

**Hazel House Application-Bloomfield
Planning Bd.**

***Hazel House Application-Bloomfield
Planing Bd.***

1/16/2020

Condensed Transcript

Prepared by:

Robert Cirillo
Robert Cirillo, Inc.

Friday, January 24, 2020

Transcript of Proceedings

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1 TOWNSHIP OF BLOOMFIELD
 2 ZONING BOARD OF ADJUSTMENT
 3 REGULAR MEETING
 4 IN THE MATTER OF: :
 5 :
 6 GERALDINE & WILLIAM MEADE :
 7 HAZEL HOUSE-LIVING SOBER IN NJ, :
 8 LLC :
 9 103 Hazelwood Road :
 10 Bloomfield, New Jersey :
 11 Map 18, Block 460, Lot 1. :
 12 ----- :
 13
 14 BLOOMFIELD MUNICIPAL BUILDING
 15 One Municipal Plaza
 16 Bloomfield, New Jersey
 17 January 16, 2020
 18 7:09 p.m.
 19
 20 B E F O R E:
 21 EDWARD MICHALSKI, CHAIRMAN
 22 DOUGLAS STIVERS, MEMBER
 23 JESSICA BRANDT, MEMBER
 24 TIM JOHNSON, MEMBER
 25 JOSE PUNO, MEMBER
 26
 27 A L S O P R E S E N T:
 28 MICHAEL RUBIN, ESQ., BOARD ATTORNEY
 29 NICOLE COSENZA, BOARD SECRETARY
 30 ANTHONY MARUCCI, PE, ZONING OFFICER
 31 GEORGE WHEATLE WILLIAMS, PP, BOARD PLANNER
 32 JAMES L. LOTT, JR., ESQ., FOR THE APPLICANT
 33 CRISTIN BOYLE, ESQ, FOR THE APPLICANT
 34
 35 RALPH SALERNO, ESQ., OBJECTOR
 36
 37 ROBERT CIRILLO, INC.
 38 CERTIFIED COURT REPORTERS
 39 135 East Cedar Street
 40 Livingston, New Jersey 07039
 41 (973) 740-1331
 42

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1 CHAIRMAN MICHALSKI: Miss Cosenza,
 2 please call the roll.
 3 MS. COSENZA: Mr. Stivers?
 4 MR. STIVERS: Here.
 5 MS. COSENZA: Mr. Balnicki?
 6 MR. BALNICKI: Here.
 7 MS. COSENZA: Miss Brandt?
 8 MS. BRANDT: Here.
 9 MS. COSENZA: Mr. Johnson?
 10 MR. JOHNSON: Here.
 11 MS. COSENZA: Mr. Puno?
 12 MR. PUNO: Here.
 13 MS. COSENZA: Chairman Michalski?
 14 CHAIRMAN MICHALSKI: Here.
 15 MS. COSENZA: For the record, Miss
 16 Oliver is absent and we are waiting on
 17 reappointments, which is why Mr. Prince is not
 18 here.
 19 (The board conducts other business.)
 20 CHAIRMAN MICHALSKI: We have old
 21 business, Item 5A, which is the application of
 22 Geraldine and William Meade as applicants and
 23 owners of Hazel House-Living Sober in New Jersey,
 24 LLC, as applicant and lessee, appealing the denial
 25 of a zoning permit and seeking an interpretation

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1 I N D E X
 2 WITNESS EXAMINATION BY PAGE
 3 JOSEPH H. MR. LOTT 6
 4 BURGIS, PP,
 5 AICP
 6 THE PUBLIC 65
 7 MR. SALERNO 95
 8
 9 E X H I B I T S
 10
 11 NUMBER DESCRIPTION PAGE
 12 NONE
 13
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1 and/or a use variance and any such other relief as
 2 may be required from the zoning ordinance of the
 3 Township of Bloomfield to a cooperative sober
 4 residence in a residential one family R-1A zone on
 5 premises known as Map 18, Block 460, Lot 1, better
 6 known as 103 Hazelwood Road.
 7 Good evening.
 8 MR. LOTT: Good evening. Thank you, Mr.
 9 Chairman.
 10 May it please the Board, James L. Lott,
 11 Jr., L-O-T-T, Riker, Danzig, Scherer, Hyland &
 12 Perretti, Morristown, on behalf of Geraldine and
 13 William Meade and Hazel House Sober Living in New
 14 Jersey, LLC.
 15 MS. BOYLE: Good evening. My name is
 16 Cristin Boyle, also from Riker, Danzig, Scherer,
 17 Hyland & Perretti, also appearing on behalf of the
 18 applicants, Geraldine and William Meade and Hazel
 19 House Sober Living in New Jersey, LLC.
 20 MR. BALNICKI: Mr. Chairman, I hate to
 21 interrupt but I have to recuse myself on this
 22 application.
 23 CHAIRMAN MICHALSKI: Thank you, Mr.
 24 Balnicki. You are recused.
 25 Mr. Salerno, you wish to be recognized?

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1 MR. SALERNO: Pardon.
2 CHAIRMAN MICHALSKI: Do you wish to be
3 recognized this evening?
4 MR. SALERNO: Yes. Ralph J. Salerno
5 appearing on behalf of myself.
6 CHAIRMAN MICHALSKI: Thank you.
7 Please proceed.
8 MR. LOTT: Preliminarily, I'd like to
9 wish everyone a Happy New Year. Congratulations to
10 the board officers on their election and
11 reappointments of the board and staff.
12 We have a little bit of housekeeping to
13 do first. We have some updated exhibits which were
14 before the board and these would go with the
15 binders that were in previously.
16 CHAIRMAN MICHALSKI: I'll ask everyone
17 to draw near to the microphones. The acoustics are
18 still questionable here.
19 MR. LOTT: I thought it was me, Mr.
20 Chairman.
21 MS. COSENZA: So this is being added to
22 the binder?
23 MR. LOTT: That's correct.
24 MS. COSENZA: Okay.
25 MR. LOTT: This supplements exhibits

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1 that were previously in the binder.
2 MS. COSENZA: Okay.
3 MR. LOTT: I believe that we left off
4 with the redirect for Mr. Burgis who I have here
5 tonight and I'd like to recall him and remind him
6 that he remains under oath.
7 MR. BURGIS: Understood.
8 MR. LOTT: Okay.
9 MS. COSENZA: I'm sorry. His name
10 again? State your name for the record.
11 MR. BURGIS: Joe Burgis, B-U-R-G-I-S.
12 MS. COSENZA: Thank you.
13 JOSEPH H. BURGIS, PP, AICP, doing business at
14 BURGIS ASSOCIATES, INC., 25 Westwood Avenue,
15 Westwood, New Jersey 07675, having been previously
16 sworn, testified as follows:
17 MR. LOTT: Mr. Burgis, I'd like to
18 direct your attention to the documents marked as
19 Exhibit JJ through Exhibit NN. Start with Exhibit
20 JJ.
21 THE WITNESS: Exhibit JJ is a letter
22 from Chief Raywood of the Bureau of Rooming and
23 Boarding Houses dated November of 2019.
24 MR. LOTT: And you had an opportunity to
25 review that, correct?

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1 THE WITNESS: Yes.
2 MR. LOTT: I'd like to have that entered
3 into the record, that Exhibit JJ.
4 CHAIRMAN MICHALSKI: All right.
5 MR. LOTT: Exhibit KK, Mr. Burgis.
6 THE WITNESS: Exhibit KK are the floor
7 plans of the Hazel House.
8 MR. LOTT: Okay. I think there were
9 dimensions added to those floor plans at the
10 request of the board and I believe that it now
11 accurately shows all the rooms in the structure and
12 that was done also at the request of the board.
13 Exhibit LL.
14 THE WITNESS: Exhibit LL consists of
15 three pages. They are photos of the single
16 bedrooms or the second and third floor of Hazel
17 House.
18 MR. LOTT: Mr. Burgis, just to kind of
19 cut back to Exhibit KK, you had a chance to review
20 that exhibit, correct?
21 THE WITNESS: Yes, I did.
22 MR. LOTT: You had previously made an
23 inspection of the property?
24 THE WITNESS: Correct.
25 MR. LOTT: I'd like to have that entered

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1 into the record.
2 Exhibit LL.
3 THE WITNESS: I have also arranged for
4 these photos.
5 MR. LOTT: Can you just describe what
6 those are?
7 THE WITNESS: As I said, they're the
8 single bedrooms on the second and third floor of
9 the building.
10 MR. LOTT: Exhibit MM.
11 THE WITNESS: Exhibit MM is the license,
12 Sober Living's residence licenses issued to Hazel
13 House and William Meade and they are good through
14 October of 2020.
15 MR. LOTT: And Exhibit NN.
16 THE WITNESS: Is the CSLR license that
17 was issued to Dylan Meade.
18 MR. LOTT: I'd like to have all of those
19 exhibits as testified to by Mr. Burgis entered into
20 evidence.
21 Mr. Burgis, you're going to rely on
22 those, JJ through NN, in forming your opinions
23 tonight?
24 THE WITNESS: That is correct.
25 MR. LOTT: Okay. Mr. Burgis, on cross

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1 examination you were asked a number of questions
2 about what it means to be a family within the
3 meaning of the township zoning ordinance.
4 THE WITNESS: Yes. That is correct.
5 MR. LOTT: And in preparing for
6 tonight's hearing did you have an opportunity to
7 review a case identified as Cherry Hill Township v.
8 Oxford House?
9 THE WITNESS: I did.
10 MR. LOTT: And we'll cite that for the
11 record as 263 N.J. Super. 25. It's a New Jersey
12 Appellate Division decision from 1993.
13 How does this case inform your opinion
14 as a planner with regard to how you term family as
15 defined in the municipal zoning ordinance?
16 THE WITNESS: In forming my opinion I
17 did a combination of a review of that case, as well
18 as the definition in the township zoning ordinance
19 of the term family. The Cherry Hill case indicates
20 that family, the term family is basically defined
21 by municipalities and not by the courts. The
22 municipality wants specific regulations or
23 approaches to the manner in which they want to
24 define a family, they can do so, but it has to be
25 set forth in the zoning ordinance, in the zoning

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1 ordinance definition of family and based on that
2 case and my review of the definition of family, I
3 think it's pretty quick to determine that the
4 definition of family is very specific. It does not
5 contain a lot of the suggested information that is
6 contained in some of the questions I was being
7 asked, so I think it might be beneficial to first
8 read the definition of Bloomfield's term for
9 family, and that definition is defined as follows:
10 A group of individuals not necessarily related by
11 blood, marriage, excuse me, adoption or
12 guardianship living together in a dwelling unit as
13 a single housekeeping unit. For the purposes of
14 this chapter, family does not include any society,
15 club, fraternity, sorority, association, lodge,
16 federation or light organizations or any group of
17 individuals or a group living arrangement as a
18 result of criminal offenses, but what's clear
19 enough in this definition is that it lacks any
20 specific standard or any standards at all governing
21 the terms of permanency or stability or length of
22 stay that I had been asked about during my direct
23 testimony, and consequently, while these questions
24 may have been interesting, they're immaterial to
25 this discussion because it's not part of that

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1 definition.
2 MR. LOTT: So Mr. Salerno, why don't you
3 have a seat.
4 MR. SALERNO: I'm comfortable.
5 MR. LOTT: He may go on for a while.
6 MR. SALERNO: That's okay. I'm
7 comfortable standing.
8 MR. LOTT: You sure?
9 MR. SALERNO: I'm standing for a reason.
10 I wanted to interpose an objection but I wanted Mr.
11 Burgis to finish what he was saying. At the last
12 hearing Mr. Burgis and I had a discussion with
13 regard to his rendering legal opinions and he said
14 that isn't his job. Now, the case that's cited
15 stands for a legal proposition which speaks for
16 itself, so what Mr. Burgis is doing is giving you
17 an opinion of an opinion and the case speaks for
18 itself. If Mr. Lott wants to cite the case when he
19 argues at the conclusion of this application of
20 what it stands for, that's fine. He's a lawyer and
21 he can argue the law, but Mr. Burgis said he's not
22 a lawyer. When I asked him certain questions he
23 said he didn't know, these were legal questions.
24 Now he's relying on a case and telling us -- well,
25 that's his opinion of the opinion. He can't have

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1 it both ways. So I object to his testimony and ask
2 that all of that testimony be stricken.
3 In addition, what's the genesis of the
4 list of exhibits that we have here that are being
5 offered, I'm assuming in evidence, Mr. Lott; am I
6 correct?
7 MR. LOTT: That's correct.
8 MR. SALERNO: We had exhibits at the
9 last hearing. Some of these are different. There
10 has to be some testimony with regard to the
11 connection of these exhibits, the relevancy. We
12 have nothing except I'm offering it.
13 MR. RUBIN: I trust Mr. Lott will
14 come --
15 MR. SALERNO: It takes a little more
16 than that.
17 CHAIRMAN MICHALSKI: I'm assuming that
18 Mr. Lott in good time will tell us what the
19 relevance is.
20 MR. LOTT: Authentication of each of the
21 exhibits that were entered. With respect to Mr.
22 Burgis' opinion, he was qualified as an
23 expert and --
24 MR. SALERNO: In planning.
25 MR. LOTT: In planning, that's correct,

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1 Mr. Salerno, and I asked him whether the case
2 informed his opinion as a planner, not as an
3 attorney. He's not, he's not testifying with
4 respect to matters of law. As you see, he's
5 testifying with respect to his opinion as a
6 licensed professional planner.
7 MR. SALERNO: No. Except that you asked
8 him if he read the opinion and he reviewed it.
9 MR. LOTT: I did.
10 MR. SALERNO: Then he gave you what his
11 opinion was relating to that opinion.
12 MR. LOTT: I would disagree.
13 MR. SALERNO: That's a legal opinion.
14 That's not a planner's opinion.
15 MR. LOTT: I would disagree.
16 MR. SALERNO: That's not a planning
17 issue.
18 MR. LOTT: I would disagree. I think he
19 provided an appropriate foundation as to his
20 opinion as to how the term family is interpreted in
21 accordance with the controlling case law.
22 MR. SALERNO: That's your position.
23 MR. LOTT: We can have the board rule on
24 it, Mr. Salerno.
25 MR. RUBIN: I can believe, rightly or

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1 wrongly, planners offer opinion testimony on the
2 law all the time in offering opinions on variances
3 and other matters. An opinion as to whether or not
4 an application meets the D criteria and C criteria
5 is really no different than the kind of testimony
6 that Mr. Burgis is giving now. It relies on case
7 law to form an opinion as to whether or not it
8 meets the criteria in an application for
9 development and here he's relying on an opinion to
10 form -- relying on a legal opinion to form a
11 personal opinion or professional opinion as to
12 whether or not this is family. I don't see any
13 distinction.
14 CHAIRMAN MICHALSKI: The board have any
15 discussion? Anyone?
16 The board will accept Mr. Burgis'
17 testimony.
18 MR. LOTT: Thank you.
19 Mr. Burgis, on cross examination you
20 were asked about the length of stay of the
21 residents at Hazel House; is that correct?
22 THE WITNESS: That is correct.
23 MR. LOTT: And can you please point to
24 the portion of the definition of family in the
25 township code that requires family to occupy the

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1 dwelling for a specific period of time?
2 THE WITNESS: I cannot do that because
3 it is not in the definition.
4 MR. LOTT: Mr. Burgis, the Hazel House
5 requires its residents to stay a minimum of
6 90 days; is that correct?
7 THE WITNESS: That is correct.
8 MR. LOTT: And does Hazel House have any
9 restrictions on how long a resident can stay?
10 THE WITNESS: No, it does not.
11 MR. LOTT: In your opinion are the
12 residents of Hazel House transients?
13 THE WITNESS: No, they are not. They're
14 allowed to -- they have to stay a minimum of
15 90 days. They can stay much longer than that.
16 MR. LOTT: Are you familiar with the
17 Oxford House recovery rules?
18 THE WITNESS: I am.
19 MR. LOTT: Can you compare this to the
20 length of stay between Hazel House residents and
21 Oxford House residents?
22 THE WITNESS: They are comparable in
23 terms of their minimum length of stay and they're
24 comparable in terms of the fact that -- I said they
25 are comparable in terms of their minimum length of

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1 stay and also they're comparable in terms of the
2 fact that they do not have a maximum length of
3 stay.
4 MR. LOTT: Mr. Burgis, in your opinion
5 are the factors such as permanency and stability
6 reliable in determining whether an individual
7 constitutes a family?
8 THE WITNESS: No. I had actually
9 answered that question, the question in my direct
10 testimony. I will repeat that. I do not believe
11 that is so. Sometimes, you know, some families are
12 related by blood or not and have less permanence or
13 stability due to a variety of factors. Could be
14 due to job transfers by one spouse or another or a
15 job that requires extensive travel, whether the
16 children were away at college or boarding schools,
17 use of a second home by one member of a family and
18 not by another. Some people are in the Armed
19 Forces for extended periods of time. There's all
20 matters in which families do not have the kind of
21 permanence and stability that we typically perceive
22 that the newer family has.
23 MR. LOTT: Mr. Burgis, can you point to
24 the definition in the township that requires a
25 family be a not for profit entity?

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1 THE WITNESS: No, I cannot. Again, it's
 2 not in the definition.
 3 MR. LOTT: In your opinion, the fact
 4 that the residents pay rent to Hazel House, does
 5 that destroy the family relationship between them?
 6 THE WITNESS: No, not at all. This is
 7 no different than any other landlord who rents a
 8 single family dwelling unit or apartment to a
 9 family. Family sends in a rent check, landlords
 10 profit. This doesn't mean the family is not living
 11 as a family and the property isn't being used as a
 12 single family dwelling. What's interesting here is
 13 that when you review the zoning, township zoning
 14 ordinance, you know, the zoning regulations govern
 15 use but not ownership or this issue of profit
 16 versus non-profit.
 17 MR. LOTT: Mr. Burgis, on cross
 18 examination the factors such as being neighborly,
 19 being involved in the community, uses of
 20 neighboring properties, the effective property
 21 values, whether the residents of Hazel House pose a
 22 danger to the neighborhood, are any of those
 23 relevant as to whether or not Hazel House residents
 24 do, in fact, live as a family?
 25 THE WITNESS: No, not at all, and it's

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1 not true in terms of where they live on site. The
 2 ordinance definition of what constitutes family
 3 does not include any of those terms, so
 4 consequently, you have to consider it otherwise.
 5 MR. LOTT: On cross examination you were
 6 asked how Hazel House compares to Oxford House and
 7 I think you had previously mentioned that earlier
 8 in tonight's testimony. Can you briefly explain
 9 the Oxford House model?
 10 THE WITNESS: Certainly. Well, Oxford
 11 House is another type of recovery with either all
 12 men or all women houses. Each house must receive a
 13 charter from Oxford House and the houses are rented
 14 in terms of the detailed description. All Oxford
 15 Houses are self-run and self-supported recovery
 16 homes and they're basically -- they basically
 17 function under three concepts or three basic
 18 conditions. First, they're self-run and must
 19 follow standard operating systems that are set
 20 forth in the Oxford House manual. Secondly, they
 21 must be, the group must be financially
 22 self-supported by paying equal shares of household
 23 expenses in a timely manner, and then thirdly, the
 24 group must immediately expel any resident who
 25 returns to using alcohol or drugs in or outside the

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1 house. In addition to that, there is no treatment,
 2 counseling, therapy or any other type of health
 3 care services derived on site. In addition to
 4 that, there is no house manager or staff or on site
 5 residents. Same thing, people make all the
 6 decisions regarding how to function and the
 7 residents select the officers amongst themselves.
 8 Now, in addition to that, I think it's clear that
 9 in that context residents of Oxford House function
 10 as a family because of the four basic issued
 11 components. One is that all residents have access
 12 to the entire house. Secondly, all residents
 13 participate equally in housekeeping functions.
 14 Thirdly, there's mutual support and bonding given
 15 to each resident in support of recovery, equivalent
 16 to the support one would necessarily get in a
 17 traditional family, and then finally, there's no
 18 limits, as I said earlier, on how long the resident
 19 can stay and reside on site.
 20 MR. LOTT: How is Hazel House like
 21 Oxford House?
 22 THE WITNESS: Well, there's a number of
 23 components that are similar. There are two that
 24 are distinguishably different. The two that are
 25 the most different with regard to the fact that

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1 with the Hazel House we have a third party
 2 operator, and secondly, they're not as
 3 democratically run because we have the third party,
 4 the operator. There a number of issues I talked
 5 about in terms of family for Oxford House and
 6 they're similarly consistent with what you'll find
 7 at Hazel House.
 8 MR. LOTT: Hazel House residents have
 9 access to the entire house?
 10 THE WITNESS: Yes, they do.
 11 MR. LOTT: They participate in some of
 12 the more mundane housekeeping functions?
 13 THE WITNESS: They're obligated to do
 14 so.
 15 MR. LOTT: And Hazel House residents
 16 also enjoy the emotional support and bonding that
 17 you would see in Oxford House residents?
 18 THE WITNESS: That is correct.
 19 MR. LOTT: Mr. Burgis, are you familiar
 20 with N.J.S.A. 40:55D-66.1, sometimes referred to as
 21 the Community Residence Section of the Land Use
 22 Law?
 23 THE WITNESS: I am.
 24 MR. LOTT: Okay. What's that provision
 25 provide for?

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1 THE WITNESS: I'm sorry.
 2 MR. LOTT: What does that provision
 3 state?
 4 THE WITNESS: Well, 40:55D-66.1 provides
 5 that community residences for certain handicapped
 6 persons are permitted as of right in all
 7 residential zones in the community and are
 8 considered single family dwellings. The MLUL,
 9 Municipal Land Use Law provides that community
 10 residences for persons with developmental
 11 disabilities, for persons with head injuries, for
 12 persons with permanent illnesses and for persons
 13 who are victims of domestic violence shall be a
 14 permitted use in all residential districts of the
 15 municipality and the requirements set forth shall
 16 be the same as for single family dwellings in such
 17 districts, and that's a quote right out of the
 18 MLUL, you know. Now, Hazel House actually compared
 19 favorably to the community residences. Both
 20 provide residential housing for the disabled. Both
 21 are regulated by the state. Both due for
 22 instability require the presence of a third party
 23 operator to be able to live on site, and fourth,
 24 such interaction with other residents is similar.
 25 Both facilitate emotional bonding between residents

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1 that I mentioned a moment ago, and there are some
 2 differences, as well. The community residences
 3 will often offer medical services, as Hazel House
 4 does not. Community residences have been deemed by
 5 statute, and that's the Municipal Land Use Law, to
 6 be permitted as of right in all residential zone
 7 districts and considered a single family dwelling.
 8 MR. LOTT: Are you familiar with the
 9 historical enactment of that provision, what lead
 10 to the legislature to enact that provision?
 11 THE WITNESS: Yes. There was a question
 12 raised about the inconsistency in the way community
 13 residences had previously been addressed and the
 14 fact that it didn't comport with the specifics of
 15 the Fair Housing Act and consequently Municipal
 16 Land Use Law was amended to reflect that,
 17 accommodate that inconsistency. Interesting
 18 enough, initially community residences were
 19 specifically defined or described as a conditional
 20 use for zoning purposes, but that subsequently was
 21 amended to eliminate that provision and identified
 22 as a principal use allowed as of right.
 23 MR. LOTT: Mr. Burgis, did you have any
 24 opportunity to review the January 15th, 2020 letter
 25 from the board's planner?

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1 THE WITNESS: Yes.
 2 MR. LOTT: Do you know --
 3 MR. SALERNO: I'm sorry. What was the
 4 date of that letter?
 5 MR. LOTT: I'm sorry. January 15th,
 6 2020 letter. Would you like a copy of it,
 7 Mr. Salerno?
 8 MS. COSENZA: No. It's the one I just
 9 gave him.
 10 MR. LOTT: I'm sorry. It's
 11 January 15th, 2020.
 12 THE WITNESS: Yeah. I would just
 13 like --
 14 MR. LOTT: How does the board usually
 15 handle its own expert reports? Should I offer that
 16 into evidence or does the board do that?
 17 CHAIRMAN MICHALSKI: We're going to call
 18 our experts up to address their reports at which
 19 time you will ask questions, as well as the board
 20 members.
 21 MR. RUBIN: Generally speaking, they're
 22 incorporated into the record without being marked.
 23 MR. LOTT: That's what I was --
 24 MS. COSENZA: Right.
 25 MR. LOTT: Mr. Burgis, have you had an

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1 opportunity to read that letter from the board
 2 planner?
 3 THE WITNESS: I did.
 4 MR. LOTT: And he offers an opinion with
 5 a request for interpretation. Do you agree or
 6 disagree with that opinion?
 7 THE WITNESS: On page three -- I was
 8 pleased to read the planning report because it's a
 9 very accurate report. The general rules that were
 10 issued, the intent prohibited or proscribed a
 11 particular use. Such intent must be stated with
 12 clarity. Proposed CSLR is not prohibited in the
 13 township zoning ordinance.
 14 MR. LOTT: Mr. Burgis, are you -- you're
 15 familiar with the Fair Housing Act?
 16 THE WITNESS: I am.
 17 MR. LOTT: In your opinion should the
 18 Hazel House residents be treated like Oxford House
 19 and community residences for the disabled under the
 20 66.1 provision of the Land Use Law?
 21 THE WITNESS: In my opinion they should.
 22 Hazel House residents are some residents in a
 23 community residence for the disabled. They are
 24 disabled within the meaning of the law.
 25 Recovering, they are recovering from substance

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1 abuse disorder. Hazel House residents are entitled
2 to the same reasonable accommodation being given to
3 community residences. They also do recognize that
4 Hazel House residents require the presence of a
5 third party operator due to their disability in the
6 community residences, and the presence of a third
7 party operator shouldn't be perceived as destroying
8 the family relationship but enabling it, so in that
9 context I think the two are very similar and should
10 be treated the same.

11 MR. LOTT: Mr. Burgis, you testified at
12 the October hearing that Hazel House did not
13 implement certain security measures, such as indoor
14 and outdoor cameras and key pads on doors until
15 after the unfortunate passing of one of its
16 residents. Was that correct?

17 THE WITNESS: No. Unfortunately I spoke
18 out on that issue. Actually, Hazel House security
19 measures have been in place since the beginning of
20 the operation. I was not aware of that.

21 MR. SALERNO: Mr. Chairman, this whole
22 line of questioning is rehabilitative of the
23 testimony he gave before. I really don't know
24 where we're going here. Is somebody else going to
25 testify tonight and then come back a month later

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1 and tell us, well, I said this before but now let
2 me add this to it? That isn't the purpose here.
3 He's already testified. He gave all his expert
4 testimony. He got cross examined and we should be
5 on the next witness or we will be here until next
6 year.

7 MR. LOTT: Well, Mr. Chairman, this is
8 my case. All right? This is the purpose of having
9 redirect examination. If the witness feels he
10 needs to correct some misstatements in his prior
11 testimony, he's allowed to do so.

12 CHAIRMAN MICHALSKI: Generally the board
13 gives great latitude to the witnesses in the
14 application and the applicant presenting their side
15 of the story, so to speak, so please proceed.

16 MR. LOTT: Thank you, Mr. Chairman.
17 Mr. Burgis, you previously testified
18 that if Hazel House determines that the residents
19 were using drugs or alcohol, that resident must be
20 returned to detox. Was that correct?

21 THE WITNESS: That also was in error.
22 Hazel House's rules actually require for residents
23 found -- if a resident is found to be using drugs
24 or alcohol, they must leave the house immediately.
25 When I say immediately, their rules say within the

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1 hour. Having said that, Hazel House also
2 recognizes that they just can't throw somebody out
3 on the street, so they will assist the resident to
4 find another detox center or some other place to
5 go. If the resident doesn't want assistance, Hazel
6 House will assist in transporting the resident
7 wherever he wishes to go. Interesting enough, this
8 is a Hazel House rule, not a DCA regulation. DCA
9 doesn't have any requirements regarding assistance
10 provided for a resident or require the resident to
11 go to a detox center. In fact, DCA doesn't even
12 require CSRL's to comply with the Anti Eviction Act
13 when evicting a resident.

14 MR. LOTT: Mr. Burgis, can you please
15 take a look at Exhibits KK and LL? I believe you
16 previously testified that these are some additional
17 photos of the interior of Hazel House, the floor
18 plan. I'm going to have you take a look at those.
19 I believe you previously testified you had
20 inspected the property.

21 THE WITNESS: That is correct.
22 MR. LOTT: Can you refer to those
23 exhibits and kind of take the board through the
24 photos and the floor plan shown?
25 THE WITNESS: The first photo, it shows

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1 a single bed. It's -- the photo is a map of the
2 person's -- a background way to describe it.
3 That's the single bedroom on the third floor. The
4 other two photos are the same bedroom, single
5 bedroom on the second floor.

6 MR. LOTT: Exhibit LL is the floor plan?
7 THE WITNESS: LL was the --
8 MR. LOTT: The photos. I'm sorry.
9 In examining the floor plans and the
10 photos do you have an opinion as to whether or not
11 the structure is a single family dwelling?
12 THE WITNESS: As I testified at the last
13 meeting, in terms of its character, in terms of its
14 design, in terms of its layout, in terms of all of
15 its elements, it's a single family dwelling. It
16 has multiple bedrooms. It has a family room. It
17 has the kitchen area. It has the dining area. It
18 has a basement recreation space area and a small
19 den area off of one side of the house. In terms of
20 its interior, it bears resemblance to any single
21 family house I've been in. In terms of its
22 exterior, it resembles a single family house in any
23 given definition of that term. In terms of its
24 landscaping, the same could be said.
25 MR. LOTT: Mr. Burgis, on cross

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1 examination you were asked a series of questions
2 regarding whether or not Hazel House was a rooming
3 house or a boarding house. You remember those
4 questions?
5 THE WITNESS: Yes.
6 MR. LOTT: Would you agree that the
7 applicants were denied a zoning permit because they
8 were found to be either a rooming or a boarding
9 house?
10 THE WITNESS: Yes. That's my
11 understanding.
12 MR. LOTT: And that's based on any of
13 the exhibits in the record of appeal?
14 THE WITNESS: Yes.
15 MR. LOTT: That would be identified as
16 Exhibit Number 1 in the record of appeal?
17 THE WITNESS: I believe that's the
18 exhibit number, correct.
19 MR. LOTT: Why were the applicants found
20 to be a rooming or boarding house?
21 THE WITNESS: Mainly because the State
22 DCA had issued a license under the Rooming and
23 Boarding House Act.
24 MR. LOTT: In your opinion how should
25 the DCA regulations with respect to Hazel House and

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1 its Class F cooperative class of license impact the
2 interpretation analysis under the township zoning
3 ordinance?
4 THE WITNESS: Well, it shouldn't. DCA
5 classifies different kinds of uses for various
6 administrative purposes and zoning ordinance
7 handles uses in a different context. For a zoning
8 application, a certificate of occupancy, one has to
9 be informed by various documents and part of that
10 Class F license process is designed to reflect the
11 fact that it could only -- CSLR could only occur in
12 a single family dwelling. They could not have
13 gotten that classified unless it was a single two
14 family dwelling.
15 MR. LOTT: Under the best set of
16 regulations, you've reached out and had an
17 opportunity to review those, correct?
18 THE WITNESS: Yes.
19 MR. LOTT: All right. Does DCA require
20 zoning as a prerequisite for the issuance of the
21 license?
22 THE WITNESS: No.
23 MR. LOTT: Is that also true for the
24 issuance of a rooming and boarding house license?
25 THE WITNESS: No. First of all, just to

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1 reiterate, Hazel House doesn't meet the statutory
2 definition for rooming and boarding house under the
3 Rooming and Boarding House Act. According to this
4 definition, boarding houses provide personal
5 service -- excuse me, provide personal or financial
6 services. Hazel House is prohibited from doing so.
7 Hazel House cannot be a boarding or rooming house
8 because it doesn't contain two or more single room
9 occupancies as defined by DCA. It doesn't have
10 that. Hazel House residents share bedrooms and
11 they are intended for single room occupancy. Hazel
12 House operates as a single housekeeping unit, not a
13 multiple, not multiple single fam -- single
14 housekeeping units.
15 MR. LOTT: Does the township zoning
16 ordinance have a definition of rooming and boarding
17 house?
18 THE WITNESS: No, it does not. It does
19 not, even though in the last Master Plan
20 Examination Report, the Reexamination Report
21 commented the municipality provide such a
22 definition, but it hasn't to date.
23 MR. LOTT: I have a hypothetical for
24 you. If the board is to consider the DCA
25 regulation of Hazel House as a CSLR in deciding

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1 whether or not it is a single family dwelling,
2 whether Hazel House residents are family, in your
3 opinion, how should the board look at that? How
4 should they consider that in granting the DCA
5 license?
6 THE WITNESS: They should consider it
7 within the context that in Chief Raywood's
8 November, 2019 letter, in that letter -- it was
9 identified as Exhibit JJ, I believe -- he states
10 that CSLR is designated as a single family home.
11 He states that residents of the CSLR become
12 familiar with each other and depend on each other
13 as part of a single housekeeping unit. He also
14 states that residents of CSLR often share a bedroom
15 with one another and complete tasks related to
16 maintenance and housekeeping within the facility,
17 same as single family, any family. He also goes on
18 to say that CSLR residents are supervised,
19 including 24/7 awake and alert staffing in most of
20 the facilities DCA has licensed to date, and the
21 licensee is required to maintain a drug and alcohol
22 free environment in a CSLR. Now, he also does
23 state that conventional rooming houses are
24 regulated differently or in general. You know,
25 conventional rooming houses with two or more

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1 residents must register with the Division of Fire
2 Safety as a Life Hazard Use Structure and renew
3 that registration annually. That is not true for a
4 CSLR. Inspections of registered Life Hazard Use
5 Structure must be conducted by a Certified Fire
6 Official to verify compliance with the New Jersey
7 Municipal Fire Code Regulations. He also notes
8 that Class A rooming houses do not operate as a
9 single housekeeping unit, whereas in Class F
10 licensure is what the CSLR operator does. He also
11 points out if a Class A rooming house use
12 constitutes a change of use to a Group 2 occupancy,
13 CSLR is not a Class 2 -- Group R-2 occupancy, it's
14 Group R-5. In most cases he also notes residents
15 of a Class A rooming house don't even get to know
16 each other. He points out a single occupancy room
17 has a lockable door, which is not the case on the
18 client's property. They communicate -- he goes on
19 to say they generally communicate with other
20 residents only when passing each other in the
21 common areas or entering the dwelling, the
22 building. Residents are not required to complete
23 housekeeping or maintenance tasks in the facility
24 and aren't supervised, all distinguishable from the
25 CSLR.

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1 MR. LOTT: And the Chief Raywood letter
2 of November, 2019 was identified as Exhibit JJ in
3 your previous testimony?
4 THE WITNESS: Yes.
5 MR. LOTT: So after reading that letter,
6 rooming and boarding houses are issued a different
7 license?
8 THE WITNESS: Yes. Well, basically,
9 there are six classes of licenses that DCA
10 regulates. Class A, Class A through Class C are
11 applicable to rooming and boarding houses. Again,
12 we are Class F. We are not A, B or C, and under
13 Section 5:27-1.9F, CSLR's are exempt from a local
14 host of regulations that apply to rooming and
15 boarding houses.
16 MR. LOTT: You were asked a number of
17 questions regarding Hazel House's use group
18 classification under the UCC, whether Hazel House
19 was being used as a single family dwelling.
20 THE WITNESS: Yes.
21 MR. LOTT: That informs your opinion
22 also with respect to whether or not the residents
23 residing at Hazel House live in a single family
24 dwelling?
25 THE WITNESS: Yes. Basically, all of

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1 the information presented up till now has informed
2 my decision about that issue. I think the fact
3 that there's no question, they operate as a single
4 family dwelling, they operate as a family in a
5 single family dwelling and the fact that they're
6 unrelated adults, under third party operator living
7 on site to assist with their disabilities is
8 immaterial to the fact of whether or not they are a
9 single family -- well, they are a family occupying
10 a single family house.
11 MR. LOTT: When the Meades purchased the
12 property and began to operate Hazel House, was
13 there a change of use in the property?
14 THE WITNESS: No. There's no change of
15 use of a property for three basic reasons. Exhibit
16 A from the record indicates that there was a CCO
17 issued to the prior sale of the property, which
18 indicated for a single family use, and under DCA's
19 amended rules, when a single family home is used as
20 a CSLR, no new certificate of occupancy is needed
21 because the DCA stated that there is no change of
22 use, and then finally, this was also clear from the
23 Chief Raywood's letter, because the CSLR is
24 designated as a single family home, there's no
25 change of use, therefore, no new CO would be

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1 needed.
2 MR. LOTT: So just in closing, your
3 opinion is that the structure on Hazelwood Avenue
4 is a single -- detached single family home?
5 THE WITNESS: That's correct.
6 MR. LOTT: And the residents of Hazel
7 House occupy that home as a family?
8 THE WITNESS: Correct.
9 MR. LOTT: I'll make the witness
10 available to the board and public for questioning.
11 CHAIRMAN MICHALSKI: Thank you.
12 Board questions? I'll let the board
13 think about it for a while. I see Mr. Williams has
14 raised his hand. Any questions on behalf of
15 the board?
16 MR. WILLIAMS: Yes. Thank you, Mr.
17 Chairman.
18 CHAIRMAN MICHALSKI: Mr. Williams.
19 MR. WILLIAMS: Just a quick question.
20 As to Exhibit KK, looking at the exhibit I guess on
21 the second floor, the bottom right-hand corner
22 bedroom and there's a rectangle or square shape
23 which I assume is a bed. Is that for the staff?
24 Is that the staff bedroom?
25 THE WITNESS: There is one bedroom, it's

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1 for the staff. If memory serves, that might be it.
2 MR. WILLIAMS: All right. Just a
3 follow-up on that, Mr. Chair, if I may.
4 So then I would assume that our logic
5 would continue, then, that it's same on the third
6 floor, also, so that would make up for the two
7 staff bedrooms that are part of this proposal, when
8 you stated one --
9 THE WITNESS: That would be correct.
10 MR. WILLIAMS: Thank you.
11 CHAIRMAN MICHALSKI: Mr. Johnson.
12 MR. JOHNSON: Thanks, Chairman. I have
13 a question.
14 With respect to, and I haven't gotten --
15 I haven't read all of the rules and regulations
16 under -- this is Section, I believe it's OO, rules
17 and regulations. Is there -- in terms of the
18 phasing, which is -- what was that? Section 29, I
19 think, the phase system, is there an independent
20 board that basically reviews the progress of the
21 residents? So, in other words, how do -- who
22 determines whether the residents move from phase
23 one to phase two to phase three, etcetera?
24 THE WITNESS: There are other experts
25 who are more intimately familiar with that process

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1 and I would defer to them.
2 MR. JOHNSON: Okay. I guess my
3 follow-up question is, that might also go to them,
4 but at what point do the residents leave? Under
5 what circumstances do the residents leave?
6 THE WITNESS: That would also be another
7 witness.
8 MR. LOTT: We have tonight Bill Meade
9 who's the operations manager on behalf of Hazel
10 House ready to testify.
11 MR. JOHNSON: Thank you.
12 Next question I have is with regard to
13 the licenses issued by the State of New Jersey,
14 excuse me, issued by the State of New Jersey and
15 let me see if I can find the exhibit here. Exhibit
16 MM, it looks like we have an expiration date on the
17 licenses that have been provided of October 31st,
18 2020.
19 THE WITNESS: Yes.
20 MR. JOHNSON: So what happens, what is
21 the process when those licenses expire? Is there
22 an automatic renewal process?
23 THE WITNESS: Again, that would be
24 another witness.
25 MR. JOHNSON: Okay. I have no further

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1 questions right now.
2 CHAIRMAN MICHALSKI: Board have any
3 questions?
4 I have a few questions, if you'll
5 indulge me.
6 In your testimony you refer to the
7 township's definitions in our land use ordinance;
8 is that right?
9 THE WITNESS: Correct.
10 CHAIRMAN MICHALSKI: So you're familiar
11 with and have quoted from the residential town
12 definitions; is that right?
13 THE WITNESS: Correct.
14 CHAIRMAN MICHALSKI: And you also told
15 us, I believe, that you could find no reference to
16 requirements for a boarding house; is that correct?
17 THE WITNESS: No definition.
18 CHAIRMAN MICHALSKI: No definition.
19 Would you perhaps be able to find the
20 definition of a boarder?
21 THE WITNESS: I think there may have
22 been.
23 CHAIRMAN MICHALSKI: Could you please
24 refresh our memory on this?
25 MR. LOTT: I ask the witness to take a

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1 look at the board's planner's report. I think it's
2 in that report, if you have it there.
3 CHAIRMAN MICHALSKI: It's here, on
4 page 324 of your Exhibit A, if that helps.
5 THE WITNESS: I have the ordinance in
6 front of me. Boarder defines a person other than a
7 member of a family occupying a part of any dwelling
8 unit who, for considerations of sleeping
9 accommodations in such dwelling and may be
10 furnished as part of this consideration.
11 CHAIRMAN MICHALSKI: Now, did you
12 testify that persons living in your proposed Hazel
13 House are provided consideration for the
14 accommodations that are provided?
15 THE WITNESS: They have to make their
16 own meals. They also have housekeeping
17 responsibilities. I think it distinguishes that in
18 front of the board.
19 CHAIRMAN MICHALSKI: Are they required
20 to pay to live in this Hazel residence?
21 THE WITNESS: I didn't hear.
22 CHAIRMAN MICHALSKI: Do they have to
23 pay, submit rent to live --
24 THE WITNESS: Yes.
25 CHAIRMAN MICHALSKI: So in the event

<p style="text-align: right;">Page 41</p> <p>1 that the -- should the board judge that persons 2 live there are not family members, would you think 3 they would fall into the category of a boarder by 4 definition of the municipal ordinance? 5 THE WITNESS: No, because the definition 6 on boarder limits them to being furnished, sleeping 7 accommodations and maybe meals, whereas Hazel House 8 is required to do housekeeping duties, as well. 9 CHAIRMAN MICHALSKI: Would you think 10 that a boarder would be required to keep his room 11 clean and swept and so forth in an orderly manner? 12 Would that be a requirement? 13 THE WITNESS: Hazel House has a much 14 broader interpretation of that. They have to keep 15 the whole house clean. 16 CHAIRMAN MICHALSKI: Okay. We've 17 discussed this before and I just want to get some 18 clarity. We've been looking at various 19 characteristics of the Hazel House to try to 20 determine if it's a dwelling unit living as a 21 single housekeeping unit and looking at some of the 22 characteristics, or one of the characteristics that 23 you noted, I believe, correct me if I'm wrong, that 24 persons residing there are required to pay to live 25 there and to operate as a for profit business.</p>	<p style="text-align: right;">Page 43</p> <p>1 manager and can get into that in more detail. 2 That's my understanding. 3 CHAIRMAN MICHALSKI: All right. Let's, 4 then, find out some things you can tell us in your 5 area of expertise. 6 Is it typical to have a family procure 7 food together and prepare it together and perhaps 8 serve it to family members as a unit? Is that 9 typical? I'm trying to understand how -- 10 MR. BURGIS: Well, let's put it this 11 way, my wife and I prepare dinner together for our 12 daughter. I would imagine many other households 13 are similar to that, and in some instances one 14 person prepares it and the other person cleans up. 15 It's a symbiotic relationship. 16 CHAIRMAN MICHALSKI: So you're 17 suggesting we should look for that sort of activity 18 when Mr. Meade testifies to help us, inform us as 19 to what the arrangement -- 20 THE WITNESS: Well, I don't know that 21 level of detail is necessarily important as to 22 whether or not they are functioning as a family. I 23 think there's so many other components. 24 CHAIRMAN MICHALSKI: I agree, and that's 25 what I'm looking for here. I'm trying to be</p>
<p style="text-align: right;">Page 42</p> <p>1 Could I ask you, as a planner, do you find this to 2 be characteristic of a, of a family dwelling unit 3 living as a single housing unit? Is it typical 4 that family members pay rent to live in the house 5 or to have a bed in the house? 6 THE WITNESS: Yes, actually. 7 CHAIRMAN MICHALSKI: Hmm. 8 THE WITNESS: It's not atypical for 9 single persons to live together. They are 10 considered a family by definition and they're all 11 individually paying rent. That's not atypical. 12 CHAIRMAN MICHALSKI: Okay. But are they 13 paying -- strike that. 14 You testified that there's no provision 15 for food, laundry, financial and personal services 16 provided by the licensee. What arrangements are 17 made for food? How do these people -- how are you 18 paying for them to eat? What happens? 19 THE WITNESS: I mean, in terms of going 20 out and shopping? 21 CHAIRMAN MICHALSKI: Yeah, and preparing 22 it and serving and so forth. How does that work? 23 THE WITNESS: It's my understanding the 24 occupants all share in that responsibility. 25 Mr. Meade will testify next and he's the operations</p>	<p style="text-align: right;">Page 44</p> <p>1 informed with -- not to be dispositive, I'm looking 2 for what might inform us, what would we look at, 3 because as you correctly pointed out, the current 4 definition is pretty thin, to use those words. 5 THE WITNESS: Mr. Michalski, when you 6 break it down, you know, those individuals in any 7 group, family, etcetera, where you might discover 8 that one is in an excellent cook, you can say well, 9 Jim here, we'll have him cook more often because 10 he's so good at it. 11 MR. LOTT: It's not me. It's not me. 12 THE WITNESS: You understand what I 13 mean? 14 CHAIRMAN MICHALSKI: Absolutely. 15 THE WITNESS: When you find the 16 strengths and weaknesses of the individual family 17 members, you go to those strengths and step away 18 from their weaknesses to improve the character of 19 the family life, of the family. 20 CHAIRMAN MICHALSKI: Now, you testified 21 regarding the C of O. This is on page 40 of your 22 testimony. You were asked: There's no C of O 23 required? You answered: That's correct. And the 24 question was asked: And do you know why that is? 25 And your answer was: Because they aren't</p>

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1 considered a single family house. They've got to
2 change in use from a single family use to municipal
3 purpose use. Could you expound on that? I'm not
4 understanding what that means.
5 THE WITNESS: I would need that in front
6 of me because I didn't --
7 CHAIRMAN MICHALSKI: That's on page 40
8 of the transcript.
9 MS. COSENZA: I have an extra copy of
10 the transcript if you guys need it.
11 MR. WILLIAMS: I have one, too.
12 CHAIRMAN MICHALSKI: In particular, I'm
13 interested in why you said because they aren't
14 considered a single family house.
15 MS. BOYLE: What were the lines? I'm
16 sorry. Do you know the line section on page 40?
17 CHAIRMAN MICHALSKI: It's on page 40,
18 line six, also.
19 THE WITNESS: I have to read a little
20 ahead just to get the context.
21 CHAIRMAN MICHALSKI: Sure. Take your
22 time.
23 THE WITNESS: I can say that it goes
24 against everything that I have said. Clearly I say
25 it, that they are considered a single family use.

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1 Maybe someone simply misunderstood what I said.
2 CHAIRMAN MICHALSKI: All right. Take it
3 as a correction to the record, then.
4 Forgive me for asking this question.
5 This is going -- I'm trying to be perfectly clear.
6 THE WITNESS: Understood. I could see
7 where that had you a little confused.
8 CHAIRMAN MICHALSKI: Now, on page 41 you
9 say that -- I'm sorry, line nine, you say: Because
10 the DCA makes it very clear that a single family
11 house -- excuse me, a CSLR is the equivalent of a
12 single family house. Does this mean that the DCA
13 has authority of the Municipal Land Use Law to
14 define these things or did you find it in the
15 Municipal Land Use Law as the definition?
16 THE WITNESS: No. What I believe I was
17 saying is that DCA looks for a single family house.
18 Doesn't necessarily have to be in a single family
19 zone.
20 CHAIRMAN MICHALSKI: Oh, I see.
21 THE WITNESS: Looking for a single
22 family house, of course, they do not control your
23 zoning but in a single family zoned area if they
24 find that single family house, it's clear that they
25 consider that an acceptable use.

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1 CHAIRMAN MICHALSKI: I see.
2 Page 48 you were questioned as to -- do
3 you have an opinion as to whether or not a zoning
4 permit should have been required in the first
5 instance? And your answer was: I don't believe it
6 was needed. I think the DCA regulations indicate
7 that it's not needed. Are you telling us that the
8 DCA has the authority under the Municipal Land Use
9 Law to determine whether a zoning permit needs to
10 be --
11 THE WITNESS: No. I was talking
12 about -- I think I was answering your question in
13 the context of whether a CO for a change of use was
14 needed.
15 CHAIRMAN MICHALSKI: Well, the question
16 says zoning permit, so it is quite a distinction
17 when you make --
18 MR. LOTT: Can I offer one legal
19 clarification?
20 CHAIRMAN MICHALSKI: Sure.
21 MR. LOTT: I don't mean to testify, but
22 Mr. Burgis, you had reviewed the township zoning
23 ordinance with respect to the issuance of the
24 certificate of the occupancy in that zone
25 permitting, correct?

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1 THE WITNESS: Yes.
2 MR. LOTT: So from having reviewed the
3 ordinance myself, all right, those terms are used
4 within the same chapter and they seem to be
5 related, interrelated to one another, but I think
6 that's a legal argument and I'll talk more about
7 that probably in closing, but that may explain his
8 testimony. I'll leave that to Mr. Burgis to
9 further explain that if he finds it necessary.
10 THE WITNESS: I recognize the --
11 MR. RUBIN: May I just step in here?
12 I respectfully disagree with Mr. Lott's
13 characterization of the ordinance. The ordinance
14 deals with enforcement of zoning permits and
15 building permits independently of one another, to
16 specifically say the zoning permits are issued by
17 the zoning officer and construction permits are
18 issued by the construction official, so I don't
19 agree that the ordinance treats them as if they
20 were the same thing or interchangeable with one
21 another.
22 MR. LOTT: So the issuance of a
23 certificate of occupancy is always conditioned upon
24 satisfaction of the zoning requirements. What DCA
25 has said is that there's no change of occupancy,

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1 therefore, I think the argument is that there's no
2 need for a zoning permit.
3 MR. RUBIN: I don't agree that the DCA
4 has any jurisdiction over the Municipal Land Use
5 Law, the powers of the zoning official and --
6 MR. LOTT: That might be --
7 MR. RUBIN: Excuse me. Let me finish,
8 please.
9 -- and the zoning official's
10 interpretation of the zoning ordinance, so I don't
11 believe DCA can in any way control that and the
12 DCA -- in my opinion the DCA's determination that
13 the property is a single family dwelling, it's
14 based on the Uniform Construction Code and
15 interpretation of the Uniform Construction Code,
16 not the interpretation of any particular
17 municipality's zoning ordinance. The zoning
18 ordinance is different from the municipality's
19 Uniform Construction Code, which is, in fact,
20 uniform, so I respectfully disagree with that.
21 MR. LOTT: I think we're going to have a
22 difference of opinion on this with respect to the
23 legal effect of the issuance of the certificate of
24 occupancy. The DCA has said that there's no change
25 of use here.

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1 MR. RUBIN: Under the Uniform
2 Construction Code, not under the Municipal Land Use
3 Law.
4 MR. LOTT: But your zoning ordinance --
5 all right.
6 MR. RUBIN: Now you're talking in terms
7 of the zoning. The DCA doesn't interpret our
8 zoning ordinance when they issue a certificate of
9 occupancy. The DCA interprets the Uniform
10 Construction Code. They don't go to each
11 municipality's zoning ordinance. In fact, they
12 basically tell us that we're not making zoning
13 judgments for you, your zoning ordinance is subject
14 to your interpretation, we're not making zoning
15 judgments. They do do that, do they not?
16 MR. LOTT: They do, but your zoning
17 ordinance has three triggers for the issuance of a
18 zoning permit. One of those triggers is a change
19 in use. There's been no change of use here.
20 MR. RUBIN: Under the Uniform
21 Construction Code, not necessarily under the
22 Municipal Land Use Law.
23 MR. LOTT: How is that change of use to
24 be assessed if it doesn't relate to the
25 construction code?

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1 MR. RUBIN: Under the Municipal Land Use
2 Law, just like any change of use. A change of use
3 could go from retail to office.
4 MR. LOTT: In that case the use group
5 under the Uniform Construction Code would also
6 change.
7 MR. RUBIN: But there are uses within
8 the Uniform Construction Code's groups that might
9 be deemed a change of use under the zoning
10 ordinance but would not be deemed a change of use
11 under the Uniform Construction Code. You would
12 agree that that's conceivable?
13 MR. LOTT: That's conceivable but that's
14 not what the ordinance says.
15 MR. RUBIN: What ordinance?
16 MR. LOTT: The township ordinance.
17 MR. RUBIN: I don't know. The township
18 ordinance has zones where, residential zones where
19 single family houses, at least one residential
20 zone, single family homes aren't permitted, so I
21 don't really understand what you're talking about.
22 Does that mean that Hazel House could go into that
23 zone if there was a nonconforming single family
24 home?
25 MR. LOTT: Yes, because it's a

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1 residential structure.
2 MR. RUBIN: Even though it's not
3 permitted under the zoning ordinance?
4 MR. LOTT: Well, listen. It exists
5 there either by way of granting of use variance or
6 change of law.
7 MR. RUBIN: And that would depend on
8 whether or not it's to be treated as a single
9 family home and that's what we're here to
10 determine. It's not a slam dunk. It's not
11 something that --
12 MR. LOTT: I didn't say it was a slam
13 dunk.
14 MR. RUBIN: This is something, this is
15 something that this board is charged with
16 determining whether or not it's a single family
17 home. It would not be permitted to go into that
18 single family home in the RG zone where it's not
19 permitted unless and until this board would make an
20 interpretation that it is a single family use and
21 that's what we're here for. You can't, you
22 can't -- your instruction and reasoning to end up
23 in a place you want to be --
24 MR. LOTT: I don't dispute that it's the
25 purview of the board, all right, to make this

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1 interpretation. This is why we're seeking the
2 interpretation.

3 MR. RUBIN: If DCA's determination under
4 the UCC was dispositive, then we wouldn't be here.

5 MR. LOTT: I haven't argued that it's
6 dispositive. I think it's a factor and I think
7 it's a significant factor.

8 MR. RUBIN: I don't know. I can't
9 answer that.

10 MR. LOTT: I guess we'll find out.

11 MR. RUBIN: I mean, we've had, we've had
12 instances here where DCA has identified properties
13 as three family homes because that's how they're
14 used but our property records reflect that they're
15 two family homes. Because DCA says they're three
16 family homes, does that mean they're a permitted
17 use in a two family zone, a nonconforming use
18 because DCA says they are? I don't think so.

19 MR. LOTT: Well, it's quite possible
20 that in the instance that you used, that perhaps
21 the additional unit was added illegally.

22 MR. RUBIN: And maybe this building was
23 occupied illegally because it's not a single family
24 use. Just because DCA says it's a single family
25 use -- DCA says it's a three family home, but if

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1 the use isn't permitted and it wasn't -- and it's
2 not permissible to be a three family home, then it
3 can't be a three family home regardless of what DCA
4 says. Similar to this, if this board determines
5 that CSLR's are not single family uses, then
6 whatever DCA may say is irrelevant to that
7 determination.

8 MR. LOTT: But your own code officer
9 issued a CCO upon the sale of the property.

10 MR. RUBIN: The Uniform Construction
11 Code official.

12 MR. LOTT: Yeah, and one of those
13 requirements to get the CCO was that the property
14 complies with zoning. There's a --

15 MR. RUBIN: And the zoning officer
16 determined that it didn't and out of the kindness
17 of our heart we're allowing this place to continue
18 without a zoning permit.

19 MR. LOTT: It's not out of the kindness
20 of your heart. All right. When we filed the
21 appeal we asked to stay the enforcement action as
22 provided for by the law.

23 MR. RUBIN: Right, and that's the only
24 thing that's saving you, so what I'm saying to you
25 is as follows. You know, look, we've had, we've

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1 had instances where permits were issued to
2 buildings, issued to homes that ultimately were
3 determined to violate the zoning ordinance. We
4 have one in court to have those decisions removed
5 when the Board of Adjustment determined that those,
6 that those -- that no variances should be granted
7 for those. Construction officials make mistakes.
8 It is not dispositive of anything, the fact that
9 you have a C of O or CCO or the DCA determines that
10 this is a single family home, in my opinion.

11 MR. LOTT: I haven't argued that it's
12 dispositive. I think it's one of many factors.

13 MR. SALERNO: Excuse me, but how could a
14 CCO be --

15 MS. COSENZA: Use your mike, Ralph.

16 MR. SALERNO: How could a CCO be a
17 factor in the determination if the CCO was issued
18 before your client occupies the premises for the
19 use that it's making it?

20 MR. LOTT: That's exactly right. There
21 was no change of use when my client occupied the
22 property.

23 MR. SALERNO: You're saying that your
24 use, there is no change of use. We're suggesting
25 here it is a change of use. That's the problem

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1 we're having, that we're here for in discussion
2 about it.

3 MR. LOTT: One of the things the DCA
4 determined when it issued the Class F license was
5 that there was no change of use, at least for
6 construction code purposes.

7 MR. SALERNO: What point did they look
8 at the dwelling to make that determination?

9 MR. LOTT: The use classification under
10 the UCC.

11 MR. SALERNO: When? When?

12 MR. LOTT: At the time the license
13 application was filed.

14 MR. SALERNO: So your client was in the
15 premises using it for that purpose?

16 MR. LOTT: Oh, I don't think that was
17 the case. We filed for, we filed for the Class F
18 license, got the Class F license and began to
19 operate.

20 MR. SALERNO: Mr. Chairman,
21 respectfully, I think we're going in a circle.

22 MR. RUBIN: I think we should go back to
23 continue with the questions.

24 CHAIRMAN MICHALSKI: Thank you. Mr. --
25 thank you, Doctor.

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1 Mr. Burgis, I believe you testified, and
2 correct me if I'm wrong, is this facility is of
3 mixed gender or is this just for single sex?
4 THE WITNESS: Single sex.
5 CHAIRMAN MICHALSKI: It would be which
6 one? Male?
7 THE WITNESS: Male.
8 CHAIRMAN MICHALSKI: Would you describe
9 that or consider that in your opinion as typical of
10 family, to be restricted to only one sex in a
11 family?
12 MS. COSENZA: Good question.
13 THE WITNESS: No, but on the other hand,
14 I think that's stretching the argument that's been
15 made. We're talking about a family.
16 CHAIRMAN MICHALSKI: I'm not making any
17 arguments. I'm asking questions.
18 THE WITNESS: Hear me out, because when
19 you're dealing with a family, we're not just
20 dealing with what I think you're thinking of in
21 terms of a nuclear family. We're not talking about
22 a husband and wife and children. We're talking
23 about four or more people who are getting together
24 to live together, and there is case law that
25 indicates that that is defined as a family and

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1 that's how we're defining this group of people, as
2 a family, by the case law and definition.
3 CHAIRMAN MICHALSKI: Are you not also
4 being restrictive?
5 THE WITNESS: We are being restrictive,
6 yes.
7 CHAIRMAN MICHALSKI: All right. Board
8 members, do you have questions?
9 MR. JOHNSON: Mr. Chair.
10 CHAIRMAN MICHALSKI: Mr. Johnson.
11 MR. JOHNSON: Mr. Chairman, I do have a
12 question.
13 Going back to some of the exhibits that
14 were offered up this evening, I know your expertise
15 wasn't on the licensing agreements, per se, but
16 from a definitional standpoint in terms of defining
17 a family, would a family unit typically have a
18 licensing agreement that is subject to expiration
19 and re-licensing?
20 THE WITNESS: No, but on the other hand,
21 you need residences for the developmentally
22 disabled who are licensed and they are considered a
23 single family use for the purposes of zoning in the
24 Municipal Land Use Law. You're allowed to have a
25 community residence for the developmentally

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1 disabled and for other disabilities, as I mentioned
2 earlier, in any single family residential zone.
3 Hazel House is the equivalent of that and that is
4 our position.
5 MR. JOHNSON: Okay. Now, earlier in
6 your testimony you indicated that a resident can be
7 asked to leave within an hour's notice for
8 violating a certain --
9 THE WITNESS: If there's drug or
10 alcohol --
11 MR. JOHNSON: Drug or alcohol use.
12 Would a resident, a family member or even a tenant
13 of a rental, if it's a single family being rented,
14 would they be -- could they be asked to leave
15 within one hour?
16 THE WITNESS: What I would suggest is
17 you could have a group of a half dozen people
18 living together and they make up their rules and
19 somebody could say if there's alcohol or a drug
20 abuse problem, we can ask you to leave, and you can
21 go back to your agreement and that's no different
22 than what's happening here. The thing of it is,
23 it's my position, I think your municipality has to
24 make some reasonable accommodation for this type of
25 a use. It's addressing state policy. It's

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1 addressing what I perceive as an inherently
2 beneficial use, and when you deal with an
3 inherently beneficial use, you deal with those
4 kinds of issues. The municipality has to
5 accommodate or make some accommodation in some
6 fashion. When you deal with the definition of
7 family in your ordinance, mixed in with the
8 definition of family, in order to be determined to
9 be broadly interpreted as not just the nuclear
10 family but, you know, people that just come
11 together to live as a family unit, I think the
12 municipality's obligated to give consideration to
13 that. That's what we're asking for here. They
14 operate as a single family dwelling, as a single
15 family unit consistent with your ordinance and I
16 think that's where you really have to start when
17 you evaluate this application. If you make the
18 determination that it is a family and,
19 consequently, it clearly is a single family
20 dwelling, you should approve this application. The
21 question for you really is, is it a family, and
22 when you think that you close the discussion board,
23 part of this, you have to give consideration to the
24 fact that family today means a lot more than just a
25 husband and a wife and two kids, it's a lot more

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1 than that today, and that's what I think you have
2 to debate and discuss when you deliberate this
3 issue.
4 MR. JOHNSON: Thank you.
5 THE WITNESS: You're welcome.
6 CHAIRMAN MICHALSKI: Just to be clear,
7 Mr. Burgis, you cited certain other collective
8 living facilities that Municipal Land Use Law
9 requires be permitted in the proposal. Is it true
10 that it does not include the CSLR's?
11 THE WITNESS: I'm not certain that
12 that is the case. I was involved in a case -- in
13 fact, I was involved in a case in Bergen County
14 that the board denied and they won on appeal, so
15 yes, there are cases involved in the CSLR's that
16 I'm intimately familiar with that the Appellate
17 Court has supported.
18 MR. SALERNO: Mr. Chairman,
19 respectfully, that wasn't your question. Your
20 question --
21 MS. COSENZA: Use the mike.
22 MR. SALERNO: Your question was, was it
23 included, is that use included in the group that he
24 mentioned under 40:55E-66.1.
25 CHAIRMAN MICHALSKI: That's my question.

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1 MR. SALERNO: That's your question. His
2 answer was not responsive.
3 THE WITNESS: I didn't understand it to
4 be -- I thought he was asking about the cases.
5 CHAIRMAN MICHALSKI: No. I was not
6 asking about the cases. I was asking about the
7 Municipal Land Use Law and the requirements for
8 where facilities are mandated to be.
9 THE WITNESS: To answer that question,
10 the MLUL does not address this issue.
11 CHAIRMAN MICHALSKI: All right.
12 THE WITNESS: And just a correction, so
13 I don't have to come back another time, what I was
14 referring to, it became a Federal District Court
15 case.
16 CHAIRMAN MICHALSKI: When you speak of
17 the need for municipalities to give considerations
18 to these other facilities, you talk about the
19 inherently beneficial uses and inherent benefits.
20 Is that consideration not more properly made under
21 consideration of the variance, use variance? They
22 don't usually talk about inherently beneficial uses
23 in the context of interpreting a decision made by a
24 zoning official just in the context of a --
25 THE WITNESS: You would undoubtedly hear

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1 that argument if you get to that point, but what
2 I'm also --
3 CHAIRMAN MICHALSKI: But we don't
4 consider this part of the interpretation.
5 THE WITNESS: Well, I think it helps in
6 forming your decision and the focus of your inquiry
7 is do these residents represent a family or not.
8 All this other discussions is somewhat ancillary to
9 that prime question and my reading of your
10 ordinance in my review of case law and my reading
11 of Chief Raywood's letter describing what the DCA's
12 position is in terms of what this use constitutes I
13 think is quite informative on the matter.
14 CHAIRMAN MICHALSKI: Other questions?
15 MS. BRANDT: Mr. Burgis, the third party
16 operators who live on site, is it one or two who
17 live on the site?
18 THE WITNESS: It's certainly one. I
19 believe there was a second one. I'm not sure.
20 MS. BRANDT: Okay. Are they considered
21 part of this family unit?
22 THE WITNESS: No.
23 MS. BRANDT: So they're living in one of
24 the rooms similar to the rest --
25 THE WITNESS: Yeah.

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1 MS. BRANDT: -- of the residents?
2 THE WITNESS: There is a limitation on
3 occupancy, excluding operators.
4 CHAIRMAN MICHALSKI: Board, questions?
5 Do our experts have questions?
6 MR. MARUCCI: I actually have one, Mr.
7 Chairman, if I may.
8 CHAIRMAN MICHALSKI: Go ahead, Mr.
9 Marucci.
10 MR. MARUCCI: Mr. Burgis, my concern is
11 the word transient, that you said this is not a
12 transient type use. The occupants have to stay a
13 minimum of 90 days?
14 THE WITNESS: Yes.
15 MR. MARUCCI: What's the maximum? Is
16 there a limit or --
17 THE WITNESS: There is no limit, as I
18 said, mentioned earlier.
19 MR. MARUCCI: So the point is that
20 there's -- it's not consistent. In other words,
21 one person could be there for 90 days, another one
22 for 180 days. There's a constant turnover. Isn't
23 that transient, like a boarding house?
24 THE WITNESS: Not in the context of this
25 use and not in the context of community residences.

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1 It's a general proposition.
2 MR. MARUCCI: I disagree, but that's my
3 opinion.
4 CHAIRMAN MICHALSKI: Board, do you have
5 questions?
6 Mr. Salerno, do you have questions?
7 MR. SALERNO: I defer to the audience
8 first.
9 CHAIRMAN MICHALSKI: Certainly.
10 Is there any member of the public who
11 wishes to come forward and ask question to this
12 witness?
13 Come on up. We'll need your name and
14 address.
15 MS. COSENZA: Come to the mike.
16 CHAIRMAN MICHALSKI: Just remember that,
17 I'll remind everyone, this is the time for
18 questions regarding the witness' testimony and not
19 about your personal opinions on the matter.
20 MR. WILLIS: I'm not going to --
21 MS. COSENZA: State your name and
22 address for the record.
23 MR. WILLIS: My name is Arthur Willis,
24 140 Williamson Avenue, Bloomfield, New Jersey.
25 MS. COSENZA: I'm sorry. 140?

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1 MR. WILLIS: Williamson.
2 MS. COSENZA: Thank you. Go ahead.
3 MR. WILLIS: I will make a comment,
4 though.
5 MS. COSENZA: No.
6 MR. WILLIS: I am going to make a
7 comment.
8 MS. COSENZA: This is questions.
9 MR. WILLIS: I'm making plenty of
10 comments.
11 MS. COSENZA: Are they making comments
12 now?
13 MR. WILLIS: I'm speaking now, making
14 comments.
15 CHAIRMAN MICHALSKI: No. There's a
16 time --
17 MR. WILLIS: Okay. I will ask
18 questions. We're only asking questions of the
19 professionals, correct?
20 CHAIRMAN MICHALSKI: Correct.
21 MR. WILLIS: The expert witnesses?
22 CHAIRMAN MICHALSKI: Correct.
23 MR. WILLIS: I'll start with that.
24 Mr. Burgis --
25 THE WITNESS: Yes.

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1 MR. WILLIS: -- question, are you a paid
2 witness?
3 THE WITNESS: Yes. I hope so.
4 MR. WILLIS: Paid expert witness?
5 THE WITNESS: Yes.
6 MR. WILLIS: Would we be able to hire
7 you, the residents of Bloomfield, as an expert
8 witness?
9 THE WITNESS: On another matter.
10 MR. WILLIS: In another matter could we
11 ask you to define family as something other than
12 what you're defining it today? Would you be --
13 MR. LOTT: Mr. Chairman --
14 THE WITNESS: No.
15 MR. LOTT: Mr. Chairman, the
16 question's --
17 MR. WILLIS: It's a question.
18 MR. LOTT: -- inappropriate.
19 MR. WILLIS: I'll skip it. Don't even
20 bother that, to answer that. Sorry.
21 So you mentioned earlier that the CSLR
22 requires that there be 24-hour staffing, that the
23 personnel be licensed and what is the number of
24 staffing that you just answered to?
25 THE WITNESS: Two.

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1 MR. WILLIS: And are they licensed?
2 THE WITNESS: You'll have to ask Mr.
3 Meade when he testifies.
4 MR. WILLIS: So you don't know if
5 they're licensed?
6 THE WITNESS: I don't recall. I know we
7 discussed it but I don't want to give you the wrong
8 answer.
9 MR. WILLIS: Okay. I'll come back to
10 that.
11 You mentioned that there will not be, in
12 Hazel Home, Hazelwood House, no more than two
13 occupants to a single room. There will not be two
14 occupants to a single room; isn't that what you
15 said?
16 THE WITNESS: I'm trying to recall if
17 there was one room with three beds. I just don't
18 recall.
19 MR. WILLIS: Are you familiar with what
20 the publication says in terms of the room set-ups?
21 THE WITNESS: Yeah. I've been in the
22 building. It's been a while.
23 MR. WILLIS: Okay. When you visited was
24 that before or after the unfortunate demise of the
25 resident that was there?

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1 THE WITNESS: After.
2 MR. WILLIS: It was after?
3 THE WITNESS: Yes.
4 MR. WILLIS: Okay. So are you familiar,
5 then, with the staffing that was there at the time
6 of that incident?
7 THE WITNESS: I don't know who the
8 staffing was.
9 MR. WILLIS: Do you know who the
10 staffing is now?
11 THE WITNESS: No.
12 MR. WILLIS: Okay. Have you seen the
13 police report with regard to that incident?
14 THE WITNESS: No.
15 MR. LOTT: Mr. Chairman, this is
16 irrelevant. It's outside the scope of his --
17 MR. WILLIS: Well, first of all, you
18 asked the same question. You mentioned it. I
19 wouldn't mention it. Only reason I'm mentioning it
20 because it was a question you asked him earlier.
21 CHAIRMAN MICHALSKI: Mr. Lott, we gave a
22 lot of latitude both to your testimony and the
23 questions by the public, so bear with us. If it's
24 inappropriate I'll ask him to restate it, but
25 otherwise let's proceed.

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1 MR. WILLIS: Let's see. The relevance
2 is, you mentioned that the facility goes beyond
3 what most is required for CSLR's and you said that
4 they had cameras, so with that being said, if you
5 were familiar with the police report and you're
6 familiar with the fact that they have cameras, then
7 you'll be familiar with the occupants or whoever
8 was there in terms of staff present at the time,
9 would you not?
10 MR. LOTT: Mr. Chairman, there's a lot
11 of assumption in all of that question.
12 THE WITNESS: Mr. Willis, all I can tell
13 you is I'm here as a professional planner to
14 discuss whether this group of people living
15 together constitute a family or not.
16 MR. WILLIS: Okay. Let's go with
17 family.
18 THE WITNESS: That was the focus of my
19 presentation.
20 MR. WILLIS: Okay. Is Hazel House a
21 business?
22 THE WITNESS: Yes.
23 MR. WILLIS: Okay. And you said
24 operating as a family?
25 THE WITNESS: Yes.

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1 MR. WILLIS: But it files a business
2 designation. Are most families filed as business
3 designations?
4 THE WITNESS: No different than a
5 landlord that has a business and rents an apartment
6 or a lease.
7 MR. WILLIS: So there's a landlord and a
8 family owner?
9 THE WITNESS: Let me finish.
10 MR. WILLIS: I'm sorry.
11 THE WITNESS: The fact that that
12 landlord may be making a profit on the renters he
13 or she rents to doesn't diminish the fact that he
14 or she is renting to a family.
15 MR. WILLIS: Okay. So if Hazelwood
16 House is the landlord --
17 THE WITNESS: If you want to look at it
18 in that context, then look at it --
19 MR. WILLIS: -- and then the residents
20 of Hazelwood House are tenants?
21 THE WITNESS: If you want to look at it
22 in that context, yes.
23 MR. WILLIS: Okay. Earlier you asked --
24 or the discussion between the attorneys basically
25 with regard to the zoning definitions versus land

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1 use, etcetera, definition, family, etcetera.
2 THE WITNESS: No. Actually, they were
3 discussing issues of zoning permits versus
4 certificates of --
5 MR. WILLIS: Right. Apples and oranges,
6 right?
7 That was the quote I used the last time
8 I was here. The difference is apples and oranges?
9 THE WITNESS: From my perspective,
10 that's a separate issue from whether or not these
11 people constitute a family. The fact that someone
12 made the zoning permit or certificate of occupancy
13 would not negate the fact that they are a family,
14 which is the question before the board.
15 MR. WILLIS: So if the definition of
16 family is determined by the township,
17 municipality --
18 THE WITNESS: It's established in the
19 zoning ordinance with a specific definition of that
20 term.
21 MR. WILLIS: So then Bloomfield Township
22 has the responsibility of defining what a family
23 is, then; would that be correct?
24 THE WITNESS: Yes.
25 MR. WILLIS: Okay. And if that's

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1 correct, would it make sense, then, that we really
2 don't necessarily have to be here because they've
3 already defined what family is, what a single
4 family dwelling is?
5 THE WITNESS: The municipality rejected
6 this application on the fact that their position is
7 that this is not a family. The applicant has the
8 right to file an appeal of that determination.
9 We're arguing that basically the very specific
10 language of the ordinance, definition of family is
11 something that Hazel House is consistent with.
12 MR. WILLIS: Okay. So the question with
13 regards to the residents, again, have you met the
14 residents of Hazel House?
15 THE WITNESS: I met a few.
16 MR. WILLIS: You met a few?
17 THE WITNESS: Yeah.
18 MR. WILLIS: Have those residents been
19 there longer than three months at the time that you
20 met them?
21 THE WITNESS: Some had been.
22 MR. WILLIS: I believe you said DCA
23 required a C of O or CCO as part of the
24 requirements for --
25 THE WITNESS: No.

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1 MR. WILLIS: No? It wasn't necessary?
2 I think that was -- it wasn't necessary?
3 THE WITNESS: Correct.
4 MR. WILLIS: If I were -- well, never
5 mind. Skip that.
6 I'm trying to get to the actual
7 ordinance. I think it was ordinance 42 -- whatever
8 it was, the ordinance you had mentioned earlier, it
9 had required that the occupants be a family or, for
10 instance, for CSLR --
11 THE WITNESS: You just lost me.
12 MR. WILLIS: I was trying to remember
13 the ordinance that was mentioned earlier and I
14 can't recall what it was.
15 THE WITNESS: The zoning ordinance is
16 Chapter 315.
17 MS. COSENZA: He's talking about the
18 Municipal Land Use Law.
19 MR. WILLIS: The municipal -- yeah.
20 MS. COSENZA: Municipal Land Use Law
21 he's talking about.
22 THE WITNESS: Oh, okay, the Municipal
23 Land Use Law.
24 MR. WILLIS: Yeah. I can't remember the
25 ordinance. Anyway, you had mentioned that the

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1 occupants be family, correct?
2 THE WITNESS: Now I'm not, now I'm not
3 sure what you're referring to.
4 MR. WILLIS: That's fine. We'll skip
5 it.
6 THE WITNESS: The Municipal Land Use Law
7 is a statute. It's not an ordinance and doesn't
8 talk about --
9 MR. WILLIS: Okay. That's fine.
10 In your professional opinion as a
11 planner are you accustomed to seeing as many homes
12 of this use in one area?
13 THE WITNESS: No. I know there's a
14 number but if we understand the proposition that
15 these uses are considered a family allowed to
16 occupy a single family dwelling, they can occupy
17 anything in the neighborhood.
18 MR. WILLIS: I didn't --
19 THE WITNESS: They can occupy houses in
20 the neighborhood.
21 MR. WILLIS: Right, but the question I'm
22 asking you is, in your professional opinion have
23 you seen this many single use CSLR's in one area,
24 in a one block radius, for instance?
25 THE WITNESS: I don't know that I've

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1 seen this number in a one block radius.
2 MR. WILLIS: Okay. So would you think
3 that odd to see that number in a one block radius?
4 THE WITNESS: Well, would I say it's
5 somewhat unusual, I haven't seen it elsewhere, I
6 would say yes, but again, the law permits that.
7 MR. WILLIS: Have you ever seen it
8 before?
9 THE WITNESS: I've seen CSLR's before,
10 yes.
11 MR. WILLIS: No. Have you seen that
12 number, that --
13 THE WITNESS: I said I have not.
14 MR. WILLIS: You have not, okay.
15 Thanks.
16 I think in your definition of family
17 earlier, you were speaking to the chairman, you had
18 mentioned that the residents needed to clean their
19 rooms, that was the determination for being family,
20 or clean the whole house?
21 THE WITNESS: No. No. No. The
22 definition of family is one thing. Now you're
23 talking about the rules of the house and one of the
24 rules of the house is that everybody has to
25 participate in housekeeping.

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1 MR. WILLIS: Okay. And I think you
2 mentioned also that the rules of the house, if
3 someone was found to be carrying illegal
4 substances, alcohol or drugs, they could be
5 expelled from the house?
6 THE WITNESS: If they are abusing, they
7 can be expelled, yes. They're required to be
8 expelled.
9 MR. WILLIS: Okay. Is there a check and
10 balance system? Is there some way of checking if
11 some -- is someone supervising the individuals in
12 these homes?
13 THE WITNESS: I believe --
14 MR. WILLIS: In particular Hazel House.
15 THE WITNESS: -- there are checks from
16 the residents but when Mr. Meade testifies next you
17 can ask him that if you prefer.
18 MR. WILLIS: I'll ask my rest of
19 questions to Mr. Meade, then. Thanks, a lot.
20 CHAIRMAN MICHALSKI: Thank you.
21 Anyone else?
22 MR. LOTT: Mr. Chairman, we've gone
23 about an hour and 40 minutes so far. I think maybe
24 we should take a break and then we'll hear the
25 questions for --

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1 CHAIRMAN MICHALSKI: All right. You'll
2 be first. We're going to take a break to give the
3 stenographer a rest.
4 PUBLIC MEMBER: Okay. You want me to
5 go, then?
6 MS. COSENZA: We'll come back.
7 CHAIRMAN MICHALSKI: You'll be first.
8 We'll take a 10 minute break.
9 (A brief recess was taken.)
10 CHAIRMAN MICHALSKI: We were having
11 questions for the professional planner and Miss
12 Emily Smith was first. Give us your name and
13 address, please. I'll remind everyone these are
14 just questions directed to his testimony.
15 MS. SMITH: Correct. My name is Emily
16 Smith, I live at 30 Clarendon Place.
17 Mr. Burgis, how do the taxes on these
18 structures compare to a regular single family?
19 MR. LOTT: Mr. Chair, it's outside his
20 area of expertise. I'll object.
21 MS. SMITH: Okay.
22 CHAIRMAN MICHALSKI: You may try the
23 owner if he testifies. This gentleman doesn't
24 know.
25 MS. SMITH: Okay. What about the number

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1 of service calls, how do they compare to facilities
2 like this and how do they compare to single family
3 residences?
4 THE WITNESS: I didn't look into that
5 because my focus, my analysis was the determination
6 as to whether or not the Hazel House residents
7 constitute a family or not, irrespective of number
8 of service calls.
9 MS. SMITH: Okay. So the number of
10 service calls wouldn't enter into that equation.
11 In terms of the definition of family,
12 does that apply to what goes on in the interior of
13 the structure, not the exterior? In other words,
14 could this family structure be located in a
15 business area above a book store or next to a
16 restaurant?
17 THE WITNESS: No. The DCA regulations
18 specifically talk about this kind of a use in a one
19 family or two family dwelling.
20 MS. SMITH: Okay. As Mr. Wills pointed
21 out, there are a number of facilities in a two to
22 three block area. This would be the fifth were it
23 approved. What -- any idea what the cut-off would
24 be in terms of number of facilities? Five -- would
25 10 be too many? Would that still constitute being

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1 in a residential area?
2 THE WITNESS: Yes, because these are
3 considered single family dwellings.
4 MS. SMITH: So that single family
5 dwelling designation applies only to what goes on
6 on the interior of the structure, not to its
7 location?
8 THE WITNESS: It doesn't account for the
9 location because the DCA regulations specifically
10 talk about a single family dwelling. They don't
11 talk about single family zoning, per se.
12 MS. SMITH: That's my question. Could
13 this facility be located in a more business area?
14 THE WITNESS: If you find single family
15 dwelling there, yes.
16 MS. SMITH: Okay. Thank you.
17 Okay. You can't answer those other
18 questions. All right. Thank you.
19 CHAIRMAN MICHALSKI: Thank you.
20 Gentleman?
21 MS. COSENZA: State your name and
22 address for the record.
23 MR. MEITERMAN: Steve Meiterman, 16
24 Farmersville Road, Califon, New Jersey.
25 M-E-I-T-E-R-M-A-N.

<p style="text-align: right;">Page 81</p> <p>1 MS. COSENZA: M-E-I-T?</p> <p>2 MR. MEITERMAN: E-R-M-A-N.</p> <p>3 MS. COSENZA: And what town?</p> <p>4 MR. MEITERMAN: Califon.</p> <p>5 MR. SALERNO: Some notice.</p> <p>6 MS. COSENZA: Go ahead.</p> <p>7 MR. MEITERMAN: So I'm trying to</p> <p>8 understand the difference between the Class F,</p> <p>9 what's permitted in Hazel House versus what's</p> <p>10 permitted in single family, I'm trying to</p> <p>11 understand that, and as you're describing what</p> <p>12 takes place at Hazel House, I'm sitting here</p> <p>13 thinking to myself, all those things took place and</p> <p>14 take place in my private residence, and my wife and</p> <p>15 my son are here and we were talking about it and I</p> <p>16 said, that's what happens in our house every day</p> <p>17 and happened in our house every day and I just</p> <p>18 want -- so my question is -- I have several</p> <p>19 questions I'd like to ask to try to define the</p> <p>20 difference between a single family house, my</p> <p>21 typical single family house, my family and what</p> <p>22 Hazel House is doing, so to that end --</p> <p>23 MR. SALERNO: Mr. Chairman, I object to</p> <p>24 the question. The issue in this case has nothing</p> <p>25 to do with his family.</p>	<p style="text-align: right;">Page 83</p> <p>1 house?</p> <p>2 THE WITNESS: Yes, you could.</p> <p>3 MR. MEITERMAN: Do I need a CO each time</p> <p>4 one of my family members moves in and out?</p> <p>5 THE WITNESS: No.</p> <p>6 MR. MEITERMAN: Can I ask any of my</p> <p>7 family members to help maintain my house, cut the</p> <p>8 grass, clean the house, whatever?</p> <p>9 THE WITNESS: You could.</p> <p>10 MR. MEITERMAN: I could.</p> <p>11 Could we eat together or not eat</p> <p>12 together?</p> <p>13 THE WITNESS: Yes and yes.</p> <p>14 MR. MEITERMAN: Does zoning department</p> <p>15 ever get involved in rules or how I live in my</p> <p>16 house?</p> <p>17 THE WITNESS: No.</p> <p>18 MR. MEITERMAN: Can I hire a nanny to</p> <p>19 watch my young children?</p> <p>20 THE WITNESS: Yes.</p> <p>21 MR. MEITERMAN: Can I pay my nanny?</p> <p>22 THE WITNESS: Yes.</p> <p>23 MR. MEITERMAN: Can I have my nanny live</p> <p>24 in one of the rooms in my house?</p> <p>25 THE WITNESS: Yes, you can.</p>
<p style="text-align: right;">Page 82</p> <p>1 MR. MEITERMAN: True. I'll give you a</p> <p>2 broad -- broad questions that will relate to this</p> <p>3 case.</p> <p>4 MR. SALERNO: Where you from? Califon,</p> <p>5 did you say?</p> <p>6 MR. MEITERMAN: Yes.</p> <p>7 MR. SALERNO: Okay.</p> <p>8 MR. MEITERMAN: It's in New Jersey.</p> <p>9 MR. SALERNO: Oh, I know where it is.</p> <p>10 CHAIRMAN MICHALSKI: Please ask your</p> <p>11 questions.</p> <p>12 MR. MEITERMAN: Thank you.</p> <p>13 In New Jersey and in Bloomfield are</p> <p>14 there any zoning regulations that do not allow a</p> <p>15 single family homeowner to establish rules of</p> <p>16 conduct in this house?</p> <p>17 THE WITNESS: No.</p> <p>18 MR. MEITERMAN: Can those rules be</p> <p>19 written down?</p> <p>20 THE WITNESS: They could be.</p> <p>21 MR. MEITERMAN: Could I ask any of my</p> <p>22 family members to leave my house for any reason?</p> <p>23 THE WITNESS: Yes, you could.</p> <p>24 MR. MEITERMAN: Could I ask my</p> <p>25 30-year-old son if he does drugs to leave the</p>	<p style="text-align: right;">Page 84</p> <p>1 MR. MEITERMAN: Is it okay if my son,</p> <p>2 daughter, wife, uncle, aunt move in and out any</p> <p>3 time they want?</p> <p>4 THE WITNESS: Yes. That's true.</p> <p>5 MR. MEITERMAN: Do I need to apply for a</p> <p>6 zoning permit every time they do that?</p> <p>7 THE WITNESS: No, you don't.</p> <p>8 MR. MEITERMAN: Is there a time frame</p> <p>9 that I can allow my son to stay in the house with</p> <p>10 me?</p> <p>11 THE WITNESS: No.</p> <p>12 MR. MEITERMAN: Can I have him stay for</p> <p>13 90 days?</p> <p>14 THE WITNESS: You could.</p> <p>15 MR. MEITERMAN: A year?</p> <p>16 THE WITNESS: You could.</p> <p>17 MR. MEITERMAN: Okay. Can I have two of</p> <p>18 my sons live in the same room?</p> <p>19 THE WITNESS: Yes.</p> <p>20 MR. MEITERMAN: Can I have cameras in my</p> <p>21 house?</p> <p>22 THE WITNESS: Yes, you can.</p> <p>23 MR. MEITERMAN: Can I own my house in an</p> <p>24 LLC?</p> <p>25 THE WITNESS: Yes.</p>

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1 MR. MEITERMAN: How many houses can I
2 own in one particular area?
3 THE WITNESS: As many as you can.
4 MR. MEITERMAN: There's no cut off?
5 THE WITNESS: Correct.
6 MR. MEITERMAN: Does it matter how many
7 times the police were called to my house?
8 THE WITNESS: In terms of family
9 definition, absolutely not.
10 MR. MEITERMAN: Do I need a Class F
11 license to have my wife, sons, daughters, aunt,
12 uncles live in my house?
13 THE WITNESS: No.
14 MR. SALERNO: Mr. Chairman, I object.
15 These aren't planning questions. He's a planner.
16 MR. MEITERMAN: They're absolutely
17 planning questions. Absolutely.
18 Thank for the answers. I appreciate it.
19 MR. JOHNSON: Mr. Chairman, I have a
20 question for the --
21 CHAIRMAN MICHALSKI: You want me to
22 swear him?
23 MR. JOHNSON: Sure. I mean, if that's
24 required.
25 CHAIRMAN MICHALSKI: Well, that's

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1 usually later on when we ask questions.
2 MR. RUBIN: He's just asking questions.
3 MR. JOHNSON: I got it.
4 CHAIRMAN MICHALSKI: If he comes back
5 and he's sworn you can ask him questions.
6 Thank you, sir.
7 MR. MEITERMAN: Thank you.
8 CHAIRMAN MICHALSKI: Anyone else?
9 MS. COSENZA: State your name and
10 address for the record.
11 MR. PETILLO: David Petillo, 72
12 Hazelwood Road.
13 Mr. Burgis --
14 THE WITNESS: Yes.
15 MR. PETILLO: -- you've stated -- well,
16 the argument here is whether this is a single
17 family dwelling or not, right? That's the whole
18 crux of the matter?
19 THE WITNESS: The whole crux of the
20 matter is does this group of residents constitute a
21 family --
22 MR. PETILLO: A family.
23 THE WITNESS: -- or not.
24 MR. PETILLO: All right. Now, you
25 stated before that the occupants of this house are

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1 required to stay there 90 days?
2 THE WITNESS: Correct.
3 MR. PETILLO: Is that true?
4 THE WITNESS: Yes.
5 MR. PETILLO: Anybody here, including
6 yourself, that have children required to stay in
7 that house for 90 days, I don't think so.
8 THE WITNESS: No.
9 MR. PETILLO: So, therefore --
10 MR. RUBIN: Sir, you have to ask
11 questions. You can't answer your own questions.
12 MR. PETILLO: All right. Are they
13 required to stay in the house?
14 THE WITNESS: No, but if you, if you --
15 MR. PETILLO: No. Therefore, it can't
16 be a family.
17 THE WITNESS: Well --
18 MR. LOTT: Mr. Chairman, allow the
19 witness to answer the question.
20 CHAIRMAN MICHALSKI: One question at a
21 time, please.
22 THE WITNESS: If you are renting an
23 apartment and you sign a lease, you are there
24 for -- required to stay for a period of time.
25 MR. PETILLO: I'm not saying renting.

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1 I'm saying your family members.
2 MR. LOTT: Mr. Chairman, again, this is
3 not colloquy between the resident and the witness.
4 All right. This is an opportunity for residents to
5 ask questions within the scope of expertise that
6 the witness was qualified in.
7 MR. PETILLO: He's not answering the
8 question yes or no.
9 MR. SALERNO: In fairness to the
10 questioner, he's not a lawyer.
11 CHAIRMAN MICHALSKI: Can you restate the
12 question, please?
13 MR. PETILLO: Do your family -- are
14 family members required to stay in their house for
15 90 days?
16 THE WITNESS: Depends on the kind of
17 family you have.
18 MR. PETILLO: Not a family that we know
19 of.
20 THE WITNESS: The reality is that, and
21 as I said earlier, a family can constitute more
22 than just a spouse, a spouse and their children.
23 They could constitute a number of individuals
24 living together and they could establish their own
25 rules as they see fit.

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1 CHAIRMAN MICHALSKI: You have your
2 answer, sir.
3 MR. PETILLO: You stated that Hazel
4 House and the Oxford House at the other end of the
5 block are basically equal?
6 THE WITNESS: What do you mean by equal?
7 MR. PETILLO: Equal in their
8 designation.
9 THE WITNESS: No. They have different
10 models of operation.
11 MR. PETILLO: Models of operation.
12 Well, I assume that I can't ask this question
13 because it's not particularly related to Hazel
14 House.
15 CHAIRMAN MICHALSKI: That's true.
16 MR. PETILLO: I'll ask it later on.
17 Thank you.
18 CHAIRMAN MICHALSKI: Anyone else?
19 MS. COSENZA: State your name and
20 address for the record.
21 MS. BACHAN: Dana Bachan, 43 Brookside
22 Terrace, Verona, New Jersey.
23 MS. COSENZA: Can you spell it?
24 MS. BACHAN: B-A-C-H-A-N.
25 MS. COSENZA: Thank you.

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1 MS. BACHAN: This is kind of following
2 up with what he said, as far as people being
3 required to live in the house. I have three
4 children. Now, say when my child is four and
5 newborn, are they required to live with me for, you
6 know, until they're ready to live on their own or
7 until they're old enough to move out?
8 THE WITNESS: In a technical sense, yes.
9 MS. BACHAN: So you would say my
10 children, I'm required to raise my children until
11 they're old enough to live on their own or if there
12 was someone else that they could go to live --
13 THE WITNESS: That's a very good
14 analogy.
15 MS. BACHAN: Okay. I was trying to
16 figure that out. Thank you.
17 THE WITNESS: Thank you.
18 CHAIRMAN MICHALSKI: Any other
19 questions? Any from the board? The public?
20 Experts? You have a question? Here comes someone.
21 MR. WILLIS: Can I ask another one?
22 MS. COSENZA: We have someone coming up.
23 CHAIRMAN MICHALSKI: You had your chance
24 to ask questions.
25 MR. WILLIS: One shot and that's it?

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1 MS. LAVORADO: Robin Lavorado, 39
2 Westover Avenue, West Caldwell. L-A-V-O-R-A-D-O.
3 Just a quick follow-up question. So if
4 I was a family and I had children who were required
5 to stay with me until I'm 18-years-old and I was an
6 unfit mother, would it be okay for somebody else to
7 come in and take care of those children for me?
8 MR. SALERNO: Mr. Chairman, I object to
9 that question. I mean, really. Where are we going
10 here?
11 MS. LAVORADO: We're talking about
12 family. We're trying to establish what a family
13 is.
14 So if I couldn't take care of my
15 children, DCPP would come in and --
16 CHAIRMAN MICHALSKI: You have to ask
17 questions related to, within the expertise of the
18 professional planner. I think you're talking about
19 sociology or --
20 MS. LAVORADO: Right.
21 CHAIRMAN MICHALSKI: I think we're
22 getting far afield from this.
23 MS. LAVORADO: All right. Well, we're
24 talking about family. We have different kinds of
25 family that can protect people in the family and we

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1 have people that come in to protect, same thing, in
2 single family homes that are doing this kind of
3 work.
4 MR. LOTT: Mr. Chairman, perhaps it
5 would be appropriate to remind people there will be
6 an opportunity for public comment.
7 CHAIRMAN MICHALSKI: I explained that in
8 the beginning but I'll say it once again. After
9 we're all done with all the testimony there will be
10 a period for public comment and everyone is invited
11 to come forward and be sworn in and provide
12 testimony and answer questions themselves.
13 Anyone else have a question for this
14 witness? No?
15 MR. SALERNO: I have.
16 MR. JOHNSON: Mr. Chair, I have a
17 question.
18 Mr. Burgis, in this -- this has been
19 touched on previously but I want to be clear. In
20 terms of the CLR meeting the definition of family
21 and, therefore, being allowed use, at least
22 according to your application, within a single
23 family zone, so that would suggest that -- and if
24 we accept that to be true, that would assume that
25 any single family zone in an R-1A zone within any

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1 community, be it Bloomfield or Verona, Caldwell,
2 Califon, wherever, would also, would also have to
3 accept an SLR?
4 THE WITNESS: Correct.
5 MR. JOHNSON: Correct?
6 And it is possible that every resident
7 or every household on that street could also be an
8 SLR? You could have a concentration of an entire
9 street of SLR's?
10 THE WITNESS: Yes.
11 MR. JOHNSON: Does the State of New
12 Jersey, is there any governance around the
13 concentration and number of SLR's within a small
14 area?
15 THE WITNESS: No.
16 MR. JOHNSON: There's not.
17 Do you think as a planner that there
18 should be?
19 THE WITNESS: No. These are -- these
20 represent facts today. Families are all different
21 types.
22 MR. JOHNSON: Well, this family is
23 different in that every member of the family has an
24 addiction. That's not true of most families.
25 PUBLIC MEMBER: Not true.

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1 MR. JOHNSON: It's not true of most
2 families, that's what I said. I said every member
3 of every family, that's not true.
4 PUBLIC MEMBER: I know many families
5 that have --
6 MR. JOHNSON: You know many families
7 that --
8 MR. RUBIN: Stop. I'm sorry. Ma'am,
9 you can't really do that. There can't be any
10 dialogue between the audience and members of the
11 board or have any audience participation that isn't
12 identified, sworn in and on the record. Okay? We
13 just can't do that.
14 CHAIRMAN MICHALSKI: Mr. Johnson, just
15 questions.
16 MR. JOHNSON: My question is, you said
17 that you, in your opinion there should be no
18 governance around the concentration of SLR's within
19 any community?
20 THE WITNESS: Yes.
21 MR. JOHNSON: So every household on this
22 street in your mind, in your best judgment, could
23 be an SLR, including your own street?
24 THE WITNESS: Yes.
25 MR. JOHNSON: Thank you.

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1 CHAIRMAN MICHALSKI: Anyone else? No?
2 Thank you, Mr. Burgis.
3 MS. COSENZA: Wait. Mr. Salerno has
4 questions.
5 CHAIRMAN MICHALSKI: So quiet, Mr.
6 Salerno. I forgot about you.
7 MR. SALERNO: Good to see you.
8 THE WITNESS: Good to see you.
9 MR. SALERNO: The State of New Jersey
10 promulgates statutes which regulate land use in the
11 State of New Jersey; is that correct?
12 THE WITNESS: Correct.
13 MR. SALERNO: We have a book, and I
14 think you have a copy in front of you, with those
15 statutes. There's a specific statute, which is
16 40:55D-661 -- 66.1 which specifically permits and
17 disallows municipalities from not allowing certain
18 uses in a single family zone; is that correct?
19 THE WITNESS: Allowed, yes.
20 MR. SALERNO: It allows, yes.
21 In Section 66.1 do you find your
22 client's use listed as one of those uses?
23 THE WITNESS: No. I said that at the
24 previous meeting. It is not listed and the other
25 end, it can be analogized to the -- it can be

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1 analogized in terms of some other uses.
2 MR. SALERNO: Are you familiar with the
3 letter from -- I forget his name -- from DCA who's
4 head of boarding and rooming houses?
5 THE WITNESS: Chief Raywood.
6 MR. SALERNO: Yes. Wherein he states
7 unequivocally that the zoning relating to your
8 client's property is within the province of the
9 Township of Bloomfield?
10 THE WITNESS: Yeah. He makes it clear
11 that municipalities -- actually, it was not Mr.
12 Raywood's letter.
13 MR. SALERNO: It was Mr. Raywood's
14 letter.
15 THE WITNESS: November 15th.
16 MR. SALERNO: The letter to Mr. Marucci.
17 THE WITNESS: Yes. I was, I was
18 thinking of a different letter.
19 MR. LOTT: Just so we're clear on this,
20 I think Mr. Salerno's referencing an e-mail that
21 Mr. Raywood had written Mr. Marucci as part of the
22 record of appeal on April 25th, 2019, which it was
23 Exhibit G. Want to see a copy of it?
24 MR. SALERNO: I don't remember the date.
25 I don't have it in front of me.

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1 MR. LOTT: It's in the record of appeal.
2 MR. SALERNO: That's the letter.
3 MR. LOTT: That's the letter?
4 MR. SALERNO: Yes. Thank you.
5 MR. LOTT: Let the witness look at that,
6 also, to refresh his recollection.
7 I have a late Christmas gift for
8 Mr. Salerno.
9 MR. SALERNO: Thanks. I have one.
10 You agree that's what it says?
11 THE WITNESS: I haven't found it yet.
12 CHAIRMAN MICHALSKI: I ask everyone to
13 draw their microphones very close, very near.
14 THE WITNESS: Yes. On the top of page
15 two, yes.
16 MR. SALERNO: Okay. Now, does
17 Bloomfield anywhere in the zoning ordinance provide
18 for a structure of any type that permits your
19 client's specific use?
20 THE WITNESS: It isn't identified by
21 name. The letter you're referring to specifically
22 says zoning and land use requirements remain the
23 jurisdiction of the municipality. We have been
24 saying the same thing. We've also been saying if
25 the board agrees with us, that this group of

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1 individuals constitutes a family as defined
2 Bloomfield, it would be permitted in all single
3 family --
4 MR. SALERNO: I understand what your
5 argument is.
6 THE WITNESS: We would argue, or I would
7 argue that it is permitted because I am arguing
8 that the definition of family is consistent with
9 what occurs in this, with this group.
10 MR. SALERNO: You would agree with me
11 that that's your opinion?
12 THE WITNESS: I would wholeheartedly
13 agree with you that that is my opinion.
14 MR. SALERNO: Your opinion, my opinion,
15 Mr. Lott's opinion are not binding on this board,
16 are they?
17 THE WITNESS: We'll see how persuasive
18 it is. That's all.
19 MR. SALERNO: That's the point, it's
20 their determination.
21 THE WITNESS: Correct.
22 MR. SALERNO: Okay. Now, did you look
23 at the application that your client made to Lucia?
24 THE WITNESS: I have, yes. Yes.
25 MR. SALERNO: Okay. What does it ask

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1 for?
2 THE WITNESS: They applied under rooming
3 and boarding house.
4 MR. SALERNO: Rooming and boarding
5 houses?
6 THE WITNESS: Yes. It's not just the
7 licensure under which CSLR's are incorporated.
8 MR. SALERNO: And the application that
9 they made to the Township of Bloomfield was for
10 what?
11 MR. LOTT: Just so we have some clarity
12 for Mr. Salerno, that was the zoning permit
13 application?
14 MR. SALERNO: I'm not sure if it was the
15 zoning permit application. Was there an
16 application which identified what the applicant was
17 applying for?
18 MR. LOTT: That would be the zoning
19 permit application and the record identifies it as
20 Exhibit F and Mr. Burgis can show you a copy of
21 what was applied for.
22 THE WITNESS: Zoning permit applied for
23 specifically says F class certification, boarding
24 for sober living.
25 MR. SALERNO: Boarding meaning boarding

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1 house?
2 MR. LOTT: I think I would object. I
3 don't think we should put words in the witness'
4 mouth. He read what was on the page.
5 MR. SALERNO: Speak for yourself. It
6 says boarding.
7 THE WITNESS: It says for sober living.
8 Sober living, sober living, a very specific
9 connotation in terms of the F class certification
10 and that's all spelled out in Mr. Raywood's --
11 MR. LOTT: Raywood.
12 THE WITNESS: -- November 15th
13 correspondence.
14 MR. SALERNO: Is there anything in
15 Bloomfield's zoning ordinance that refers to sober
16 living?
17 THE WITNESS: No, and if you take my
18 contention, it wouldn't have to because it's a
19 single family.
20 MR. SALERNO: I understand your
21 position. I think the board does, too. Like I
22 said, it's their determination, not ours.
23 Now, Mr. Marucci denied that and your
24 position is that based on the definition of single
25 family, that he was wrong in denying that

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1 application; is that true?
2 THE WITNESS: That is correct.
3 MR. SALERNO: And we've gone through an
4 exercise where the definition of family, I don't
5 think we need to hear much more about that, but you
6 did a comparison in your testimony of Oxford House
7 versus your client's proposed use.
8 THE WITNESS: Right.
9 MR. SALERNO: How many states does
10 Oxford House operate in?
11 THE WITNESS: I don't recall but I know
12 it's quite a few.
13 MR. SALERNO: Was it 35 plus? Sound
14 right?
15 THE WITNESS: Some reason in my mind I
16 thought it was 22 but --
17 MR. SALERNO: I got it from the website.
18 And have you examined their website?
19 THE WITNESS: Yes.
20 MR. SALERNO: Did you notice that they
21 have structure, they have on their website as to
22 how they operate?
23 THE WITNESS: Yes.
24 MR. SALERNO: Very specific?
25 THE WITNESS: They have a very specific

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1 manual.
2 MR. SALERNO: And they have a form of
3 their lease?
4 THE WITNESS: Yes.
5 MR. SALERNO: And the way they function,
6 you correct me if I'm wrong, but the parent, which
7 is Oxford House in that, does not deal directly
8 with the occupants; is that correct?
9 THE WITNESS: That is correct.
10 MR. SALERNO: And they have a local
11 entity that enters into written leases which is the
12 form on their website that sets forth the
13 relationship because of the concern about being
14 able to get rid of someone who violates whatever
15 the rules are; is that correct?
16 THE WITNESS: Yes.
17 MR. SALERNO: Okay. Does your applicant
18 have a lease for its occupants?
19 THE WITNESS: You will have to ask Mr.
20 Meade.
21 MR. SALERNO: Don't you think that was
22 relevant to comparison?
23 THE WITNESS: Not at all. I know
24 there's a monthly payment. I don't recall the
25 structure of that transaction.

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1 MR. SALERNO: Do you think it's
2 important to this board to know how one gets rid of
3 one family member that may violate the rules and
4 regulations?
5 THE WITNESS: Yes, and Mr. Meade's the
6 person who will provide that information. I'm the
7 planner who addresses the issue of whether or not
8 we're family.
9 MR. SALERNO: Did you look at the rules
10 and regulations that are submitted in evidence
11 today?
12 THE WITNESS: Yes.
13 MR. SALERNO: Do they provide for how
14 one removes someone from the premises?
15 THE WITNESS: I believe they do. As I
16 testified earlier, if one violates the prohibition
17 of, you know, drug or alcohol use, they are asked t
18 leave immediately. I know it's not one hour time
19 frame that I mentioned but that's built into their
20 whole process. The fact that Oxford House may do
21 one way and Hazel House does it another is the same
22 situation as one family handles their family
23 matters one way and another family handles their
24 family matters another.
25 MR. SALERNO: That's a distinction

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1 you're saying --
2 THE WITNESS: That was the -- the
3 question becomes do they constitute a family. For
4 all the reasons I said, you know, I believe --
5 MR. SALERNO: Yes. I believe you.
6 Thank you.
7 THE WITNESS: You'll hear it with every
8 response.
9 MR. SALERNO: Now, when they remove
10 someone, did you ask any questions with regard to
11 how they effectuated that as it applies to the
12 analysis you did of comparison to Oxford House?
13 THE WITNESS: No. I thought I explained
14 it in my earlier remarks this evening.
15 MR. SALERNO: I must have missed it.
16 THE WITNESS: I guess you did.
17 MR. SALERNO: Could you be kind and
18 reiterate?
19 THE WITNESS: I point out that, you
20 know, someone can -- maybe you should sit over
21 there.
22 They have a process whereby they assist
23 the individual in being relocated or finding a
24 detox facility or get them to wherever else they
25 would like to relocate to.

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1 MR. SALERNO: Okay. To your knowledge
2 is it against the law to take drugs?
3 THE WITNESS: That's what we're talking
4 about.
5 MR. SALERNO: Drug addicts, you know,
6 drugs.
7 THE WITNESS: Yes.
8 MR. SALERNO: Heroin.
9 THE WITNESS: Yes.
10 MR. SALERNO: You pick one.
11 THE WITNESS: Yes.
12 MR. SALERNO: It's against the law?
13 THE WITNESS: Yes.
14 MR. SALERNO: Is there anything in these
15 rules that requires any one in your client's
16 operation to contact the police to let them know
17 that someone is illegally using drugs on their
18 premises?
19 THE WITNESS: Whether --
20 MR. LOTT: I'm going to object to the
21 question. Isn't that the responsibility of every
22 citizen? He didn't testify to that.
23 MR. SALERNO: I know what he testified
24 to. I'm trying to ascertain --
25 MR. LOTT: He's not a law enforcement

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1 officer.
2 MR. SALERNO: -- what he's comparing --
3 MR. LOTT: What does this have to do
4 with family?
5 MR. SALERNO: Well, let's see.
6 MR. LOTT: He's not a law enforcement
7 officer.
8 MR. SALERNO: Okay. What you're saying
9 is we don't report it to law enforcement because
10 it's a family?
11 MR. LOTT: It's not what he said and
12 it's not what I said.
13 CHAIRMAN MICHALSKI: Just answer the
14 straightforward question. Is it part of the rules
15 or not?
16 THE WITNESS: Whether it's part of the
17 rules or not has nothing to do with whether this
18 group is a family or not and that is Mr. Meade's
19 responsibility when he testifies. That's not my
20 role here. It's not what I testified to. My role
21 is related to family the way --
22 MR. SALERNO: Mr. Chairman, I'm
23 satisfied, it's a bad question.
24 MR. LOTT: Mr. Chair, it's an absurd
25 question. It assumes that my client operates

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1 outside of the law.
2 MR. SALERNO: You have someone that --
3 MR. LOTT: It's extremely prejudicial.
4 CHAIRMAN MICHALSKI: I don't think
5 anyone assumes that, certainly Mr. Salerno doesn't.
6 Straightforward question. If he can
7 answer it, answer it.
8 THE WITNESS: I thought I gave my
9 answer, Mr. Chairman.
10 CHAIRMAN MICHALSKI: Let's move on, Mr.
11 Salerno.
12 MR. SALERNO: Yes, Mr. Chairman.
13 Is there a CO that's been issued for
14 this property?
15 THE WITNESS: There was -- I don't
16 remember the date. Exhibit A in the record on
17 appeal shows CCO was issued to the prior owner on
18 the south of the property that indicates the sale
19 of the --
20 MR. SALERNO: Obviously.
21 THE WITNESS: Obviously. You asked the
22 question.
23 MR. SALERNO: I asked about a CO.
24 THE WITNESS: No.
25 MR. SALERNO: Presently there is no CO

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1 for the present use; is that correct?
2 MR. LOTT: I'm going to object to the
3 question. All right. I mean, you have to step
4 back and use a little bit of common sense. How can
5 a continued certificate of occupancy be issued
6 unless there's a CO? There was a determination
7 made by the official having responsibility that the
8 property combined with zoning and all the other
9 requirements in the Township of Bloomfield, that is
10 evidenced by the issuance of the CCO.
11 MR. SALERNO: Where is the certificate
12 of occupancy for the work that was done subsequent
13 to your client acquiring the property?
14 MR. LOTT: There were permits obtained.
15 The permits were obtained through DCA.
16 MR. SALERNO: Was there a stop work
17 issued?
18 MR. LOTT: There was a stop work order
19 that was inappropriately issued.
20 MR. SALERNO: Did you challenge that?
21 MR. RUBIN: Mr. Salerno, what was the
22 question? It should be directed towards Mr.
23 Burgis.
24 MR. SALERNO: Yes, Mr. Rubin. I'm
25 sorry.

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1 The state regulations permit a maximum
2 of how many people to occupy the premises?
3 THE WITNESS: I believe it's eight, plus
4 staff.
5 MR. SALERNO: Doesn't it say 10,
6 exclusive of the management people?
7 THE WITNESS: It comes out to 10. I
8 said eight plus staff. There's two staff, so
9 that's 10.
10 MR. SALERNO: Which means that in this
11 instance they have two administrative personnel,
12 that's both people, maximum?
13 THE WITNESS: The building I believe is
14 designed for no more than 10.
15 MR. LOTT: I would suggest we take a
16 look at what the regulations say and what the
17 license says.
18 CHAIRMAN MICHALSKI: Mr. Salerno has
19 some specific questions and Mr. Burgis can give
20 specific answers.
21 MR. SALERNO: He testified how many.
22 I'm trying to get a clarification.
23 MR. LOTT: I would direct your attention
24 to Exhibit MM in the exhibit binder.
25 THE WITNESS: Capacity is eight.

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1 MR. LOTT: I'll ask the board to take
2 legal notice of the fact that DCA regulations allow
3 no more than 10 residents in a licensed CSLR,
4 exclusive of the operator, or up to two -- Cristin?
5 M. BOYLE: Up to two 24/7 staff.
6 MR. LOTT: Right. So in this case the
7 license allows less than the regulations provide
8 for.
9 MR. SALERNO: Was there a reason why
10 that this license doesn't permit the maximum?
11 MR. LOTT: I would respectfully ask
12 Mr. Salerno contact DCA.
13 MR. RUBIN: Or ask Mr. Meade.
14 MR. LOTT: I'm not sure Mr. Meade knows,
15 either, but we can ask him that.
16 MR. RUBIN: Correct. You can ask.
17 MR. SALERNO: Can I have a witness from
18 DCA?
19 MR. LOTT: You can call the DCA. I
20 don't intend to.
21 MR. SALERNO: I'll have to subpoena that
22 guy that wrote the letter.
23 Before you were asked a question about
24 somebody, somebody acquiring another property and
25 converting it to this use on this block. You said

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1 yes, they could do that?
2 THE WITNESS: Yes.
3 MR. SALERNO: Theoretically could some
4 unscrupulous person start coming to houses on the
5 block and reducing the value by moving in these
6 types of facilities?
7 THE WITNESS: I am not certain.
8 MR. LOTT: Objection. Mr. Chairman, the
9 characterization of people being unscrupulous. I
10 know what the word means but I don't see how it's
11 relevant to his prior testimony.
12 CHAIRMAN MICHALSKI: Please rephrase
13 that, Mr. Salerno.
14 MR. SALERNO: I'll ask the question
15 again.
16 Can someone buy a house on that block
17 and convert it?
18 THE WITNESS: Yes.
19 MR. SALERNO: And could they buy another
20 house on that block and convert it?
21 THE WITNESS: Yes.
22 MR. SALERNO: And as a planner do you
23 have a problem with the concept of converting the
24 principal uses within a single family zone?
25 MR. LOTT: I'm going to object to the

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1 use of the word converting. I don't think there's
2 been any testimony that the premises has been
3 converted. It's been occupied but it hasn't been
4 converted.
5 MR. SALERNO: Occupied.
6 MR. RUBIN: I don't think we should get
7 into these kind of semantic arguments. The fact of
8 the matter is that a single family home purchased
9 by you, Mr. Lott, wouldn't need a Class F license
10 to be occupied by your family.
11 MR. LOTT: That's true, nor would we
12 need a zoning permit.
13 MR. RUBIN: Please. Yet it's also true
14 that for this facility to occupy a single family
15 home, it's a Class F license, so to say that's a
16 conversion, whether it's a conversion from a zoning
17 point of view or a conversion from UCC's point of
18 view, it's a semantics argument. Let's not quibble
19 over those kind of things, please.
20 Sorry, Mr. Salerno. I didn't mean to
21 interrupt.
22 MR. SALERNO: That's okay.
23 THE WITNESS: What's the question?
24 MR. SALERNO: Could you read us the
25 question back?

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1 (The court reporter read back the
2 previous question.)
3 THE WITNESS: I do not have a problem
4 with this kind of a use occupying dwellings in a
5 single family neighborhood. From my perspective,
6 assuming the board confirms that they represent a
7 family, they are completely entitled to do that.
8 MR. SALERNO: Based on that statement
9 that you were a planner for a municipality --
10 THE WITNESS: Which I am.
11 MR. SALERNO: -- and they posed the
12 question to you with regard to creating the zone
13 for these uses, would you recommend that they do it
14 or would you leave it alone?
15 THE WITNESS: My position would be the
16 same as other municipalities, as I stated here, I
17 may try to buttress that by modifying or including
18 the Master Plan statement to that effect and making
19 it completely clear that this is a permitted
20 activity.
21 MR. SALERNO: When you reviewed the
22 Bloomfield Master Plan with all these updates, did
23 you find any mention of these types of facilities?
24 THE WITNESS: No.
25 MR. SALERNO: Did you find any mention

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1 of the concentration of these facilities in one
2 particular area?
3 THE WITNESS: I think there was one
4 reference to that.
5 MR. SALERNO: I guess it's fair to say
6 that in the State of New Jersey if you buy a single
7 family home in a single family zone, you're really
8 not in a single family zone because of this fiction
9 that we've created by law?
10 THE WITNESS: No. Actually, when you
11 talk about single family zones, that it is in the
12 zone, because right now the Municipal Land Use Law
13 has already been amended to allow for five
14 different categories of community residences.
15 There are other uses that are often found in what's
16 presumed to be pure single family residential zones
17 and municipalities permit a variety of uses. There
18 are other uses in those zones, as well, so the
19 whole concept of pure single family, it's --
20 MR. SALERNO: But there --
21 THE WITNESS: -- really a misnomer.
22 MR. SALERNO: So there really is no
23 single family zone in New Jersey purely?
24 THE WITNESS: There may be in some
25 municipality but the general proposition, the fact

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1 that in every single residential zone in every
2 single municipality in the state allows these five
3 different categories of community residences are
4 willing to revise the --
5 MR. SALERNO: Which is as a result of
6 litigation that precipitated the legislature to
7 change the law, correct?
8 THE WITNESS: I'll assume it's proper to
9 move that issue along.
10 MR. SALERNO: Because of that case the
11 legislature amended the law to allow those specific
12 categories?
13 THE WITNESS: And I think they started
14 off with one or two categories.
15 MR. SALERNO: That's because we haven't
16 re-examined the Land Use Law since 1975.
17 THE WITNESS: That is correct. Quite a
18 number of amendments to it at the time. We haven't
19 got a copy to answer the question.
20 MR. SALERNO: Exactly. That's the
21 problem.
22 If this were a two family home would DCA
23 be able to issue a Class F license?
24 THE WITNESS: With this use, yes. They
25 did. They did.

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1 MR. SALERNO: Two family home?
2 THE WITNESS: They could for a two
3 family. I thought you said single family.
4 MR. SALERNO: No. Two family.
5 THE WITNESS: Yes, because DCA's
6 position is that they are allowed, this use is
7 allowed in single and two family dwellings.
8 MR. SALERNO: I have no further
9 questions.
10 CHAIRMAN MICHALSKI: Thank you, Mr.
11 Salerno.
12 MR. RUBIN: Chairman, I just have a
13 couple questions, if I may.
14 CHAIRMAN MICHALSKI: Mr. Rubin.
15 MR. RUBIN: Mr. Burgis, I want to go
16 back to the community residences and the other uses
17 under 66.1 that you consider to be analogous.
18 These uses are permitted in all
19 residential zones, correct?
20 THE WITNESS: Correct.
21 MR. RUBIN: And the statute then goes on
22 to say that the requirements, therefore, should be
23 the same as for single family homes located in
24 these districts?
25 THE WITNESS: That is correct.

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1 MR. RUBIN: Hypothetically, there's a
 2 fairly good size lot in a zone, a residential zone
 3 that by its terms doesn't permit single family
 4 dwellings. For example, in Bloomfield the RG zone
 5 permits only garden apartments and multi-family
 6 dwellings and an applicant comes in and says I want
 7 to build a 10 family house and use it as a CSLR in
 8 this RG zone, which doesn't permit single family
 9 dwellings. How is the town supposed to treat that
 10 kind of an application?
 11 THE WITNESS: On a three use variance.
 12 MR. RUBIN: So it's a single family use
 13 that's permitted in all residential zones because
 14 it's a community residence or zone with
 15 developmental disabilities so it's permitted in all
 16 residential zones and it's to be treated as the
 17 same as for single family dwellings when it's
 18 located within such districts. Now, we have a
 19 district that doesn't permit these single family
 20 dwellings but it's required by law to make
 21 community residences for different people with
 22 developmental disabilities.
 23 THE WITNESS: Yes.
 24 MR. RUBIN: You're saying that even
 25 though it's permitted by statute it would still

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1 need a use variance?
 2 THE WITNESS: No. I cut you off because
 3 I thought I misunderstood the premise of the
 4 question.
 5 Yes, it is in a residential zone and the
 6 ordinance permits whatever residences are allowed
 7 and a community residence is permitted.
 8 MR. RUBIN: So what standard would the
 9 town implement or apply to government development
 10 of this 10 bedroom home in the RG zone where
 11 otherwise would not be permitted under our
 12 ordinance? What bulk standard would apply and --
 13 THE WITNESS: What are the -- it's the
 14 statute.
 15 MR. RUBIN: No. Single family homes are
 16 not permitted in the zone. That's the premise.
 17 The RG zone in Bloomfield permits only two types of
 18 residential uses. Just let me finish, please. It
 19 permits multi-family dwellings and permits garden
 20 apartments, mid rise apartment buildings and garden
 21 apartments. We have an ordinance -- we have a
 22 statute that says but these, this developmental
 23 disability home is also permitted there.
 24 THE WITNESS: Yes.
 25 MR. RUBIN: Subject to the same

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1 regulations applicable to single family dwelling
 2 units.
 3 THE WITNESS: Yes.
 4 MR. RUBIN: We have a zone that doesn't
 5 have any standards applicable to single family
 6 dwelling units because it's not permitted.
 7 THE WITNESS: Either way --
 8 MR. RUBIN: How does the town treat an
 9 application to develop a 10 bedroom single family
 10 home in this RG zone where it's permitted by
 11 statute but not by ordinance?
 12 THE WITNESS: The way the statute is
 13 worded, you would apply all the minimum area in
 14 bulk yard coverage, etcetera, standards to that --
 15 you say 10 bed facility?
 16 MR. RUBIN: Yes.
 17 THE WITNESS: Then you would have to
 18 apply those regulations to that.
 19 MR. RUBIN: Which zone? We have
 20 multiple --
 21 THE WITNESS: In the RG zone.
 22 MR. RUBIN: No.
 23 THE WITNESS: Well, whatever zone the
 24 site is located.
 25 MR. RUBIN: But it's not, it's not a

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1 garden apartment and it's not a multi-family
 2 dwelling. How do you apply both standards that are
 3 applicable to uses that are completely different
 4 from this use to this use?
 5 THE WITNESS: Let me ask you this. I'm
 6 not that familiar with your multi-family zone.
 7 Does your ordinance identify one set of regulations
 8 for multi-family?
 9 MR. RUBIN: No. There's different
 10 regulations governing garden apartments different
 11 from multi-family dwellings.
 12 THE WITNESS: Then they would have to
 13 come to this board to interpret it, but it's a
 14 permitted use.
 15 MR. RUBIN: Would site plan approval be
 16 required?
 17 THE WITNESS: I would think so.
 18 MR. RUBIN: You indicated these kinds of
 19 uses, community residences for developmental
 20 disabilities and all the uses listed under 66.1R --
 21 THE WITNESS: I'm sorry.
 22 MR. RUBIN: -- are analogous to the
 23 CSLR's, do you know whether there's any statutory
 24 restrictions on the concentration of the types of
 25 facilities that are referenced in 66.1?

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1 THE WITNESS: I think there used to be
2 but it was removed. I think there used to be. I
3 think there was a certain percentage of the
4 population, if I recall correctly, and no more than
5 that percentage for community residences and
6 there's one other cap on something. I forget but
7 that was --
8 MR. RUBIN: I want to read you provision
9 N.J.S.A. 30:11B-5, and it says: Geographic
10 locations of community residences for the
11 developmentally disabled, community residences for
12 the mentally ill and community residences for
13 persons with head injuries shall be monitored by
14 the Department of Human Services or Department of
15 Children and Families as applicable. Through the
16 granting or withholding of licenses, the respective
17 department shall insure that these residences are
18 available throughout the state without unnecessary
19 concentration in any area.
20 Now, if these facilities should be
21 restricted in some way by the state departments
22 from overly concentration -- being overly
23 concentrated in one area, doesn't that in of itself
24 distinguish them from being single family
25 dwellings?

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1 THE WITNESS: Yes.
2 MR. RUBIN: Thank you.
3 THE WITNESS: But can I just finish my
4 answer? I don't recall any case yet defines or
5 describes what that case may be.
6 MR. RUBIN: There is one case that I
7 found, Borough of Mercantile versus State of New
8 Jersey, Department of Human Services, 38 -- excuse
9 me, 325 N.J. Super. 258, which talks about large
10 geographic area involving multiple towns
11 Pleasantville, Mercantile, they said sorry, it's
12 too big an area and that's really the only case I
13 have found.
14 MR. LOTT: Mr. Rubin, I just have a
15 question. What did you read from?
16 MR. RUBIN: N.J.S.A. 30:11B-5.
17 MR. LOTT: That may be an inconsistent
18 statutory amendment dated in 1997. I have a copy
19 of it. We can probably brief the issue for the
20 next --
21 MR. RUBIN: I don't think you need to do
22 that. I think it goes more to the use variance
23 than it does to this but I'm just curious. It
24 seems to be this provision --
25 MR. LOTT: That would --

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1 MR. RUBIN: Believe me, it was amended
2 last in 2006, this provision in the ordinance, this
3 statutory provision, according to what I printed
4 out which is probably about two months ago.
5 MR. LOTT: If you read legislative
6 statement, I can provide this to you. The
7 citation, a Federal Court case, that would seem to
8 indicate that those restrictions may not be
9 enforceable. I don't doubt they exist in the
10 language of the statute but they may not be
11 enforceable. They may be found to be in violation
12 of the Fair Housing Act.
13 MR. RUBIN: I don't know if they've
14 challenged them. The only citation to that statute
15 that I have found was in the Borough of Mercantile
16 case. That's all I can tell you. If there are
17 other cases I didn't find them, which wouldn't
18 surprise me, by the way.
19 MR. LOTT: I'll provide you with a copy,
20 as well as Mr. Salerno.
21 MR. RUBIN: Okay.
22 CHAIRMAN MICHALSKI: Thank you, Mr.
23 Burgis.
24 THE WITNESS: Okay. Thank you.
25 MR. LOTT: That's all for Mr. Burgis?

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1 CHAIRMAN MICHALSKI: Yes.
2 MR. LOTT: I do have one more witness.
3 I don't think we're going to be able to finish him.
4 Does the board want to start him? It's up to the
5 board.
6 MR. RUBIN: I don't think there's any
7 chance we're going to finish Mr. Meade this
8 evening.
9 MR. LOTT: Right.
10 MR. RUBIN: Is that the only other
11 witness you have? I thought you were talking about
12 people from --
13 MR. LOTT: For the use variance hearing,
14 if that's necessary.
15 MR. RUBIN: Not for this?
16 MR. LOTT: That's correct.
17 MR. RUBIN: Okay. Thank you.
18 MR. LOTT: I have Mr. Meade ready. As I
19 said, I agree with Mr. Rubin, I don't think we're
20 going to finish him tonight. I think for purposes
21 of continuity the board should hear all of his
22 testimony uninterrupted. That's the decision of
23 the board. We're ready to proceed.
24 CHAIRMAN MICHALSKI: If that's your
25 suggestion, I agree, we should take Mr. Meade from

<p style="text-align: right;">Page 125</p> <p>1 the top at the next hearing. 2 MR. LOTT: So -- 3 MR. RUBIN: On the 6th of February 4 meeting, immediately following the other 5 application, which is probably 30, 45 minute 6 application, max. 7 MR. LOTT: We should be here no later 8 than 7:30? 9 MR. SALERNO: What's the date? 10 MS. COSENZA: February 6th. 11 MR. LOTT: I need to talk to the client. 12 CHAIRMAN MICHALSKI: Take a two minute 13 break. 14 (A discussion was held off the record.) 15 CHAIRMAN MICHALSKI: The board is back 16 in session. 17 MR. LOTT: Okay. I appreciate the 18 opportunity to confer with my client. I had 19 forgotten that my client is having knee surgery in 20 February and he will not be back until March. 21 MS. COSENZA: Let me give you the March 22 meeting. 23 MR. RUBIN: That's better. That will 24 clear up our agenda. 25 MS. COSENZA: The March meeting is March</p>	<p style="text-align: right;">Page 127</p> <p>1 MS. BRANDT: Aye. 2 MR. PUNO: Aye. 3 CHAIRMAN MICHALSKI: Anyone opposed? No 4 one opposed. 5 (At 10:20 p.m. proceedings were 6 concluded.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 126</p> <p>1 12th. 2 MR. LOTT: March 12th. As long as it's 3 not the Ides of March. 4 MR. RUBIN: Okay. March 12th. We're 5 getting -- March 12th, it seems to be. 6 MS. COSENZA: Is everybody else okay? 7 George, Anthony, you guys are okay with that? 8 MR. WILLIAMS: Better be, right? 9 MS. COSENZA: You better be. 10 CHAIRMAN MICHALSKI: The board nominates 11 this application to the regular meeting of 12 March 12th at 7:00 p.m. No further notice to be 13 required. 14 Can I have a motion to adjourn to 15 March 12th? 16 MR. STIVERS: Motion to adjourn to 17 March 12th. 18 CHAIRMAN MICHALSKI: Mr. Stivers. Who 19 seconds? 20 MR. JOHNSON: I'll second. 21 CHAIRMAN MICHALSKI: Mr. Johnson 22 seconds. 23 All in favor? 24 MR. STIVERS: Aye. 25 MR. JOHNSON: Aye.</p>	<p style="text-align: right;">Page 128</p> <p>1 CERTIFICATE 2 3 I, MICHELLE GRUENDEL, a Certified Court 4 Reporter and Notary Public of the State of New 5 Jersey, do hereby certify that the foregoing is a 6 true and accurate transcript of the testimony as 7 taken stenographically and digitally at the time, 8 place and on the date hereinbefore set forth, to 9 the best of my ability. 10 I DO FURTHER CERTIFY that I am neither a 11 relative nor employee nor attorney nor counsel of 12 any of the parties to this action, and that I am 13 neither a relative nor employee of such attorney or 14 counsel, and that I am not financially interested 15 in the action. 16 17 18 19 20 MICHELLE GRUENDEL, C.C.R. 21 C.C.R. License No. 30X100190500 22 Notary Public of the 23 State of New Jersey 24 25</p>

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