Exhibit A-69, A-69A and A-69B for identification.)

24
25 Q Okay. What's A-69?

1 A A-69 is a public notice dated October 18, 1987,
2 Sunday News Ridgewood, New Jersey, referencing Karl
3 Montick for a variance to permit an addition to a
4 structure, nonconforming nature, relative to an auto body
5 shop activities at 264 South Broad Street.

6 Q Okay. And that's A-69, A-69A and A-69B.
7 Correct?

8 A Yes.

9 (Public notice dated October 18, 1987,
10 Sunday News Ridgewood was received and marked
11 Exhibit A-70 and A-70A for identification.)

12
13 Q Okay. And what's A-70?

14 A A-70 is a public notice dated October 18, 1987,
15 Sunday News Ridgewood, New Jersey, referencing Karl
16 Montick applying to the Ridgewood Board of Adjustment for
17 permission to one-story masonry addition to the body shop
18 facility known as Ridgewood Vehicle Company, 246 South
19 Broad Street, Ridgewood.

20 Q Okay. And do those exhibits embody your
21 search results for newspaper articles or ads relating to
22 246 South Broad Street?

23 A Yes.

24 Q Okay. So just to recap, these records
25 were obtainable solely through the library as official

1 archived records of the local newspapers. Is that
2 correct?

3 A That is my conclusion, yes.

4 Q Okay.

5 MR. SEMERARO: I have no other questions.

6 CHAIRMAN BROWN: Thank you.

7 Mr. Inglima.

8 MR. INGLIMA: Thank you.

9

10 CROSS-EXAMINATION BY MR. INGLIMA:

11 Q Mr. Saavedra, am I pronouncing that
12 correctly?

13 A Yes, that's fine. Thank you.

14 Q Okay. Did you personally visit the
15 library to conduct the search of the records which you
16 described earlier in your testimony?

17 A Yes.

18 Q So you sat at a computer terminal and you
19 literally scrolled through records using search terms
20 that you identified as being relevant to the applicant's
21 site?

22 A There's no scrolling involved. It's got its own
23 search engine. You just put your term in and it gives...

24 Q So it's not like the old fashioned --

25 A No, thank God.

1 Q -- microfiche or anything like that?

2 A No.

3 Q And you looked for information relating to
4 Lot 12, you said, and Lot 14. Did you look for
5 information relating to Lot 13?

6 A I didn't. I don't know.

7 Q When you looked for the information, did
8 you enter any other key words such as the names of
9 individuals or businesses that were associated with Lots
10 12 or 14 over the period of time that you were searching?

11 A Probably.

12 Q Well, the question is: Did you?

13 A And my answer is: Probably, yes.

14 Q So you're saying "yes"?

15 A I don't know.

16 Q What terms did you use in the search?

17 A I couldn't tell you exactly which terms I used.

18 Q I'm sorry?

19 A I could not tell you exactly which terms I used.
20 I don't have a list of them. I didn't keep a list.

21 Q Do you have a high degree of confidence
22 that the information that was returned from your searches
23 was all of the public information relating to Lot 12 and
24 Lot 14 that was available from the database that you were
25 searching?

1 A That was not my goal.

2 Q Well, did you find things and not produce
3 them for the Board?

4 A No.

5 Q So you didn't purposefully omit anything
6 that was returned in response to your search?

7 A Nothing that would have been relevant, and this is
8 all my work product right in front of us here.

9 Q Well, how did you determine what was
10 relevant?

11 A Common sense.

12 Q Were there any notice of hearings or
13 notices of decisions by any land use agencies involving
14 applications affecting Lots 12 and 14 or either one of
15 them that you found during your search and did not
16 produce for this Board?

17 A No. What you see here is what I produced to the
18 Board right now. This is what I found.

19 Q Do you have a high degree of confidence
20 that the documents that you have produced for the Board
21 include and constitute all of the notices that were
22 published in Public Notices sections of the newspapers
23 you searched relating to land use applications involving
24 the applicant's site?

25 A That was not my goal.

1 Q Could you answer the question, please?

2 MR. SEMERARO: He did.

3 A I think that's my answer. It wasn't my goal.

4 MR. INGLIMA: I asked him whether he had a
5 high degree of confidence. Is his answer no?

6 A I didn't seek to gain that degree of confidence.
7 It was not my goal.

8 Q Were you only looking for things that you
9 felt would support the applicant's position with respect
10 to the establishment or proof that a nonconforming use
11 was present on the applicant's site at any time during
12 the period of your search?

13 A No.

14 Q So you were looking for anything that was
15 relevant, as you use the word, "relevant" to uses or
16 businesses or activities or applications or approvals
17 affecting the applicant's site. Isn't that correct?

18 A My goal, again -- it's not correct. My goal,
19 again, was to establish the previous history of use of
20 the land.

21 Q Okay. You described your search being
22 conducted at the Ridgewood Public Library.

23 Did you conduct your search at any other location?
24 Any other governmental office? Any private office? Any
25 attorney's office?

1 A The search I'm testifying to was only done at the
2 Ridgewood Public Library.

3 Q Okay. So that was -- whatever database
4 that the Ridgewood Public Library and its librarian
5 allowed you to have access to were the only sources from
6 which you derived the information that you placed before
7 the Board in the exhibits marked tonight?

8 A Correct.

9 Q Did you make an OPRA request?
10 Do you know what I'm referring to when I say
11 "OPRA", Open Public Records Act of the State of New
12 Jersey?

13 Did you make a request for public records, an OPRA
14 request to any governmental office with respect to the
15 prior development history uses or activities affecting
16 the applicant's site?

17 A There was an OPRA request specific to a particular
18 date. I believe it was 1983 or 1984. But that is not
19 represented in my testimony.

20 Q Who made the OPRA request to which you're
21 referring to?

22 A My office did.

23 Q Do you have a copy of the --

24 A No.

25 Q -- the product or the response that you

1 received to the OPRA request that you just described?

2 A No.

3 Q Do you have a copy in your office?

4 A No.

5 Q What did you do with the response that you
6 received to your OPRA request?

7 A We received no work product in return.

8 Q So is it fair to say that the response
9 that you received from the office to which you directed
10 your OPRA request was that no documents existed in
11 response to your request?

12 A Correct. The request was specific to a particular
13 item and it was not found, and it's my understanding that
14 certain documents were lost or destroyed during a
15 particular flood situation, act of God, and that's my
16 recollection of what the explanation was.

17 Q Do you recall the office or agency or
18 officials to which you directed that OPRA request?

19 A Ridgewood Village, Village of Ridgewood.

20 Q Was it a particular office or a
21 particular --

22 A I don't have that information in front of me.

23 Q So you directed an OPRA request to someone
24 in the Village of Ridgewood with respect to some
25 documents or activities or information as it relates to a

1 period of 1983 to 1984. Is that a fair statement?

2 A Yes. I believe so, yes.

3 Q And what was the specific event, activity,
4 document or other record that you were seeking as part of
5 the OPRA request?

6 A I don't have it in front of me, so I don't want to
7 speculate what it said.

8 MR. SEMERARO: I'm going to have to pose
9 an objection because it's outside the scope of his
10 testimony.

11 But the reality is, go ahead and answer
12 it.

13 A My understanding of the request only dealt with a
14 specific date wherein there was ordinances passed or
15 presented here in Ridgewood regarding the zoning
16 situation that relates to these properties.

17 MR. SAAVEDRA: So I can go on?

18 MR. SEMERARO: If you have something more
19 to add on, I don't have a problem.

20 A For the same goal as I'm speaking of here, to get
21 the prominence or pedigree of this property.

22 Q Was this OPRA request being made at the
23 request of anyone else, such as the planning witness for
24 the applicant or the applicant itself?

25 A This is standard investigative activity.

1 Q Well, did you obtain any other ordinances
2 that relate to the applicant's property?

3 A What I obtained, I presented here. If there's an
4 ordinance here, that's what I have.

5 Q Well, have you submitted -- I didn't see
6 one, please forgive me if I missed it.

7 But I didn't see anything in the items that you
8 previously marked and described in your testimony that
9 related to ordinances?

10 A So I don't know why you're asking that if there is
11 one because this is what we have. You're asking a
12 question that's been answered apparently.

13 Q Well, I'm not trying to upset you.

14 A I'm not upset. You're asking me if there's an
15 ordinance. I told you what's in front of you is my work
16 product.

17 MR. SEMERARO: Mr. Chairman, I have to
18 pose an objection.

19 I'm trying to give latitude because I want
20 to show the Board that we're being transparent.
21 But the reality is the scope of the cross
22 examination is broader than the direct, and that
23 it's inappropriate and it should be stopped.

24 MR. INGLIMA: I think this is an area that
25 I'm entitled to inquire into. This gentleman

1 appeared here tonight of his own free will. He's
2 not under subpoena. He's apparently here to
3 support a position of the applicant that
4 nonconforming use existed at the property.

5 He has testified previously from my notes
6 that he looked for a historical perspective to the
7 use of the property and that he conducted a
8 thorough search, and now we're finding out that it
9 was a selective search.

10 So I think I'm entitled to ask him a few
11 questions about the degree to which he imposed
12 limitations on his own activity in performing a
13 search of the records.

14 Now if this is all he found because of
15 what he was looking for, you know, you look for
16 something, you close your eye on one side and look
17 to the left and you won't see anything on the
18 right.

19 But the fact of the matter is this man is
20 here. I don't know whether he's an expert or fact
21 witness. But the fact of the matter is he's only
22 identifying certain things. And if that's all
23 he's here for, you know, we can probably stipulate
24 to the existence of some of these things and save
25 a lot of time.

1 But I'm just trying to find out what he
2 was looking for.

3 MR. SEMERARO: And that's exactly clearly
4 what his testimony was. It was simply to
5 authenticate the documents that were marked as
6 exhibits. His testimony did not extend beyond
7 that and the cross should not extend beyond that.

8 MR. INGLIMA: Look, these documents could
9 have been authenticated by the librarian of the
10 Village of Ridgewood from what I'm hearing.

11 MR. WHITAKER: They were authenticated by
12 this witness.

13 MR. INGLIMA: He's saying he got them from
14 the librarian, the library, the search engine, the
15 computer, whatever system they have.

16 MR. WHITAKER: And you certainly have the
17 right on rebuttal of your witness to find
18 documents that he didn't find.

19 So what's the point now.

20 MR. INGLIMA: He didn't find documents
21 that are in the record of this application.

22 MR. WHITAKER: We don't know if he did or
23 he didn't. He just testified these are the
24 records he found based upon what his goal was.

25 MR. INGLIMA: I know.

1 MR. WHITAKER: If you have other rebuttal
2 later...

3 MR. INGLIMA: Okay. Thank you, Mr.
4 Whitaker.

5 Q Mr. Saavedra, what was the beginning date
6 that you used for your search of records?

7 A There was no date.

8 Q So it was open-ended as the commencement?

9 A To the database, yeah.

10 Q So if you found anything from 1910 you
11 would have showed it to us, the year 1910?

12 A I guess, yeah.

13 Q And what was the end date for your search?

14 A I had no end date.

15 Q So it would've been all the way up to the
16 date of your search, the date that you actually --

17 A The database has its own limitations. The
18 database is what it is. So I can't ask the database to
19 go to 1810 if it doesn't exist. I can't ask it to go
20 2023 if it didn't exist. These are archived records.

21 Q So what I was asking was the end date of
22 your search was the date literally that you visited the
23 Ridgewood Public Library?

24 A There's no end date inputted into the parameter of
25 the search.

1 Q Well, if you had made a search on
2 July 4th, 2022, and you were there on that date, you
3 would have included data that had been compiled and
4 archived up to that date, right?

5 A No, impossible.

6 Q Why is that?

7 A Because the database does not include up-to-date
8 information. That's why they call it "archived". It's
9 old.

10 Q Did you look for -- do you know what the
11 last date was of any material that was returned in
12 response to your search?

13 A Whatever I have in the record here.

14 Would you like me to look through it and find out?

15 Q You have marked everything you found, is
16 that a fair statement?

17 A Yep.

18 Q Okay. So the last item that is marked
19 A-70A bears a date of Sunday, October 18, 1987?

20 MR. SEMERARO: No, that's not true. I
21 think there's something from 1990. Wasn't there,
22 Counsel?

23 MR. SAAVEDRA: Yes.

24 MR. INGLIMA: I'm not trying to trick you.
25 I'm just trying to find the date.

1 MR. SEMERARO: A-65 was September 16, 1990
2 and that related to 264.

3 MR. INGLIMA: Okay. Thank you.

4 Q So should we conclude that the most recent
5 date for which information was available was 1990?

6 A No. No, we shouldn't.

7 Q Are there any other databases or sources
8 of materials that you would be able to research in order
9 to find information that's more recent than 1990?

10 A I'm sure there are, yeah.

11 Q You didn't look at that?

12 A That was not my goal.

13 Q Did you perform any interviews with
14 anybody associated with the property, either the prior
15 owner, Mr. Montick --

16 A No.

17 MR. SEMERARO: Objection, it's going
18 beyond the scope.

19 Q Did you conduct any interviews with the
20 current owners of the property, the businessowners of LES
21 Dann, LLC?

22 A Interviews?

23 MR. SEMERARO: Same objection.

24 MR. WHITAKER: He testified he did
25 research. That's all he's done. Correct?

1 MR. SAAVEDRA: Yes, sir.

2 MR. WHITAKER: So we can stipulate that
3 that was his direct testimony.

4 MR. SEMERARO: His testimony was for
5 historic, going back.

6 MR. WHITAKER: That's right.

7 MR. INGLIMA: Okay. I'm going to continue
8 my objection to the entire testimony because from
9 what I'm hearing in response to cross-examination
10 this was a very selective search for information,
11 and there is no way of verifying whether or not it
12 constitutes the entire universe of information
13 that was available or even seen by this witness.

14 Thank you. No further questions.

15 MR. SEMERARO: Just for the record, that
16 objection is borderline frivolous.

17 The reality is this individual came in to
18 authenticate documents that we wanted to submit in
19 evidence. If there is anything that Counsel feels
20 runs contrary, he's free to state that in his own
21 case.

22 MR. WHITAKER: What I previously stated.

23 MR. SEMERARO: Exactly, Counsel. But it
24 would be completely inappropriate and prejudicial
25 to my client to discount this witness's testimony.

1 The suggestion it's being borderline ridiculous.
2 But anyway...

3 MR. WHITAKER: I'll instruct the Board to
4 review the evidence that was submitted and weight
5 value to it in the entire matter.

6 Let's proceed.

7 MR. INGLIMA: Can I? I forgot to ask one
8 question. May I just ask that question now.

9 Mr. Saavedra, did your services for the
10 applicant include any other activities involving
11 either the site or the neighborhood of the site or
12 properties owned by persons within 200 feet?

13 MR. SAAVEDRA: No.

14 MR. SEMERARO: Objection.

15 MR. WHITAKER: The record is clear --

16 MR. INGLIMA: He said he was a private
17 investigator.

18 MR. WHITAKER: -- he was tasked to do one
19 thing, to review historic documents and archived.

20 MR. SEMERARO: I object to the nature of
21 the question.

22 MR. INGLIMA: I am pleased to refer to the
23 record, but I don't think he said he only did one
24 thing. I think he said he did that. But I'm
25 asking him whether he did other things for the

1 applicant in connection.

2 MR. WHITAKER: Is that correct?

3 MR. SAAVEDRA: Yes, sir.

4 MR. WHITAKER: Thank you. It's
5 established. He did one thing.

6 MR. INGLIMA: Thank you.

7 CHAIRMAN BROWN: Thank you. I'll open for
8 the members of the public to ask any questions of
9 the applicant's witness.

10 Okay. Seeing none.

11 I'll open it up to the professionals, if
12 they have any questions for the applicant's
13 witness.

14 Board Members, do you have any questions
15 of the applicant's witness?

16 None.

17 MR. SEMERARO: Thank you, Mr. Chairman.

18 That concludes this witness's testimony.
19 I certainly appreciate the Board's time.

20 I think that we're probably too late to
21 start our planner's testimony and I may have
22 another witness to proffer. So I think that it's
23 a good time to adjourn and reschedule the hearing.

24 CHAIRMAN BROWN: Okay. Jane, do we have a
25 new date?

1 BOARD SECRETARY WONDERGEM: January 23rd.

2 MR. SEMERARO: January 23rd, 2024, right?

3 CHAIRMAN BROWN: January 23rd, 2024.

4 MR. SEMERARO: Fair enough. I would be
5 remiss if I didn't ask, any possibility of a
6 special meeting before then?

7 CHAIRMAN BROWN: No, sorry.

8 MR. SEMERARO: Okay. So then we'll
9 definitely take that.

10 MR. WHITAKER: The only thing on that
11 night, we said this before, if there's any
12 possibility that it's not going to proceed that
13 night, we need advance notice, at least 40 days in
14 advance, so we can schedule.

15 MR. SEMERARO: Understood. So Mr.
16 Whitaker, it's carried on the record with no
17 further notice. Correct?

18 MR. WHITAKER: That is correct.

19 MR. SEMERARO: And the Board has an
20 extension from us to the extent that it's
21 necessary to the end of January.

22 MR. WHITAKER: Understood.

23 CHAIRMAN BROWN: Okay. So it's going to
24 be carried to January 23rd, 2024, at 7:30 p.m., no
25 further notice required.

1 MR. SEMERARO: I appreciate that. Thank
2 you.

3
4 (Whereupon, the proceedings concluded at
5 10:32 p.m.)
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C E R T I F I C A T E

I, LYNANN DRAGONE, License No. XIO1388, a Certified Court Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the hearing at the time and the date hereinbefore set forth.

I further certify that I am neither attorney nor Counsel for, nor employed by any of the parties to the action in which this hearing was taken.

I further certify that I am not an employee of anyone employed in this case, nor am I financially interested in this action.

Lynann Dragone

LYNANN DRAGONE, CCR
Certified Court Reporter

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