

William Meade/Hazel House application

***William Meade/Hazel House
Application***

10/10/2019

Condensed Transcript

Prepared by:

Robert Cirillo
Robert Cirillo, Inc.

Wednesday, October 16, 2019

Transcript of Proceedings

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1 TOWNSHIP OF BLOOMFIELD
ZONING BOARD OF ADJUSTMENT

2

3 In the Matter of : TRANSCRIPT

4 WILLIAM MEADE and HAZEL HOUSE: OF
LIVING SOBER IN NJ, LLC :

5 Appeal/Interpretation, or a :
use variance :

6 Map 18, Block 460, Lot 1 :
103 Hazelwood Road :

7 -----

8 Bloomfield Municipal Building
1 Municipal Plaza
Bloomfield, New Jersey
October 10, 2019
Commencing at 7:12 p.m.

10 BOARD MEMBERS PRESENT :

11 EDWARD MICHALSKI, Chairman
GREGORY MOORMANN, Member
12 THESSALONIA PRINCE, Member
JESSICA BRANDT, Member
13 LEO SCEURMAN, Member
TIM JOHNSON, Member

14

15 NICOLE COSENZA, Board Secretary
ANTHONY MARUCCI, Zoning Officer

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

17 MICHAEL S. RUBIN, ESQUIRE
Attorney for the Board

18

19 RIKER DANZIG SCHERER HYLAND & PERRETTI, LLP
BY: JAMES L. LOTT, JR., ESQUIRE
CRISTIN BOYLE, ESQUIRE
Attorneys for the Applicant

20 DIANE DITIZII, CCR, RMR
in association with

22

23 ROBERT CIRILLO, INC.
Certified Court Reporters
135 East Cedar Street
Livingston, New Jersey 07039
973) 740-1331

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1 (Exhibits A through GG premarked and
2 in binder.)

3 CHAIRMAN MICHALSKI: Moving on, we
4 come to item 4 under Old Business. Item 4 is the
5 Application of William Meade and Hazel House-Living
6 Sober in New Jersey, LLC, as Applicant, and
7 Geraldine and William Meade as owners for the -- it
8 actually should read Appeal/Interpretation or a use
9 variance and any such other relief as may be
10 required from the Zoning Ordinance of the Township
11 of Bloomfield to a cooperative sober living
12 residence in a residential one-family R-1A zone,
13 premises known as Map 18, Block 460, Lot 1, better
14 known at 103 Hazelwood Road.

15 Is there Counsel this evening for the
16 Applicant?

17 MR. LOTT: There is, Mr. Chairman.
18 Good evening, Mr. Chairman, members of the Board.
19 May it please the Board, James L. Lott, Jr.,
20 L-o-t-t, Riker, Danzig, Scherer, Hyland & Perretti,
21 Morristown, New Jersey on behalf of Geraldine and
22 William Meade and Hazel House Living-Sober in New
23 Jersey, LLC.

24 CHAIRMAN MICHALSKI: Thank you.
25 Before we get started, I wanted to give some

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1 INDEX TO WITNESSES

2 WITNESS PAGE

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8 INDEX TO EXHIBITS

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11 B Survey of 103 Hazelwood Road 3

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14 103 Hazelwood Road 3

15 E Class F License issued by NJ DCA 3

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17 GG Hazel House's Level 2 Recovery
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19 A1 Enlargement of Bloomfield Township
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22 of Exhibit A in binder 18

23 D1 Enlargements of photos in Exhibit D 26

24 D2 Enlargements of photos in Exhibit D 26

25 All exhibits moved into evidence at page 24

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1 information to the public so they understand what
2 we're doing.

3 MR. LOTT: She'd like to enter an
4 appearance.

5 CHAIRMAN MICHALSKI: Go ahead.

6 MS. BOYLE: Good evening, Mr.
7 Chairman and members of the Board. My name is
8 Cristin Boyle, also from Riker, Danzig, Scherer,
9 Hyland & Perretti & Perretti on behalf of the
10 Applicant Hazel House-Living Sober in New Jersey,
11 LLC and the Meades.

12 MR. LOTT: Mr. Chairman.

13 CHAIRMAN MICHALSKI: Thank you. I
14 see most of you are probably here this evening in
15 regards to this application; is that right?

16 ("Yes" responses from public.)

17 CHAIRMAN MICHALSKI: We have before
18 us this evening what essentially is a two-part
19 application. In the first part we will begin this
20 evening, the Applicant is asking for an appeal of
21 the zoning official's decision and/or
22 interpretation. This means that the zoning official
23 declined to issue a zoning permit for use of this
24 particular property and the Applicant is asking us
25 to reverse that decision based on facts of law and

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1 regulations of Community Affairs Department.
2 If the zoning official's position is
3 overturned, we'll be done with this matter. If the
4 zoning official's decision is reversed -- excuse me.
5 If the zoning official's decision is reversed, we'll
6 be done with this matter based on that decision. If
7 it's upheld, the Applicant is asking for a use
8 variance, and that will take place in the second
9 part of this application that we're hearing this
10 evening.
11 This evening we expect to hear from
12 the Applicant and his witnesses. The Board will not
13 be able to complete the first part of this
14 application hearing this evening because the Board's
15 professional planner is not available, and so we'll
16 have to hear from the Board's professional planner
17 at a future meeting before we conclude part one of
18 this application.
19 Does anyone have any questions
20 regarding that?
21 UNIDENTIFIED SPEAKER: Will you be
22 taking comments from the public then or should we
23 wait until the professional planner is here?
24 CHAIRMAN MICHALSKI: We normally take
25 comments from the public at the very end, but in

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1 view of the large number of people that are here
2 this evening, and the fact that this hearing will
3 stretch over several meetings, I plan to hear --
4 take public comment from members of the audience
5 this evening. And that will be specifically
6 regarding the first part of the application where I
7 described the Applicant has asked for an appeal and
8 interpretation of the zoning official's decision.
9 MS. PYSKATY: Yes. Good evening,
10 Board. The proper spelling of Christine, her last
11 name, please.
12 MS. BOYLE: Yes, it is Boyle,
13 B-o-y-l-e. And my first name is Cristin,
14 C-r-i-s-t-i-n.
15 MS. PYSKATY: Perfect. And the name
16 of the professional planner that's not present here
17 this evening?
18 CHAIRMAN MICHALSKI: It's the
19 Nishuane Group.
20 MS. PYSKATY: Excuse me?
21 CHAIRMAN MICHALSKI: The Nishuane
22 Group.
23 MS. PYSKATY: Thank you very much.
24 CHAIRMAN MICHALSKI: The order of
25 business this evening is going to be to hear from

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1 the Applicant and the Applicant's witnesses.
2 Following each witness, there will be an opportunity
3 to ask questions regarding the testimony of that
4 witness.
5 The second will be if there is
6 counsel for objectors, we'll hear from counsel for
7 the objectors. And again, there will be an
8 opportunity to ask questions of any witnesses they
9 may present.
10 The third part will be the open
11 public of discussion part where anyone who wishes to
12 come forward, be sworn in, and provide their own
13 testimony under oath. I would ask those people to
14 stand by because they will also be asked a few
15 questions.
16 Any questions regarding the
17 procedures, folks? Thank you.
18 Do you wish to be recognized, Mr.
19 Salerno?
20 MR. SALERNO: Yes. I don't know
21 where I fit in.
22 My name is Ralph J. Salerno. I live
23 at 83 Hazelwood Road, Bloomfield. I'm an attorney.
24 I'm appearing here this evening on my own behalf as
25 a property owner within 200 feet of the property,

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1 which is the subject matter of this application.
2 CHAIRMAN MICHALSKI: Thank you,
3 Mr. Salerno.
4 Counsel, you may proceed.
5 MR. LOTT: Chairman, in light of the
6 fact we don't think we're going to finish tonight,
7 could we first talk about scheduling the remainder
8 of the hearing, if necessary, because I have some
9 witnesses who cannot be here on October 17th?
10 CHAIRMAN MICHALSKI: October 17th is
11 not available. It's fully booked. So our next
12 regular meeting would be November 7th.
13 MS. COSENZA: Correct.
14 CHAIRMAN MICHALSKI: November 7th.
15 MR. LOTT: All right.
16 CHAIRMAN MICHALSKI: Seven p.m. and
17 right here.
18 MR. LOTT: So why don't we go ahead
19 and hold that date tentatively and I have to poll my
20 witnesses. Some of that will depend on how far we
21 get tonight.
22 CHAIRMAN MICHALSKI: Will they be
23 first, Ms. Cosenza, on November 7th?
24 MS. COSENZA: It depends on --
25 actually, yes, because they're starting tonight; so

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1 yes.

2 CHAIRMAN MICHALSKI: So you would be
3 first on the 7th. And what we can do when we're
4 done this evening, we'll adjourn it to the 7th and
5 at that time, we can adjourn to another date, if
6 that's not satisfactory.

7 MR. LOTT: Thank you, Mr. Chairman.
8 I appreciate the courtesy. A little bit more of
9 housekeeping.

10 Go ahead, Mr. Salerno.

11 MR. SALERNO: My expert is not
12 available on the 7th and I don't know what posture
13 we'll be at on the 7th where he may or may not be
14 needed.

15 CHAIRMAN MICHALSKI: We will endeavor
16 to have a date made available in the future. If not
17 the 7th, some further out date that would be
18 suitable for your expert.

19 MR. SALERNO: I will ask for one
20 further consideration. This is something personal,
21 but I'm presently undergoing chemotherapy so I have
22 a schedule, and I prefer if I could have a date
23 that's on my off week because right now I'm actively
24 in treatment today. So it would be helpful to me
25 personally. I normally wouldn't ask that, but under

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1 the circumstances. I'm also caring for my wife
2 who's presently in Hospice so I would ask this
3 Board's indulgence and cooperation with that.

4 MR. LOTT: Mr. Chairman, I think we
5 would certainly like to cooperate with Mr. Salerno.
6 Do you know your availability and
7 your witness' availability in November?

8 MR. SALERNO: I'm checking with him
9 now. I have to figure out my schedule.

10 CHAIRMAN MICHALSKI: Mr. Salerno,
11 we'll try to be considerate, and if we know the date
12 of the December meeting.

13 MS. COSENZA: I can find out right
14 now. It's December 12th.

15 CHAIRMAN MICHALSKI: December 12th.
16 The next regular meeting is November 7th is
17 available and then December 12th.

18 MS. COSENZA: Correct.

19 CHAIRMAN MICHALSKI: Any other
20 questions before we get started?

21 I'd like to take the opportunity to
22 thank all the members of the public for showing an
23 interest in our hearing this evening, and I
24 apologize for the parking situation that we weren't
25 aware of when we scheduled this special meeting.

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1 Counsel?

2 MR. LOTT: Just a little bit more
3 housekeeping that's not related to scheduling. Just
4 for purposes of the record, we compiled the Record
5 of Appeal that was transmitted by the zoning officer
6 to the secretary. We have copies for the Board, as
7 well as the public and objecting counsel.

8 CHAIRMAN MICHALSKI: I believe the
9 Board has copies. The public may wish to have
10 copies.

11 UNIDENTIFIED SPEAKER: Can you speak
12 louder? It's very hard for us to hear back here.

13 CHAIRMAN MICHALSKI: The Board has
14 copies of your memorandum. If the public wishes to
15 have copies, that's certainly fine.

16 MR. LOTT: It's not the memorandum.
17 It's the actual Record of Appeal. These documents
18 were transmitted by the zoning officer to the Board
19 secretary.

20 MR. RUBIN: I believe that all
21 members have this.

22 MS. COSENZA: And it's correct. And
23 it's the packet that I gave you from -- from
24 Anthony.

25 MR. LOTT: That's fine. I just

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1 wanted to confirm that all the Board members had it,
2 and to the extent that Mr. Salerno doesn't have it,
3 we'll certainly share a copy and we have extra
4 copies for members of the public as well.

5 As the Chairman indicated, we
6 provided the Board counsel with a legal memorandum
7 that outlines our legal position. We have copies
8 available for that also. Mr. Salerno was already
9 provided with a copy of that.

10 We also have -- and I did this
11 primarily for purposes of expedience. We also
12 prepared an exhibit binder that is premarked with
13 all of our documents. We have about 30 documents to
14 be entered. We'll certainly make a copy available
15 to Mr. Salerno and to the public. We'll provide the
16 appropriate witness foundation as we go along, but I
17 thought it would be helpful if the Board had our
18 premarked exhibit binder to perhaps save some time.

19 MS. COSENZA: Mr. Marucci, would you
20 like one of your own?

21 MR. MARUCCI: If you have an extra
22 one.

23 MR. LOTT: I have a short
24 introduction.

25 So there are few among us who don't

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1 have a family member, friend, coworker, or neighbor
2 who has suffered from the ravages of drug or alcohol
3 addiction. Indeed, the extent of the opioid crisis
4 alone is now recognized as a public health threat in
5 both New Jersey and throughout the nation.
6 In order to return to productive
7 healthy and happier lives, persons who are
8 recovering from drug and alcohol addiction, they
9 deserve the support of the community, as well as our
10 compassion, as well as a place to live sober before
11 being returned to larger society.
12 Persons recovering from drug and
13 alcohol addiction are considered to be disabled
14 under a variety of federal and state laws, including
15 the Americans with Disabilities Act, the Fair
16 Housing Act, the Rehabilitation Act, the New Jersey
17 Laws Against Discrimination and New Jersey Civil
18 Rights Act, and the Municipal Land Use Law.
19 Similarly, these laws require that
20 municipalities make reasonable accommodations
21 through relaxation of their zoning regulations in
22 order to accommodate a variety of sober living
23 arrangements that serve persons who are disabled and
24 recovering from drug and alcohol addiction. As
25 such, those persons recovering from drug and alcohol

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1 addiction, as well as their sober living
2 arrangements, enjoy great protection under the law.
3 Hazel House is a sober living
4 recovery residence that has received approval from
5 the New Jersey Department of Community Affairs
6 demonstrating that it has complied with department
7 regulations for operation of a sober living
8 facility.
9 Hazel House has also received a Level
10 2 NARR Recovery Residence Certification, which is a
11 voluntary national standard that is used for
12 recovery residences.
13 So with that background, I'd like to
14 talk for a little bit about why we're here tonight.
15 This matter began in April of 2019.
16 The Township zoning officer denied Hazel House's
17 application for a zoning permit. Hazel House has
18 appealed this determination to the Board. It seeks
19 an interpretation from the Board that the use of the
20 property as a sober living residence as a
21 single-family detached dwelling is permitted as of
22 right under the Township zoning code. In the
23 alternative, if the Board determines that Hazel
24 House's use does not constitute a single-family
25 dwelling, Hazel House will then seek a use variance.

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1 So the Board tonight must first
2 determine whether or not Hazel House -- Hazel
3 House's use of the property as a sober living
4 residence is permitted in the R-1A zone district
5 where single-family detached dwellings are
6 permitted.
7 Importantly, in determining whether
8 or not Hazel House's use of the property meets the
9 definition as a single-family detached dwelling, the
10 Board is bound by the plain language of its own
11 ordinance.
12 And I'd like to spend just a couple
13 of minutes to explain kind of the anatomy of the
14 ordinance. I think we have some of that excerpted
15 on boards for the Board and public to see and follow
16 along with.
17 MS. COSENZA: Whatever you're putting
18 up is going to be marked as an exhibit?
19 MR. SALERNO: Is this an opening
20 statement?
21 MR. LOTT: It's both an opening
22 statement and a legal argument, Mr. Salerno. Do you
23 have an objection to that?
24 MR. SALERNO: Yeah. I mean, it's
25 like you're testifying.

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1 MR. LOTT: No, I'm not testifying to
2 anything. I'm going to --
3 MR. SALERNO: The factual background
4 with regard to this application, that's testimony.
5 MR. LOTT: Everything I say is a
6 matter of public record, Mr. Salerno.
7 MR. SALERNO: Mr. Chairman, I have a
8 question. There's a court reporter here and you
9 record this.
10 CHAIRMAN MICHALSKI: Yes.
11 MR. SALERNO: There can only be one
12 official transcript.
13 MS. COSENZA: So which one is it is
14 what he's asking.
15 CHAIRMAN MICHALSKI: Mr. Rubin.
16 MR. RUBIN: I think that's up to the
17 Board.
18 CHAIRMAN MICHALSKI: The Board's
19 record -- the Board's recording will be the official
20 record.
21 MR. SALERNO: Thank you.
22 MR. LOTT: So just by way of
23 argument, we'll take a look at the Township zoning
24 ordinance. This is public law.
25 MS. COSENZA: Let's mark this exhibit

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1 A1, please.
2 MR. LOTT: This is in conflict with
3 our premarked.
4 MS. BOYLE: This is an enlargement of
5 what's been premarked as Exhibit A.
6 MS. COSENZA: You already have this
7 in here?
8 MS. BOYLE: Yes.
9 MR. LOTT: We'll mark the board --
10 MS. COSENZA: Just make sure we know
11 that.
12 MR. RUBIN: One second. What exhibit
13 is it marked in the --
14 MR. LOTT: A.
15 MR. RUBIN: Just A?
16 MS. BOYLE: Yes.
17 MR. RUBIN: So mark that A1, please.
18 (Enlargement of Bloomfield Township
19 Zoning Ordinance, as part of Exhibit A, is
20 marked Exhibit A1.)
21 MR. LOTT: I'd just like to walk
22 through for a moment with the Board kind of the
23 anatomy of the ordinance.
24 This is section 315-38 under Zoning
25 Regulation. Take note of the fact that the property

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1 is located in the R-1A zone district as part of the
2 Record on Appeal that was presented to the Board.
3 And the zone district permits, amongst other things,
4 single-family detached dwellings.
5 Again, with reference to Chapter
6 315-6, the definitions, the word dwelling is
7 defined.
8 Everybody has a copy of this before
9 them so I'm not going to read it. And the word
10 detached single-family is also defined, as well as
11 the words family and household.
12 MS. COSENZA: Is this also an exhibit
13 in the book?
14 MR. LOTT: Correct.
15 MS. COSENZA: Which exhibit is it in
16 the book?
17 MS. BOYLE: This is also under
18 Exhibit A. So I'm going to mark this A2.
19 MS. COSENZA: Yes, please. Thank
20 you.
21 (Enlargement of Definitions, as part
22 of Exhibit A in binder, is marked Exhibit
23 A2.)
24 MR. SALERNO: A was not in the
25 three-ring binder.

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1 MR. LOTT: We have to check our
2 binders. A was not in the binder.
3 We're checking.
4 MS. BOYLE: For clarification, the
5 enlargements are portions of Exhibit A. So they are
6 portions of the Definition section. There are two
7 different provisions that are set forth in Exhibit
8 A.
9 MS. COSENZA: I have it.
10 MS. BOYLE: 315-6 Definitions, and
11 315-8 Zoning Regulations.
12 MR. LOTT: Is everyone with us?
13 I'd like to call Joseph Burgis as my
14 first witness.
15 MS. COSENZA: There's a wireless mic
16 there. You're going to use that.
17 Raise your right hand.
18 JOSEPH BURGIS, having been sworn, testified as
19 follows:
20 follows:
21
22 MS. COSENZA: State your name for the
23 record.
24 THE WITNESS: Joseph Burgis,
25 B-u-r-g-i-s, for the record.

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1 MS. COSENZA: Thank you.
2 MR. LOTT: I'll direct the Board and
3 objecting counsel to the exhibits that were provided
4 in the binder identified as A, B, C, D, E, F, and
5 GG. I'll identify those for purposes of the record.
6 Exhibit A is the Bloomfield Township
7 Ordinance, which we just saw on the Board; Exhibit B
8 is the Survey of 103 Hazelwood Road; Exhibit C is
9 the current floor plan for 103 Hazelwood Road;
10 Exhibit D is our photographs of both the interior
11 and exterior of 103 Hazelwood Road; Exhibit E is the
12 Class F License issued by the New Jersey Department
13 of Community Affairs; Exhibit -- that was Exhibit E.
14 Exhibit F is the July 25th, 2019 inspection report
15 from the New Jersey Department of Community Affairs,
16 and Exhibit GG is Hazel House's Level 2 Recovery
17 Certification from NJNARR.
18 And with that, we'll ask -- I'll
19 provide the appropriate foundation for each of those
20 exhibits through Mr. Burgis.
21
22 DIRECT EXAMINATION BY MR. LOTT
23 Q Mr. Burgis.
24 A Yes.
25 Q Would you give the Board the benefit

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1 of your education, experience, and training?
2 A Certainly. I have a masters degree
3 in City and Regional Planning from Rutgers
4 University, obtained in 1975. I've been a planning
5 consultant since that time, initially with a firm in
6 Manhattan in 1980. I moved to New Jersey and I've
7 been a planning consultant, a licensed professional
8 planning consultant since that time. My license
9 number, 2450.
10 I'm also certified by the American Institute
11 of Certified Planners, and a member of the American
12 Planning Association.
13 My background -- I am president of Burgis
14 Associates which was founded in 1988 and we've been
15 planners now for approximately 50 municipalities at
16 present throughout New Jersey and New York State.
17 Over the course of my career, I've been planner to
18 about 80 municipalities throughout the State. And
19 we do the things that planners typically do that
20 you've heard about many times in the past. We
21 prepare master plans for our municipal clients. We
22 prepare redevelopment plans for our municipal
23 clients. We prepare reexamination reports. We
24 prepare ordinances designed to implement those
25 variance documents that I just mentioned. And we

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1 additionally review development applications on
2 behalf of our planning board and our clients.
3 In addition to that, another good portion of
4 our work is representing private development
5 interests before boards.
6 CHAIRMAN MICHALSKI: Any questions
7 regarding Mr. Burgis's qualifications as a
8 professional planner? No?
9 The Board will accept Mr. Burgis as
10 the professional planner licensed in the State of
11 New Jersey.
12 BY MR. LOTT
13 Q Okay. Mr. Burgis, you're familiar
14 with the Township zoning map?
15 A Yes, I am.
16 THE WITNESS: Is it all right if I
17 sit and relax?
18 MS. COSENZA: Yes.
19 THE WITNESS: Thank you.
20 MR. RUBIN: Not relax though.
21 THE WITNESS: That was an
22 understatement in the case.
23 MS. COSENZA: Please do me a favor,
24 too, and speak into the mic so everybody can hear
25 you because we have residents way far in the back

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1 UNIDENTIFIED SPEAKER: Thank you.
2 THE WITNESS: Will do.
3 Q So Mr. Burgis, you're familiar with
4 the Township zoning map?
5 A Yes, I am.
6 Q And you're familiar with the Township
7 master plan?
8 A I am.
9 Q And the Township zoning ordinances?
10 A Correct, yes.
11 Q Did you have an opportunity to visit
12 103 Hazelwood Avenue?
13 A I have.
14 Q And did you have an opportunity to
15 tour the surrounding neighborhood?
16 A I did.
17 Q And did you have an opportunity to
18 review the documents that I previously identified as
19 Exhibits A through F and GG?
20 A I have.
21 Q Do you intend to rely on those
22 documents in your testimony tonight?
23 A That is correct, yes.
24 MR. LOTT: I'd like to have those
25 documents entered into evidence before the Board.

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1 Any objection, Mr. Chair?
2 CHAIRMAN MICHALSKI: No.
3 MR. LOTT: Okay.
4 (Exhibits A through GG are entered
5 into evidence.)
6 Q Mr. Burgis, why don't we start with
7 the general description of the neighborhood, and
8 then we'll get a little more granular and go into
9 the actual subject property.
10 A Certainly. Essentially we're dealing
11 with a detached single-family residential
12 neighborhood. Hazelwood Road and the surrounding
13 streets are all developed with family residences,
14 primarily on 5,000 square foot lots.
15 There are three residential type properties
16 in the area. One is the Oxford House at 68
17 Hazelwood Avenue; secondly is the Real House at 60
18 Hazelwood Avenue, which is a halfway house for women
19 on parole or probation who are coming out of prison.
20 This is a preexisting nonconforming use, as far as
21 my records can tell.
22 In addition to that, there is the ARC of
23 Essex County at 24 Clarendon Road, which is a
24 community residence for people with developmental
25 disabilities. And then right behind our site is an

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1 office building containing, amongst other uses, a
2 kidney dialysis facility, basically at the corner of
3 Williamson and Belleville Street.

4 UNIDENTIFIED SPEAKER: How is that
5 relevant?

6 MR. RUBIN: Excuse me. You cannot
7 interrupt the proceedings, ma'am.

8 THE WITNESS: So essentially the
9 reason why I put that on the record is to give the
10 Board an indication of the surrounding development
11 pattern which reinforces the idea that we are
12 located in the midst of a single-family residential
13 community. Immediately to our west is the Garden
14 State Parkway right-of-way.

15 Q So let's talk for a minute about 103
16 Hazelwood specifically. How is that property
17 improved?

18 A That property is improved with a
19 detached single-family dwelling with a detached
20 two-car garage. The property occupies an area of
21 9860 square feet. Its dimensions include a total of
22 125 feet of frontage on Hazelwood Street and a depth
23 which varies from 72 feet along its westerly
24 property line and 98 feet along its easterly
25 property line.

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1 MR. LOTT: I'll refer the Board and
2 the public to Exhibit B which is the survey of the
3 property. We can display it, if the Board so
4 wishes.

5 CHAIRMAN MICHALSKI: Why don't you
6 display it for the public?

7 MR. LOTT: There's no enlargement of
8 it?

9 Sorry. We only have that in the
10 binder. It's not enlarged.

11 A We do have a number of photographs of
12 both the interior and exterior of the property and
13 building on site, which I would like to have
14 displayed.

15 MS. BOYLE: I believe that this
16 should be marked as D1 and D2. They're enlargements
17 of the exhibit currently -- that's been moved into
18 evidence as Exhibit D.

19 (Enlargements of photos in Exhibit D
20 are marked and moved into evidence as D1
21 and D2.)

22 Q Mr. Burgis, these are interior and
23 exterior photos of 103 Hazelwood?

24 A That is correct.

25 MS. COSENZA: Just a reminder,

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1 anything we mark, even though we have it in the
2 binder, if we're marking an enlargement, it stays
3 with the application when we're all done.

4 MS. BOYLE: Understood.

5 MR. LOTT: Absolutely.

6 A The upper left and upper center
7 photograph identifies the exterior of the property.
8 It's a conventional brick center hall -- it's a
9 conventional brick center hall colonial. It
10 typifies the residential character of the building.
11 Along the -- in center, upper center photograph we
12 are showing the driveway that leads from the street
13 to where the photographer was standing into the
14 site. The driveway extends about a depth of 80 feet
15 into the property's paved surface. In the
16 right-hand corner of that photograph, you can see
17 the detached two-car garage that exists on the
18 property.

19 The other photographs on this exhibit
20 illustrate the residential character of the interior
21 of the building. The photograph on the upper
22 right-hand corner is the entry foyer, and you could
23 see to the right is the dining room.

24 On the lower right-hand corner is the dining
25 room area. In the lower center photograph you see

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1 the den or study area that exists in the left-hand
2 side of the building and another photograph of that
3 lower -- in the lower left-hand corner.

4 Continuing into the interior of the building,
5 we have two photographs, one in the upper left-hand
6 corner and the upper center photograph of the
7 kitchen, standard residential kitchen. Nothing that
8 distinguishes itself from any other residential
9 kitchen.

10 The upper right-hand photograph is a picture
11 of the recreation room and the basement, and then
12 the lower photographs identify three of the bedrooms
13 as they exist from the upper floor.

14 As you can see, there are two bedrooms --
15 excuse me. Two beds on each -- in each of those
16 three bedrooms.

17 Q Mr. Burgis, are you familiar with the
18 term "cooperative sober living residence"?

19 A I am.

20 Q Are you familiar with the Class F
21 License that was obtained by Hazel House?

22 A Yes.

23 Q Can you explain the nature of that
24 use?

25 A Before we get into that, do we want

1 to talk about the use, the use of the property
 2 itself?
 3 Q Sure, if you'd like to finish that.
 4 A Yes. The use of the property is as a
 5 single-family residence for those recovering from
 6 alcoholism or illegal drug use. It's commonly
 7 referred to as a recovery residence, and the State
 8 regulations require them to be in a home-like
 9 atmosphere in a residential area. That is why I
 10 went through the surrounding development pattern on
 11 our street and surrounding streets to illustrate the
 12 fact that we are in a residential area.
 13 The purpose of a residential recovery house
 14 is simply to provide a safe and healthy living
 15 environment to initiate and sustain recovery for
 16 these residents.
 17 Now, having represented such facilities
 18 elsewhere, I know some of the questions that often
 19 come up and I want to point out for the record that
 20 while I've identified what a sober house is, I also
 21 want to identify what it is not. For example, it is
 22 not a healthcare facility. And I say that because a
 23 healthcare facility is a facility attached to a
 24 licensed long-term care facility providing food and
 25 shelter, and supervised healthcare and related

1 services to four or more persons. Clearly, we do
 2 not meet that definition.
 3 We are also not a rehabilitation center. A
 4 rehabilitation center is a facility providing
 5 therapy and training to persons with disabilities.
 6 We do not provide that. We are not that.
 7 We are also not a supervised halfway house
 8 that provides vocational training or other services.
 9 We do not provide that as well.
 10 In addition, we are not a detox facility. We
 11 are not a drug rehabilitation center. We are not
 12 methadone-type clinic. We are simply a house
 13 providing a safe and healthy living environment for
 14 these residents as they recover.
 15 Now, I know some people may want to compare
 16 us to the Real House, for example. That's why I
 17 pointed out where it is in relation to our site.
 18 The Real House, those residents are parolees
 19 required by law to live there. Our residents are
 20 not required to live there. They all are
 21 voluntarily living in this house.
 22 This is also distinguished from the Oxford
 23 House in that it provides for third-party oversight
 24 that is found in an Oxford House.
 25 Simply, again, it's a residential dwelling

1 unit that are rented by people who reside there and
 2 who are recovering from alcoholism and drug
 3 addiction.
 4 Hazel House is a family-owned and operated
 5 business. It is a for profit business. But
 6 however, there are no state or federal funding
 7 associated with this project. From that fact,
 8 obviously, it doesn't have anything to do with the
 9 merit of the interpretation question as to whether
 10 or not we are a single-family house consistent with
 11 your zoning regulations.
 12 But I know it is important to point that out,
 13 and I also think it's important to identify the
 14 process whereby the voluntary residents gain
 15 entrance into the facility.
 16 Hazel House typically gets contacted by a
 17 representative from an in-patient rehabilitation
 18 facility. That rehabilitation facility arranges a
 19 visit to determine if it wants to refer their
 20 patients to this house. If they determine it is
 21 acceptable and okay, they contact Hazel House to
 22 refer patients and provide an initial information
 23 packet for an applicant, and amongst the things they
 24 ask for in that information packet is questions
 25 relating to their sobriety date, because Hazel House

1 does not accept people unless they've been sober for
 2 minimally of 30 days.
 3 If one's been convicted of a sex crime or
 4 registered as a sex offender or convicted of a
 5 violent felony, they cannot reside in this facility.
 6 And that is done for both the safety of the
 7 residents of the house, but it's also obviously done
 8 for the neighborhood as well.
 9 There's a company that's retained called Good
 10 Hire that then does a background check on the
 11 individuals who are considering locating here. And
 12 if everything checks out, then there's an in-person
 13 interview. One of the concerns that Hazel House has
 14 is they want to make certain that all of those that
 15 are going to reside on the site will fit in with
 16 everyone else who is already residing on the
 17 property.
 18 Now, there are a number of basic governance
 19 rules that are followed, and basically they follow
 20 the DCA regulatory approach. The management
 21 operator, for example, must reside on the site and
 22 exercise some level of control over the operation,
 23 including the establishment of the residence --
 24 residential rules and processes here. Now, the
 25 occupancy cannot exceed eight voluntary residents,

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1 excluding the operator.
2 The facility absolutely must remain alcohol
3 and drug free. In fact, you must be alcohol and
4 drug free, as I said earlier, for a minimum of 30
5 days before even entering the house. And if there's
6 any relapse, the agreement is you then go back to a
7 detox facility immediately. You cannot remain as a
8 resident.
9 There is, as I think I suggested earlier, no
10 counseling, no therapy, or other treatment occurring
11 on site. This is simply their house.
12 There is no provision for food, laundry,
13 financial, or other personal services provided by
14 the licensee. The individuals deal with all those
15 issues on their own as residents of the building, of
16 the house. The licensee, in fact, can require drug
17 or alcohol testing of the residents of the house and
18 can mandate that the residents attend self-help
19 sobriety continuing recovery programs, but that is
20 not done on site. Hazel House does, in fact,
21 require everyone to follow a 12-step program for
22 these residents to follow, including getting a
23 sponsor and attending a specific number of meetings
24 per week. There's also random drug testing and
25 searches on the premises.

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1 The residents must commit to residing on site
2 a minimum of 90 days. Usually because there's that
3 12-step process, that 12-step process often will
4 take six months to complete. So often times, and
5 it's typical that the residents would be here for a
6 lot longer than that minimum 90-day period.
7 Hazel House has instituted a basic program
8 and where progress is being made by some of the
9 residents, as progress is being made, they get more
10 and more responsibility and less -- for example,
11 improved curfew or less mandatory meetings that they
12 must attend as they continue through the program.
13 There is a very basic three-strike rule. If
14 you don't abide by any of these rules, if there are
15 three strikes, you're out of this process. However,
16 as I said earlier, certain rules, such as drinking
17 alcohol or taking drugs, you are thrown out
18 immediately and have to return to a detox center.
19 Now, the type of activity that occurs in the
20 house is similar to what occurs in everyone's home.
21 These residents, however, do not have their own
22 individual bedroom or apartment. They have a bed
23 and they share. There's anywhere from two to, in
24 one instance, four beds in one bedroom. These
25 bedrooms do not have locks so it allows for the

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1 surprise inspection that occurs periodically.
2 Everybody has complete and unfettered access
3 to the common areas of the house. You have access
4 to the living room, the dining room, the kitchen,
5 the study, the rec room, and the basement and so on.
6 One of the interesting things that they do --
7 that Hazel House does is allow for active
8 participation in a variety of activities, and that
9 is all designed to create a certain bonding
10 characteristic similar to what you have in the
11 house, or in a -- in a house. These include
12 organized group outings, daily meditation programs,
13 yoga and the like. The kind of things many people
14 do when they're home.
15 In this way, the residents bond together and
16 support each other's sobriety -- sobriety like you
17 would in any other family.
18 Q So the interaction amongst residents,
19 Mr. Burgis, is designed to support a peer-based
20 concept of sobriety?
21 A That's correct, exactly.
22 Q And that's designed to provide the
23 social bonds that would be similar to that that you
24 find in a traditional family?
25 A Yes.

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1 Q Let's just talk about the current
2 occupancy of the house. How many people are
3 presently at Hazel House?
4 A At present there are four residents,
5 plus an operations manager and a facilities manager.
6 Q And the State license allows for a
7 maximum occupancy of how many persons?
8 A Up to eight, not including the two
9 managers I mentioned.
10 Q Can you explain where the residents
11 come from?
12 A Certainly. There seems to be a
13 concentration in Essex, Morris and Bergen Counties,
14 I believe. Over the past year, we had residents
15 from Bloomfield, Cedar Grove, Maplewood, Verona,
16 Belleville, and Glen Ridge, all in Essex County. We
17 had residents from Allendale and Closter and
18 elsewhere in northern New Jersey.
19 Q You testified previously that you had
20 an opportunity to take a look at the Township master
21 plan and zoning code?
22 A Yes.
23 Q Can I turn your attention to the
24 requirements that are found in the R-1A zone
25 district?

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1 A Certainly.

2 Q Why don't you explain to the Board

3 exactly what the permitted uses are in your R-1 zone

4 district?

5 A The R-1A zone permits detached

6 single-family residence and then public parks and

7 playgrounds. They are the ones listed in the

8 ordinance.

9 It's interesting because in the Municipal

10 Land Use Law, there are other types of uses that are

11 identified as being used as it shall be permitted in

12 all residential zones in a community statewide.

13 They include -- excuse me -- community residences

14 for the developmentally disabled; community

15 residences for those with head injuries; community

16 residences for the terminally ill; community

17 residences for those subject to domestic violence.

18 Municipal Land Use Law mandates that all such

19 facilities be allowed in residential zones and

20 they're allowed to have up to, but no more than, 15

21 occupants.

22 In addition to that, family daycare is

23 another permitted use that is required to be

24 permitted by the Municipal Land Use Law in all

25 residential zones.

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1 Q I think you testified previously that

2 you're familiar with the Class F License that was

3 issued to Hazel House?

4 A Yes. Just one last thing on the

5 zoning.

6 Q Of course.

7 A As I mentioned earlier, we're in the

8 R-1A zone. You know, that permits -- excuse me,

9 requires a minimum lot size of 5,000 square feet.

10 It requires a lot width of 50 feet, and various side

11 yards, encumbrances factors. I'm not going to go

12 through all of them. Suffice it to say that this

13 building, the existing house, complies with all of

14 those regulatory controls.

15 Q So with respect to the Class F

16 License which was identified as Exhibit E.

17 A Yes.

18 Q In order to obtain a Class F License

19 from the Department of Community Affairs, can you

20 explain what structures are eligible to accommodate

21 a sober living use?

22 A They are required to be in either

23 single-family or two-family dwellings. The whole

24 focus of this license and the DCA regulatory

25 provisions is to encourage people to live in a

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1 residential neighborhood so they can blend more into

2 the community and it helps with their recovery.

3 Consequently, the DCA will not issue such a license

4 unless the operator lets in people in a

5 single-family or two-family dwelling.

6 Q Is DCA the sole enforcement authority

7 with respect to compliance with the building code

8 and the hotel -- and the Rooming and Boarding House

9 Act?

10 A With respect to this issue, yes.

11 CHAIRMAN MICHALSKI: Can you speak

12 up, Mr. Burgis. I can't hear you.

13 THE WITNESS: I'm sorry.

14 Q Mr. Burgis, does the Department of

15 Community Affairs require a certificate of occupancy

16 in order for sober living residence to operate?

17 A No, it does not. In fact, the

18 regulations of DCA specifies that they want to live

19 in a residential setting, as I mentioned earlier.

20 And the main rules that they impose on these

21 facilities are those mandated basic life safety

22 issues, just like they on a house. They're required

23 to have a carbon monoxide detector, required to have

24 a smoke detector. They also stipulate that CLSRs

25 shall not be subject to any other requirements of

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1 the Rooming and Boarding House, as long as they

2 aren't appropriate or necessary.

3 Q There's no CO required?

4 A That's correct.

5 Q And do you know why that is?

6 A Because they aren't considered a

7 single-family house. They've got to change in use

8 from a single-family use to municipal purpose use.

9 Q Is there any local zoning approval

10 required in order for an Applicant to get a Class F

11 License from DCA?

12 A It's interesting. DCA required --

13 has already stipulated that the municipality has

14 zoning control over this. However, now once the

15 municipality has made a determination that a certain

16 area shall be zoned for single-family residential

17 use, then there are provisions indicating that any

18 single-family house in that zone can be developed in

19 this manner comes into play.

20 Q And in order to get a Class F

21 License, the Applicant needs to be able to

22 demonstrate that the residence will live as a

23 housekeeping unit?

24 A Yes.

25 Q I want to turn our attention back to

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1 the Township zoning code, and why don't we then
2 compare the use requirements that DCA requires
3 against the use requirements that are contained in
4 the Township zoning ordinance.
5 A Simply put, the R-1A zone permits
6 detached single-family residential uses in this
7 zone. And that's consistent with what DCA looks for
8 when they're evaluating a property as to whether or
9 not it is appropriate for the use. I say that
10 because DCA makes it very clear that a single-family
11 house -- excuse me, a CSLR is the equivalent of a
12 single-family house.
13 Q So why don't we dissect the ordinance
14 for a moment and take a look at what it means to be
15 a family and a household under the Township code.
16 A There's a few definitions I think
17 that are pertinent here. The first is the ordinance
18 definition of dwelling is a structure used
19 exclusively for human habitation.
20 Q And you're referring to Exhibit A2,
21 correct?
22 A Yes. As part of that definition is
23 detached single-family dwelling, and that is defined
24 as a one-family residence that is not attached to
25 any other dwelling by any means.

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1 The next definition pertinent to this matter
2 is family. The ordinance defines family as a group
3 of individuals not necessarily related by blood,
4 marriage, adoption, or guardianship, living together
5 as a single housekeeping unit.
6 And it says, For purposes of this chapter,
7 family does not include any such things as society,
8 a club, a fraternity, a sorority, or the like, who
9 are in a group living arrangement as a result of
10 criminal offenses.
11 And then finally there's a definition of
12 household which is a family living together in a
13 single housekeeping unit. And again, recognize the
14 family is defined as a group of individuals not
15 necessarily related by blood, marriage, or the like,
16 with common access to and common use of all living
17 and eating areas and facilities for the preparation
18 and serving of food within the dwelling unit.
19 And clearly from the photographs that I've
20 shown at the outset of this, the house clearly has
21 all those features and elements that would be
22 consistent with that overall definition.
23 Q You're familiar with the Level 2 NARR
24 Certification that was obtained by Hazel House?
25 A Yes.

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1 Q And does that certification require
2 that the residents live together as a family?
3 A Yes.
4 Q Can you explain what factors are
5 applied in making that determination?
6 A Certainly.
7 MR. SALERNO: It's very difficult to
8 hear back here.
9 CHAIRMAN MICHALSKI: I'll ask
10 Mr. Burgis to speak into the microphone please. I'm
11 having difficulty hearing as well.
12 Q You can refer to Exhibit E. I'm
13 sorry. It's Exhibit GG.
14 Mr. Burgis, so with respect to Exhibit GG,
15 that's the NARR Certification?
16 A Yes.
17 Q And in order to get the NARR
18 Certification, you need to be able to demonstrate
19 that the residents live as a family?
20 A Yes, as I said earlier.
21 Q Can you explain to the Board what
22 factors are applied in making that determination?
23 CHAIRMAN MICHALSKI: Can you pull the
24 microphone a little closer?
25 MR. LOTT: Is that better?

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1 A Many of the factors that I mentioned
2 earlier in terms of, you know, living arrangements;
3 the use of common areas in a consistent fashion for
4 all concerned.
5 Q So the residents of Hazel House live
6 independently without any restrictions?
7 A No, they actually have some
8 restrictions.
9 Q I'm sorry. With restrictions.
10 A They are set by the operator. Some
11 of them I had mentioned earlier. Like any other
12 household where some parents are stricter than
13 others, so to speak, the operator did establish the
14 rules and regulations on which the house will
15 operate.
16 Q Residents do their own laundry?
17 A Yes.
18 Q And they cook their own meals?
19 A Yes.
20 Q And they assist in household chores
21 and cleaning?
22 A Yes. They are assigned various
23 chores, and there's a lot of them to make sure that
24 people are doing those chores, as I mentioned
25 earlier.

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1 Q You're familiar with the April 25th
2 letter from the zoning officer?
3 A Yes, I am.
4 Q Explain to the Board what the zoning
5 officer's determination was with respect to the
6 zoning permit?
7 A This is clearly what brought us here.
8 The April 25th, 2019, letter from the zoning officer
9 had indicated -- has indicated that the occupancy of
10 this house by these residents was, in fact, a
11 rooming and boarding house and that's not permitted
12 in the R-1A. So consequently the zoning application
13 for the F Class certification was denied.
14 Q Do you agree with that determination?
15 A No, I do not.
16 Q And explain why.
17 A Well, for all the reasons I already
18 mentioned. It is clear that the occupants are
19 residing in the house as a family as defined by the
20 municipality. And it is consistent with the rules
21 and regulations of DCA who has indicated that a
22 sober living residence is a single-family dwelling
23 and should be treated as such.
24 Q From the exterior of 103 Hazelwood,
25 does the house look any different than any of the

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1 surrounding homes?
2 A No, it does not. Obviously, from the
3 photograph, it is a typical single-family dwelling.
4 It has not been altered in any way. It is a
5 single-family house.
6 Image to it, when you look inside the
7 building, the rooms have not been altered in any way
8 to reflect anything but a single-family dwelling.
9 It is a standard classic center hall colonial.
10 Q Are you familiar with some of the New
11 Jersey Supreme Court case law with respect to what
12 constitutes a family?
13 A Yes.
14 Q Can you give us your opinion as to
15 whether or not the arrangements at Hazel House are
16 in accordance with the Supreme Court decision to
17 constitute a family?
18 A Well, the determination by the courts
19 regarding what constitutes a family, they said the
20 decision was to be based on the function of the use
21 and not the relationship of the tenants. And that's
22 pertinent here since this house clearly functions as
23 a single housekeeping unit occupied by people who
24 are not related by blood or marriage or
25 guardianship.

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1 Q In accordance with the Bloomfield
2 Township ordinance, is it your opinion that the
3 residents of Hazel House constitute a family?
4 A Yes. In fact, it meets the
5 definition of the local ordinance on all four
6 corners.
7 Q And they live together as a single
8 housekeeping unit?
9 A Yes.
10 Q Is that term defined in the
11 Bloomfield Township ordinance?
12 A The ordinance defines household. And
13 although it uses the term housekeeping unit in one
14 of the definitions, it does not define that term.
15 Q In your opinion, is the word "single
16 housekeeping unit" synonymous with household?
17 A Yes.
18 Q Is there any functional difference
19 between those two words?
20 A No. None. And that is why we
21 identified the definition in the ordinance of
22 household. It's probably why the municipality has
23 that one definition and not any other.
24 Q Is it your opinion then that the use
25 of the property is a use that is permitted in the

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1 R-1 zone -- R-1A zone district?
2 A Yes.
3 Q Do you have an opinion as to whether
4 or not a zoning permit should have been required in
5 the first instance?
6 A I don't believe it was needed. I
7 think the DCA regulations indicate that it's not
8 needed.
9 Q And the Township code with respect to
10 zoning permit is applicable only upon the change of
11 use?
12 A Correct. By the DCA provisions going
13 from a detached single-family house occupied by one
14 family to another family does not require that. And
15 it says so in the regulations.
16 Q Is there any reason why under the
17 department regulations that require sober living
18 facilities to be located in a one- or two-family
19 homes, why that should be viewed any differently
20 under the local zoning ordinance?
21 A No. I think the DCA regulations make
22 that very clear.
23 MR. LOTT: Thank you. I'll make the
24 witness available.
25 CHAIRMAN MICHALSKI: We've come to

1 the time for questions for this witness. I will ask
 2 first if Mr. Salerno has any questions; then I'll
 3 ask if members of the general public have any
 4 questions. And finally, we'll ask if the Board or
 5 the Board's experts have any questions.
 6 These questions have to be directly
 7 related to the testimony given by this witness here
 8 tonight. It's not the time to express your opinions
 9 about whether you think this is a proper location
 10 for this facility or you agree with cooperative
 11 sober living arrangements. That's not relevant.
 12 This is the time to ask questions of this witness.
 13 So Mr. Salerno?
 14 MR. SALERNO: Mr. Chairman --
 15 MS. COSENZA: Use the mic, Ralph.
 16 The wireless is there, if you'd like.
 17 MR. SALERNO: I'm sure this is a lot
 18 better.
 19 MS. COSENZA: Just make sure it's on.
 20 The very bottom. Thank you.
 21 MR. SALERNO: There are an awful lot
 22 of people here, Mr. Chairman, some of whom are my
 23 neighbors, some I don't know. But they're here in
 24 connection with this application and they have
 25 questions, and I would defer to them and ask to

1 yield to their questions and wait until they're
 2 finished before I ask my questions.
 3 CHAIRMAN MICHALSKI: Certainly.
 4 MR. SALERNO: I don't want to appear
 5 to be dominating their portion of the meeting.
 6 CHAIRMAN MICHALSKI: That will be
 7 fine, Mr. Salerno.
 8 Members of the public, does anyone
 9 have a question for this witness? Come up to the
 10 microphone, name and address please.
 11 BY THE PUBLIC
 12 MS. SMITH: Emily Smith, 30 Clarendon
 13 Place. I live next to the ARC facility.
 14 MS. COSENZA: Emily Smith, and
 15 address?
 16 MS. SMITH: 30 Clarendon Place.
 17 Mr. Burgis, in the definition of
 18 family that you read, does it talk about the length
 19 of the relationship --
 20 THE WITNESS: No.
 21 MS. SMITH: -- of those family
 22 members in terms of -- so there's no addressing of a
 23 changeover of every 90 days?
 24 THE WITNESS: The ordinance does not
 25 make any reference to time frame.

1 MS. SMITH: Okay. Is there any
 2 legislation that addresses the difference between
 3 the definition of family in these residences versus
 4 the definition of family and the actual people
 5 inhabiting houses with children that have lived
 6 there for years?
 7 THE WITNESS: No.
 8 MS. SMITH: Okay. What about in
 9 terms of neighbors?
 10 THE WITNESS: I'm not sure I follow.
 11 MS. SMITH: Is there a definition of
 12 neighbors, their relationship with the neighborhood?
 13 THE WITNESS: No.
 14 MS. SMITH: Because what I'm hearing
 15 is that a changeover of 90 days does not give anyone
 16 an opportunity to build any sort of relationship.
 17 Is that --
 18 CHAIRMAN MICHALSKI: Excuse me. Only
 19 questions. If you have an opinion about that,
 20 that's later.
 21 MS. SMITH: Got ya.
 22 So the issue of these residents of
 23 the Oxford House functioning as neighbors is not
 24 addressed at all; is that correct?
 25 THE WITNESS: This is not an Oxford

1 House.
 2 MS. SMITH: Oxford House -- we have
 3 several facilities so I'm not sure.
 4 THE WITNESS: Hazel House.
 5 MS. SMITH: I'm sorry. What's the
 6 correct?
 7 THE WITNESS: Repeat the question,
 8 please.
 9 MS. SMITH: Is there any definition
 10 of these residents fitting with the neighborhood in
 11 a residential -- in a neighborly way addressed?
 12 THE WITNESS: Not in the zoning
 13 ordinance or the master plan, no.
 14 MS. SMITH: Is there anything in
 15 terms of issues of parking for the people, the
 16 residents who will be in this facility? Are they
 17 going to be driving, having cars of their own? Do
 18 they need to park on the property?
 19 THE WITNESS: Again, like anyone else
 20 in a single-family residence, there are provisions
 21 in the local ordinance governing the amount of
 22 cars -- the minimum number of cars that need to be
 23 provided -- excuse me, parking spaces that must be
 24 provided. This site exceeds that number.
 25 MS. SMITH: It does exceed it?

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1 THE WITNESS: Yeah, but also
2 understand that most of these residents typically do
3 not drive. In fact, Hazel House has instituted a
4 policy of where they will provide for transportation
5 say into downtown or --
6 MS. SMITH: Transportation also.
7 THE WITNESS: They also provide
8 bicycles for them.
9 MS. SMITH: Okay. You testified
10 about the number of beds.
11 THE WITNESS: Yes.
12 MS. SMITH: I believe it was three
13 bedrooms. On the website, however, on the top floor
14 there are four beds that are visible.
15 THE WITNESS: I did say that, yes.
16 MS. SMITH: Okay. So there's a total
17 of, was it up to ten people who live here?
18 THE WITNESS: No more than eight
19 residents and then there's two operators.
20 MS. SMITH: Two operators. Okay that
21 would be the ten.
22 THE WITNESS: Yes.
23 MS. SMITH: Okay. That's all I can
24 remember at this point. Thank you.
25 CHAIRMAN MICHALSKI: Who else has a

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1 question?
2 MS. COSENZA: Come over to the mic.
3 MR. WILLIS: My name is Arthur
4 Willis. I live at 140 Williamson Avenue, which is
5 right around the corner from Hazel House.
6 MS. COSENZA: What was your last name
7 again? I'm sorry.
8 MR. WILLIS: Willis, like Bruce.
9 MS. COSENZA: That works.
10 MR. WILLIS: So I think your pictures
11 definitely illustrate that it's a beautiful house.
12 The question I have for you first is you stated that
13 the Hazel House is a for profit business?
14 THE WITNESS: Yes.
15 MR. WILLIS: And that the R-1 status
16 is -- what is the R-1 status again?
17 THE WITNESS: The zone is R-1A
18 residential zone, so that was detached single-family
19 dwellings.
20 MR. WILLIS: Single-family detached
21 dwellings. And you mentioned families earlier. Are
22 families for profit?
23 THE WITNESS: No, but an owner of a
24 house can be a for profit business. It has nothing
25 to do with the issue of does the concept of this

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1 CSLR fit the definition of family, and that's --
2 MR. WILLIS: It's a scratch basically
3 is what you're saying?
4 THE WITNESS: No, not at all. You
5 know, if four individuals decided to rent a single
6 family house on Williamson, for example, they would
7 be allowed to do so. How is this any different?
8 MR. WILLIS: Well, four people
9 renting a house is renting a house, not --
10 THE WITNESS: These people are paying
11 rent.
12 MR. WILLIS: Okay. But it's not for
13 profit. The owner of the place is renting the
14 house, not that the owners -- you know, the
15 residents are renting the house. The residents rent
16 the house from the owner of the house. This is not
17 the same thing.
18 THE WITNESS: But in a manner of
19 speaking, it's all the same thing. You know, you
20 can have an LLC owning a couple of single-family
21 houses in the neighborhood renting homes. They're a
22 for profit business.
23 MR. WILLIS: Aren't those generally
24 in commercial districts?
25 THE WITNESS: No.

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1 MR. WILLIS: Interesting. I'll come
2 back to that.
3 You mentioned there are four
4 residents currently there?
5 THE WITNESS: Yes.
6 MR. WILLIS: And one admin person?
7 THE WITNESS: Two.
8 MR. WILLIS: Two admin-type people.
9 If I'm not mistaken -- well, the question I have
10 then is should there be any residents there
11 currently?
12 THE WITNESS: Should there?
13 MR. WILLIS: Should there be any
14 residents there currently?
15 THE WITNESS: That's more of a legal
16 question. I'll let Mr. Lott --
17 MR. WILLIS: This is a legal
18 proceeding, I assume, right?
19 CHAIRMAN MICHALSKI: It's not -- any
20 action regarding the current use is staid until this
21 Board makes a decision. So whoever is there can
22 remain there until the final decision is reached.
23 MR. WILLIS: So that means whatever
24 decision was made by the Board, which in this case
25 is why we're all here, means they don't -- they just

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1 disregard that decision?
2 MR. RUBIN: No. Let me explain.
3 CHAIRMAN MICHALSKI: Go ahead,
4 Mr. Rubin.
5 MR. RUBIN: The way the law works is
6 when a property owner issues summonses for having
7 uses that might not be permitted or having built
8 additions which might not have been permitted or
9 have been done so without permits, or any of those
10 kinds of things, those summonses are tolled -- or
11 the prosecution of those summonses are tolled once
12 an application is filed with the board, whether it
13 be this Board or the Planning Board.
14 So the municipality's ability to
15 prosecute what they may view as violations of the
16 law with respect to this use cannot proceed until
17 this Board makes a determination. If the Board
18 determines that the use is legal, then those
19 summonses will disappear because they -- they're
20 legal, although some caveat which is if they -- in
21 this particular case it's literally more complicated
22 because if the decision this Board makes is that
23 they are a single-family dwelling or a single-family
24 use and is permitted in a single-family zone, then
25 they wouldn't need any approvals to proceed, unless

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1 there are construction issues related to work that
2 was done inside which is done under the UCC and has
3 nothing to do with this Board or the zoning
4 ordinance by which we are guided.
5 MR. WILLIS: Okay.
6 MR. RUBIN: If, however, this Board
7 concludes at the end of the day that the use is not
8 permitted and should not have been initiated and
9 whatever summonses have been issued can be
10 prosecuted under the municipal court.
11 MR. WILLIS: Thank you.
12 MR. LOTT: Mr. Chairman, I'd just
13 like to make one further observation. I agree with
14 Mr. Rubin's assessment, but there was no summons
15 issued here. We appealed the denial of the zoning
16 permit on the grounds that we didn't need a zoning
17 permit because we were a single-family use.
18 MR. RUBIN: I'm not one way or the
19 other, but if there weren't any summonses, then
20 that's what....
21 MR. MOORMANN: I also want to
22 clarify, the Board actually hasn't made any
23 decisions or determinations. It was presented to
24 the town zoning officer. The zoning officer solely
25 made a determination, and that's why they're here

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1 presenting to the Board, and then the Board will
2 make a determination afterwards. The Board hadn't
3 made any decisions at all.
4 MR. WILLIS: Okay. So the zoning
5 officer was acting rogue, I guess you're saying?
6 MR. MOORMANN: Not rogue.
7 MR. WILLIS: He was doing his job.
8 MR. RUBIN: The zoning officer's job
9 is when in doubt, send them to the board.
10 MR. WILLIS: Clearly the zoning
11 officer was doing his job and that's why we're here,
12 period, right?
13 MR. RUBIN: Correct.
14 MR. WILLIS: So my question to you
15 then is what's your expertise -- is a CO required
16 for a single-family dwelling?
17 THE WITNESS: Not in this instance.
18 MR. WILLIS: And what is this?
19 THE WITNESS: It's not required --
20 it's not required because it was previously occupied
21 by a family and it's our position that it is now
22 being occupied by a family.
23 MR. WILLIS: So you're telling me a
24 single-family does not need a CO?
25 THE WITNESS: You're going from one

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1 family to another, no.
2 MR. WILLIS: These aren't the same
3 families.
4 MR. LOTT: Mr. Chairman, I'm aware of
5 the fact that Bloomfield has upon transfer of
6 ownership a CCO requirement.
7 CHAIRMAN MICHALSKI: Correct.
8 MR. LOTT: And there was a CCO
9 obtained here and it's part of the record of appeal.
10 MR. WILLIS: By CCO you mean what?
11 MR. LOTT: A continued certificate of
12 occupancy to ensure that the structure meets the
13 property maintenance codes, as well as the relevant
14 requirements of the Uniform Constructure Code.
15 MR. RUBIN: Can I say something here?
16 CHAIRMAN MICHALSKI: Sure.
17 MR. RUBIN: There needs to be --
18 there's a legal distinction between a certificate of
19 occupancy and a zoning permit. A certificate of
20 occupancy is something that's issued under the
21 Uniform Construction Code. The zoning permit is
22 something that's issued by the zoning officer,
23 independent of the construction official, solely as
24 to whether or not the use is permitted or not.
25 So a certificate of occupancy, or in

1 this case a continuance of certificate of occupancy
2 essentially determines whether or not the place is
3 habitable and meets the Uniform Construction Code
4 requirements for single-family dwelling. The zoning
5 permit is the use permitted. Or is an addition
6 permitted, does it meet variances.

7 So there needs to be -- there's a
8 legal distinction between a certificate of occupancy
9 and a zoning code.

10 CHAIRMAN MICHALSKI: And this Board
11 only deals with the zoning permit aspect, not the
12 certificate of occupancy.

13 MR. WILLIS: Okay. I just asked
14 since he mentioned it.

15 You mentioned DCA states that it's
16 not necessary for a home to have a CO.

17 THE WITNESS: A CO.

18 MR. WILLIS: A CO is not required.
19 As far as -- what's it, CSLR is it called?

20 THE WITNESS: Yes.

21 MR. WILLIS: So a question. They
22 mention that, but what is an R-3 and an R-5
23 compared -- if you're familiar with that?

24 THE WITNESS: I always mess up those
25 terms. In terms of whether or not this Board agrees

1 with Mr. Lott that this is a family and they're
2 entitled to occupy this house and that those terms
3 don't come into play.

4 MR. RUBIN: R-5 is a one- and
5 two-family dwelling.

6 MR. WILLIS: Excuse me?

7 MR. RUBIN: R-5 is a one- and
8 two-family dwelling.

9 MR. WILLIS: R-5 is one- and
10 two-family dwelling, right?

11 MR. RUBIN: Correct.

12 MR. WILLIS: And so is R-3, right?

13 MR. RUBIN: One- or two-family
14 dwelling.

15 MR. WILLIS: Right. So if I'm not
16 mistaken, DCA states that as far as CSLRs are
17 concerned, that COs are not required for group 3 --
18 I'm sorry, group R-3 and R-5. It does not say
19 anything about R-1 because R-1 would not be
20 something that's --

21 THE WITNESS: You're mixing up two
22 different things.

23 MR. WILLIS: Okay. Let me ask you
24 this question.

25 THE WITNESS: Let me clarify it for

1 you.

2 The phrase R-1, section R-1A, that
3 refers to the local zoning ordinance. The R-3 and
4 R-5 is a different group category -- different
5 grouping category at the State level.

6 MR. WILLIS: Right. So if someone
7 applying for this Class F License, right, have to
8 meet certain qualifications, correct?

9 THE WITNESS: Yet.

10 MR. WILLIS: So in order for them to
11 get that, that means that they have to be in a
12 single-family home, right, which is part of group
13 R-3 or R-5?

14 THE WITNESS: Right.

15 MR. WILLIS: Not R-1.

16 THE WITNESS: Again, the R-1 is the
17 local zoning ordinance.

18 MR. RUBIN: The R-1 doesn't relate to
19 the residential categories that DCA has set up, R-1,
20 R-3, R-5. Those are residential categories for the
21 purposes of the Uniform Construction Code.

22 MR. WILLIS: Got ya.

23 MR. RUBIN: Not for purposes of
24 zoning. R-1A is a local zoning designation for
25 single-family zones in Bloomfield. Apples and

1 oranges.

2 MR. WILLIS: Got ya. I like apples
3 and oranges.

4 So you mentioned there are four
5 residents, two admin-type persons.

6 THE WITNESS: Right.

7 MR. WILLIS: The question was asked
8 of the other attorney where are these folks from,
9 and you named several different counties.

10 THE WITNESS: Yes, because over time
11 there's been a number of different occupants.

12 MR. WILLIS: And the number that you
13 mentioned in terms of the number of counties where
14 they're from exceeds the number of occupants that
15 are there.

16 THE WITNESS: Because there have been
17 various occupants over time.

18 MR. WILLIS: So basically what you're
19 telling me and the question I'm asking is there have
20 been, over this short period of time, more than four
21 residents?

22 THE WITNESS: Yes, since February.

23 MR. WILLIS: Okay. I have no further
24 questions now but I will later.

25 CHAIRMAN MICHALSKI: Anyone else have

<p style="text-align: right;">Page 65</p> <p>1 a question? Come on up. 2 MS. COSENZA: Name and address for 3 the record. 4 MS. PYSKATY: Pardon me. I'm just 5 getting over a cold. My name is Sandra Lee Pyskaty. 6 I reside at 42 Hazelwood Road. 7 MS. COSENZA: Spell your last name. 8 MS. PYSKATY: P-y-s-k-a-t-y. 9 MS. COSENZA: And your address one 10 more time. 11 MS. PYSKATY: 42 Hazelwood Road. 12 MS. COSENZA: Thank you. 13 MS. PYSKATY: And thank you for your 14 information today, Nicole. It was very helpful when 15 we spoke on the phone. 16 MS. COSENZA: No problem. 17 MS. PYSKATY: So Mr. Burgis, your 18 experience is commendable. I have a question for 19 you -- 20 THE WITNESS: Yes. 21 MS. PYSKATY: -- with all that 22 experience, and the topic of family. The turnover 23 rate of the people that come through this house, in 24 your experience, what is that turnover rate usually? 25 Fifty percent that can make it before they get</p>	<p style="text-align: right;">Page 67</p> <p>1 already three of these homes and a fourth one now. 2 That's a family. So can you please describe family 3 again to our family on Hazelwood Road? 4 THE WITNESS: The definition of 5 family comes from local zoning ordinances, and the 6 Township has identified family as follows in their 7 ordinance: A group of individuals not necessarily 8 related by blood, marriage, adoption, or 9 guardianship, living together as a single 10 housekeeping unit. 11 And then it goes on to say that: For 12 purposes of this chapter, family does not include -- 13 and it lists a variety of societies, fraternities, 14 sororities, that sort of thing, who are in group 15 living arrangements as a result of criminal 16 offenses. So those are things that are not 17 included. 18 But the real focus from my 19 perspective is that first part of that definition. 20 MS. PYSKATY: Okay. Thank you. I do 21 have another question but I want to make sure that I 22 reword that correctly. I believe Emily wanted to 23 step back up. 24 CHAIRMAN MICHALSKI: Hold on. You've 25 already asked your question.</p>
<p style="text-align: right;">Page 66</p> <p>1 checked back out and maybe check back in, or how 2 does that average out, in your opinion and 3 experience? 4 THE WITNESS: The large majority -- 5 let me preface my comment by saying in the 6 municipalities we represent, there's about half a 7 dozen municipalities that have these facilities, and 8 the experience seems to be that it's not unusual to 9 have minimally six months or longer in these kinds 10 of facilities. 11 MS. PYSKATY: That's not the question 12 I asked. The question that I asked was what is your 13 experience with turnover in the respect to people 14 being successful in this program process and then 15 having to come back? 16 MR. LOTT: I'm going to object to the 17 question because he didn't testify to that. 18 CHAIRMAN MICHALSKI: He's not 19 qualified to answer that. 20 This is not the area of the expertise 21 of this witness. He's a professional planner. So 22 if you could direct the questions to planning. 23 MS. PYSKATY: Okay. So then can you 24 please define again for me family? Because family 25 is 300 years of inhabitants in Hazelwood with</p>	<p style="text-align: right;">Page 68</p> <p>1 MS. PYSKATY: It's another one. 2 CHAIRMAN MICHALSKI: Sit. Anyone 3 else? 4 MS. COSENZA: Come on up. State your 5 name and address for the record. 6 MS. LAVORATO: Hi. I'm Robin 7 Lavorato. I live at 39 Westover Avenue, West 8 Caldwell, New Jersey. 9 MS. COSENZA: Spell your last name. 10 MS. LAVORATO: Sure. 11 L-a-v-o-r-a-t-o. 12 Just to follow up on that definition 13 of -- 14 MR. RUBIN: What was your address 15 again? 16 MS. COSENZA: I was going to say. 17 Hold on one second. Your address? 18 MS. LAVORATO: 39 Westover Avenue in 19 West Caldwell. 20 So a follow-up to the question on 21 family, the definition of family that's in the 22 ordinance. So if there was a divorced family living 23 in Bloomfield in that area and they had visitation 24 rights and the child came four days one week and 25 then maybe not the next week, but the week after</p>

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1 came -- came for two weeks' summer vacation but
2 didn't come the next two weeks for summer vacation,
3 would that child still be part of the family, even
4 though they didn't live there all the time?
5 What I'm trying to say is that a
6 family is a family no matter how long the people
7 stay in the home, right?
8 CHAIRMAN MICHALSKI: Hold on. You
9 asked your question; then you give the gentleman the
10 time to answer.
11 THE WITNESS: Well, that part is
12 true. But in addition to that, families can be
13 those that do not have any blood relation.
14 MS. LAVORATO: True.
15 THE WITNESS: And that's -- that's
16 the situation here.
17 MS. LAVORATO: So a foster child is
18 not blood, but they're still considered family and
19 part of that home.
20 THE WITNESS: Correct.
21 MS. LAVORATO: A child that goes off
22 to college for four years and comes back to the
23 house, he's still considered part of that family; am
24 I right?
25 THE WITNESS: Yes.

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1 CHAIRMAN MICHALSKI: Questions.
2 Anyone.
3 MR. KING: Hi. Frank King, 86
4 Hazelwood Road.
5 So my question is only directed
6 towards him or can I ask questions of the Board as
7 well?
8 MS. COSENZA: I'm sorry. What was
9 your address again?
10 MR. KING: 86 Hazelwood Road.
11 MS. COSENZA: Thank you very much.
12 CHAIRMAN MICHALSKI: Questions are
13 only for this gentleman, Mr. Burgis.
14 MR. KING: So the people in this
15 house, you consider them a family. My concept of
16 moving to the suburbs is family usually connects
17 with the community. Would you say that they have
18 any ties or have anything where they're required to
19 connect with their neighbor?
20 THE WITNESS: That they're required
21 to?
22 MR. KING: Or they should, I should
23 say. Because you're saying this is for them to get
24 back into normalcy, correct? And part of normalcy
25 is to communicate with your neighbors as part of the

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1 community. So is there anything that you
2 incentivize for them to do that?
3 THE WITNESS: That's really a
4 question for a later witness possibly, but I would
5 say the DCA has purposely decided that these kinds
6 of facilities should be located in the single-family
7 houses in an effort to begin that introduction back
8 into a neighborhood character.
9 MR. KING: I get the concept of the
10 house, but I don't necessarily quite understand your
11 answer in the sense of they're not necessarily
12 involved in the community, nor are they incentivized
13 to. So how does that necessarily normalize them?
14 It normalizes them in a household structure, but not
15 necessarily -- to follow a routine, but it doesn't
16 necessarily follow a community structure.
17 So again I ask, what is there to
18 incentivize them to that extent of normalcy?
19 And further, since I'm just moving
20 in, I learned there's a halfway house on the corner
21 and another halfway house on the corner. Since
22 we're talking about planning, did you even consider
23 that factor of any potential dangers or any concerns
24 to the neighborhood, people who actually live in the
25 block?

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1 (Applause.)
2 THE WITNESS: That's why Hazel House
3 goes through that rigorous process of review to
4 determine whether someone is appropriate for this
5 house or not.
6 If you recall, I went through that
7 list of things that they do to make the
8 determination as to whether or not they're a good
9 fit and include -- including they do the background
10 check on the individual to make sure that they can
11 fit well into the house and to the neighborhood.
12 MR. KING: I hear what you're saying.
13 I could start a new job tomorrow, that doesn't mean
14 I'm guaranteed qualified to do the job.
15 THE WITNESS: Then they shouldn't
16 have hired you.
17 MR. KING: But my point is saying
18 just because you did all these background checks, my
19 question is then there's no really way for you to
20 guarantee that they'll have a relapse or if there
21 will be a potential issue. Am I correct?
22 THE WITNESS: Yeah, you are correct.
23 There are no guarantees. However, clearly this is
24 that first step to bring someone back into a
25 residential environment in a positive way. The same

1 way somebody moves into -- moves into the house
2 nextdoor to you, you don't know who that person is
3 or what they're about, and they might decide not to
4 say hello to you for the next ten years. They're
5 your nextdoor neighbor. We've all seen that happen.
6 And then you get the next person who eventually
7 moves in and they're friendly and they wave across
8 the fence and say hello and invite you over. That's
9 just part of living in the suburbs.

10 And I would suggest that for these
11 residents who I know when I had visited this house,
12 they were outside. They did not seem to be adverse
13 to having anybody who walked by stop and say hello
14 and chat them up. Make them part of the community.
15 It's a two-way street in essence.

16 MR. KING: I agree, but would you
17 also agree in a short time, given that you say in
18 the span of six months, correct, that some of them
19 stay?

20 THE WITNESS: Yes.

21 MR. KING: So given the short time,
22 would you say they probably would not bother to get
23 to know the community if they're only staying but a
24 short time? If I'm in the neighborhood for ten
25 years, yes, my neighbor may not speak to me, but in

1 terms of proximity, there's a likely chance they
2 would probably say hi to me or would actually talk
3 to me.

4 THE WITNESS: Yes.

5 MR. KING: Would you say then with
6 these people who constantly leave and then new sets
7 of people, they are less likely to?

8 THE WITNESS: Can I offer -- can I
9 offer a response?

10 MR. KING: Yes.

11 THE WITNESS: I think it really is up
12 to the individual. There are some individuals that
13 are friendlier than others. And for those that are
14 friendly, they will be the ones that talk to people
15 in the street and the nextdoor neighbors and what
16 have you. And there's others that are shy and
17 don't. But that's true of anybody that will move
18 into a neighborhood.

19 MR. KING: That's all the questions I
20 have.

21 CHAIRMAN MICHALSKI: Thank you,
22 Mr. King.

23 Who's next?

24 MS. BACHAN: Hi. Dana Bachan. I
25 live at 43 Brookside Terrace in Verona.

1 MS. COSENZA: I'm sorry. Your name
2 again?

3 MS. BACHAN: Dana Bachan,
4 B-a-c-h-a-n.

5 I have two questions. First of all,
6 in your experience, is there any zoning law that
7 allows the neighbors or the residents in the
8 neighborhood to select who purchases a house or who
9 lives in a house?

10 THE WITNESS: No.

11 MS. BACHAN: And then is there any,
12 in your experience -- is there anything that
13 specifies how long a person needs to live in a
14 house? If they purchase a house, is there a time
15 frame in which they can resell that house and move
16 away?

17 THE WITNESS: No. They could buy it
18 and move the next day.

19 MS. BACHAN: Okay. Thank you.

20 MS. SATO: My name is Paige Sato, 18
21 Clarendon Place in Bloomfield.

22 MS. COSENZA: Can you say your name
23 again?

24 MS. SATO: Paige Sato, P-a-i-g-e, S,
25 like Sam, a-t-o and that's 18 Clarendon.

1 MS. COSENZA: Thank you.

2 MS. SATO: So I have just a few
3 comments as I just walked into here.

4 CHAIRMAN MICHALSKI: No. This is
5 just the time for questions for this witness, only
6 questions.

7 MS. SATO: My question is he
8 mentioned that they had done some research on the
9 number of homes similar to this that were in our
10 neighborhood and mentioned three, but you didn't
11 mention the Project Live which is on Liberty --
12 Liberty Street, 121. So that's four which then
13 makes this, like, five homes in a really small
14 vicinity; so. And I think that needs to be
15 considered.

16 I truly believe that every
17 neighborhood --

18 MR. LOTT: Question.

19 MS. SATO: -- does need to
20 participate --

21 CHAIRMAN MICHALSKI: Do you have a
22 question for Mr. Burgis? This is time for questions
23 only, not for opinions.

24 MS. SATO: How much research then did
25 you actually do if you only turned up three houses

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1 and there are actually four and yours makes the
2 fifth?
3 (Applause.)
4 THE WITNESS: What's interesting is
5 that the Municipal Land Use Law makes it very clear
6 that there's no limit on the number of community
7 residences. The Municipal Land Use Law requires
8 they're allowed in every residential community. And
9 the same holds true for this.
10 The fact that there could be five, I
11 counted well over a hundred dwelling units within
12 about a thousand linear feet. I think it was 121
13 exactly. So if we have five, we're still talking
14 about -- what? -- four percent of the housing stock.
15 That's not a large number.
16 I apologize for missing the one.
17 CHAIRMAN MICHALSKI: Other questions?
18 MR. LODGE: Hello. My name is Sean
19 Lodge. I live at 141 Williamson.
20 MS. COSENZA: Spell your last name
21 for us.
22 MR. LODGE: Lodge, L-o-d-g-e.
23 Mr. Burgis, I understand this is the
24 purpose of our meeting today, but I was wondering if
25 you could maybe succinctly clarify for me, in your

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1 professional opinion, the difference between Hazel
2 House and a boarding house which are both for profit
3 entities, as far as I understand, but one's being
4 deemed a family and exempt from the rules and
5 regulations associated with a boarding house. As a
6 layperson, I'd like maybe if you could, you know,
7 clarify it for me.
8 THE WITNESS: Well, a boarding house
9 is usually a single-room occupancy facility. They
10 do not in any way, shape, or form generate the kind
11 of, or encourage the kind of bonding that occurs in
12 a sober living residence. The structure is a lot
13 different in terms of encouraging a lot of communal
14 operations and relationships. They do not -- they
15 do not require the kinds of access to the kind of
16 facilities that exist in this type of an
17 arrangement.
18 MR. LODGE: What do you mean by
19 "facilities"? You mean like communal dining areas?
20 THE WITNESS: Dining and the like,
21 right. Laundry you might add.
22 MR. LODGE: So the difference between
23 a boarding house and a single-room occupancy
24 facility and the Hazel House is the fact that a
25 boarding house will have one person in a bedroom and

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1 Hazel House will have four?
2 THE WITNESS: That's not the only
3 difference.
4 MR. LODGE: That's a significant one.
5 THE WITNESS: Pardon me?
6 MR. LODGE: That's pretty significant
7 for the structure of a single-family house.
8 THE WITNESS: Well, that's no
9 different than most households where you have two
10 children living in a single bedroom.
11 MR. LODGE: For profit single-family
12 house.
13 THE WITNESS: I don't think that's
14 the issue that's before this Board. Before this
15 Board --
16 MR. LODGE: It's the issue before the
17 neighbors.
18 THE WITNESS: The issue before the
19 Board is does this facility, this house, meet the
20 definition of family which would warrant the Board
21 to determine that the zoning officer's letter of
22 denial should be overturned.
23 MR. LODGE: Okay. Hopefully we'll
24 find out soon. Thank you.
25 MR. KELLY: William Kelly, and I live

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1 at 90 Hazelwood.
2 MS. COSENZA: Nine or 90?
3 MR. KELLY: Nine zero.
4 MS. COSENZA: Thank you. And spell
5 your last name.
6 MR. KELLY: K-e-l-l-y.
7 And I just wonder if, when you were
8 purchasing the place, you thought at all about how
9 it would affect property values for the existing
10 people?
11 MR. LOTT: Mr. Chairman, I'm going to
12 object to the question. It was outside of his
13 direct testimony. He did not purchase the home.
14 CHAIRMAN MICHALSKI: I agree.
15 MR. LOTT: Nor is this the zoning
16 board of appraisal. It's the Zoning Board of
17 adjustment.
18 CHAIRMAN MICHALSKI: Ask questions --
19 he's a professional planner. So you ask questions
20 regarding that expertise and not the value of the
21 property.
22 MR. KELLY: With that many homes in a
23 500-foot area.
24 MS. PYSKATY: Disgrace, disgrace.
25 CHAIRMAN MICHALSKI: Questions?

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1 Anyone else?
2 MR. SALERNO: If there's no one else,
3 I'll ask questions.
4 CHAIRMAN MICHALSKI: Mr. Salerno has
5 a question.
6 MR. SALERNO: Mr. Marucci has a
7 question.
8 MR. MARUCCI: If it's appropriate.
9 CHAIRMAN MICHALSKI: Sure.
10 MR. MARUCCI: Mr. Chairman, my
11 questions are in my capacity as zoning officer. I
12 want to make that clear because there's some
13 discussion about my other position.
14 Mr. Burgis, in the exhibits that were
15 prepared by the attorney, it calls it a Class F
16 facility but when they actually applied to the State
17 of New Jersey, the application is for a Class F
18 rooming house; is that correct?
19 THE WITNESS: I believe that may be
20 correct because at that time --
21 MR. MARUCCI: And the bureau that
22 they applied to is the Bureau of Rooming and
23 Boarding House Standards; is that correct?
24 THE WITNESS: I believe that is
25 correct.

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1 MR. MARUCCI: In the Township zoning
2 ordinance, is there a definition of a rooming house
3 or a boarding house?
4 THE WITNESS: That I don't recall.
5 MR. SALERNO: I'm sorry. I didn't
6 hear that answer.
7 THE WITNESS: I don't recall.
8 MR. MARUCCI: So there is a
9 distinction then between the R-1A residential zone
10 and a boarding house or a rooming house?
11 THE WITNESS: There -- there may be
12 that distinction, but clearly DCA has adjusted its
13 position with respect to how you categorize these
14 kind of facilities, and it used to be that prior to
15 2018, they were regarded as the traditional room in
16 their boarding house. But then DCA developed
17 criteria to first distinguish the Oxford House
18 model, but then subsequently they established a new
19 class for cooperative sober living residences.
20 Because recognizing the old category really didn't
21 fulfill its needs, and when they created the Class F
22 license, they said CSLRs operate as a residential
23 study that serves as a home. And they specify that
24 CSLR shall not be subject to the requirements of
25 rooming and boarding houses, because they finally

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1 recognizes -- recognize they are not in the same
2 category as the conventional rooming or boarding
3 house. There's a long history.
4 MR. MARUCCI: I'm only going to ask
5 questions. I'm obviously not going to make
6 comments, but to clarify again, you stated that this
7 is a for profit facility?
8 THE WITNESS: Yes.
9 MR. MARUCCI: So a for profit
10 facility, is a business. How does a business relate
11 to a residence? It's an R-1A residential zone. How
12 does a business occupy a residence?
13 THE WITNESS: That is not -- I don't
14 think that's an issue before the Board, but as I
15 explained in an earlier question, one can own a
16 number of single-family houses as an LLC and rent
17 them out. There's no distinction that could be made
18 between that situation and this situation.
19 MR. MARUCCI: To follow up with that
20 though, aren't the occupants of this facility
21 transient versus a family?
22 THE WITNESS: But the definition of
23 family doesn't address that issue.
24 MR. MARUCCI: What's the definition
25 of transient then? You know, the occupants are

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1 there for a certain amount of time and they, you
2 know, they -- as one leaves, another one comes.
3 It's not a family unit. They constantly change.
4 I'm not just talking about just this
5 facility but any facility of this type. They
6 constantly change; so they're transient. And when
7 they're transient, again, I'm looking at this from a
8 zoning aspect, isn't that a hotel or a motel, or an
9 Airbnb.
10 I'm bringing these questions up so
11 the Board understands where I come from as a zoning
12 officer. That's all I have.
13 THE WITNESS: Let me respond, of
14 course.
15 CHAIRMAN MICHALSKI: Of course.
16 THE WITNESS: The ordinance doesn't
17 discuss family and memberships in the context of
18 transient. There is some case law on it that does
19 in fact address that issue. But clearly the DCA has
20 understood that these residents are not what I'll
21 call very long-term residents. But suffice it to
22 say that in the context of how they have defined
23 family and how these facilities are occupied, they
24 make the determination that they're a family. And
25 it happens to be very consistent with the definition

1 in the Bloomfield ordinance.
 2 MR. MARUCCI: Well, Mr. Burgis, you
 3 keep referring back to DCA and it's in the package
 4 that everyone has. I spoke to the chief of the --
 5 MR. RUBIN: These are questions.
 6 MR. MARUCCI: Well, it is a question.
 7 I spoke to the chief of the Bureau of Rooming and
 8 Boarding House Standards when this started,
 9 Mr. Raywood, and he sent me the regulations where it
 10 stated -- just bear with me a second -- where it
 11 stated that: Zoning and land use requirements
 12 remain under the jurisdiction of the municipality.
 13 Do you agree with that or not?
 14 THE WITNESS: I agree wholeheartedly.
 15 In fact, I had testified in my direct testimony that
 16 DCA has said that -- has made that very statement.
 17 But once the municipality makes a determination that
 18 certain properties are to rezone for detached
 19 single-family residential use, then the DCA
 20 provision that says you're allowed to occupy those
 21 houses in that zone with this use comes into play.
 22 The municipality has the right to
 23 either zone property for single-family use or not,
 24 but once they make the determination to zone it for
 25 that use, all of those houses have to be considered

1 the same in terms of its occupancy. And in this
 2 instance, that occupancy includes this definition of
 3 family and it allows these residents to occupy that
 4 in this particular house.
 5 MR. MARUCCI: I'll save my comments
 6 for later, Mr. Chairman.
 7 CHAIRMAN MICHALSKI: Thank you,
 8 Mr. Marucci.
 9 Anyone else, questions?
 10 Mr. Salerno, do you have a questions?
 11 MR. SALERNO: Thank you. I have a
 12 couple.
 13 MS. COSENZA: State your name for the
 14 record.
 15 MR. SALERNO: Ralph J. Salerno, 83
 16 Hazelwood Road Bloomfield, New Jersey.
 17
 18 EXAMINATION BY MR. SALERNO
 19 Q Joe, it's good to see you.
 20 A Good to see you.
 21 Q DCA's role with regard to the type of
 22 use that your client proposes is on a very limited
 23 basis, isn't it?
 24 A I don't believe I'd say limited, but.
 25 Q Well, let me ask it a different way.

1 Does DCA have any --
 2 UNIDENTIFIED SPEAKER: Can you speak
 3 up?
 4 Q Does DCA have any regulations that
 5 regulate these types of facilities?
 6 A Yes.
 7 Q Do those regulations relate to
 8 structure or how the facilities are run?
 9 A How the facilities are run.
 10 Q Would you tell me what those
 11 regulations are that dictate how they're run?
 12 A I thought I had testified to that
 13 earlier, but I will --
 14 Q I couldn't hear you that well.
 15 A Their regulations address issues of
 16 management. They address issues of maximum
 17 occupancy.
 18 Q Isn't that one of the code
 19 requirements they have is a maximum of ten people?
 20 A Yes. In this instance, for whatever
 21 reason, it's a -- their regulations also state that
 22 the house has to be absolutely alcohol and drug
 23 free. They state that if there's a relapse, an
 24 agreement has to be made that that individual go
 25 back to a detox facility. They stipulate that there

1 shall be no counseling, therapy, or other treatment
 2 that may occur on the site. It's those kinds of
 3 provisions that -- there's a few others but it's all
 4 together.
 5 Q How does the DCA enforce that? Do
 6 they have, like, a team of individuals that are
 7 employed by them that are deployed throughout the
 8 entire State of New Jersey checking to see whether
 9 or not those regulations are adhered to?
 10 A Yes. Actually, about three months
 11 ago, was it? About three months ago there was a
 12 surprise inspection here and the facility passed
 13 with flying colors. But they do do spot inspections
 14 throughout the State.
 15 Q Are you aware that an individual that
 16 was a member of the family there died of a drug
 17 overdose?
 18 A Yes, I am. It's a tragedy.
 19 Q Is there a requirement under the
 20 regulations of DCA that that be reported to DCA
 21 immediately?
 22 A That I really don't know. I would
 23 imagine so.
 24 Q Well, you said there's regulations
 25 and you were going through them. Did you check all

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1 the regulations as they apply to this structure and
2 it's use?
3 A I did but I don't recall seeing that,
4 but I have to believe they're obligated to do so.
5 UNIDENTIFIED SPEAKER: No, they're
6 not.
7 Q Do you know whether or not that
8 incident was reported to the DCA?
9 A I just said I don't know. I don't
10 know if they're required to do so.
11 Q Did you think that maybe that was
12 significant in terms of what the decision is that
13 this Board has to make as it relates to, quote, this
14 family use?
15 A Not in terms of the definition.
16 These -- as you know, there's this incredible crisis
17 that the entire nation is facing with this issue and
18 it happens in single-family homes all over America
19 and they're reported to the police, but it doesn't
20 mean that the family is no longer a family because
21 there was a death there, as with any other family,
22 no matter how close.
23 Q Was any individual that's responsible
24 for managing this facility terminated as a result of
25 this 26-year-old young man who was entrusted to this

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1 facility terminated?
2 MR. LOTT: I'm going to object to it
3 because he didn't testify about any of this.
4 MR. SALERNO: He testified with
5 regard to the use of rooming houses.
6 MR. LOTT: He testified with respect
7 to obtaining --
8 (Simultaneous cross-talk.)
9 MR. SALERNO: -- operated a rooming
10 house. At least I don't think he did.
11 So if you want him to testify with
12 regard to extraneous matters, then you can expect
13 some extraneous questions, if that's what you
14 consider this to be.
15 MR. LOTT: It's not extraneous. He
16 testified to the operations of the home and how one
17 obtains a Class F license. That's what he testified
18 to.
19 MR. SALERNO: Fine.
20 MR. RUBIN: But isn't the question
21 asked is the license jeopardized by this kind of
22 event? Isn't that a legitimate question?
23 MR. LOTT: And he testified that
24 there was an inspection conducted in July of this
25 year and the license is still valid.

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1 MR. RUBIN: That's not the question
2 that he asked. The question he asked is -- under
3 the regulations of DCA, is the license jeopardized
4 by this type of event? That's the question that
5 he's asked. That goes to the regulatory scheme that
6 Mr. Burgis has testified to. If he doesn't know the
7 answer to that, he can say I don't know, but I think
8 it's a perfectly legitimate question.
9 MR. SALERNO: Thank you.
10 UNIDENTIFIED SPEAKER: And the answer
11 is no.
12 Q Do you know the answer?
13 A I believe the answer is never, from a
14 conversation I had with the operator, but I don't
15 know it for sure.
16 Q So just the operator?
17 Now, when you say "the operator" -- let me
18 ask you a question. Did you look at the application
19 that was filed in this matter?
20 A Yes.
21 Q And who filed the application?
22 A Mr. William Meade, I believe.
23 Q Do you have a copy? Mr. Lott was
24 kind enough to put together for us.
25 MR. LOTT: I don't think we have a

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1 copy of the application. We have a copy of the
2 application.
3 MS. COSENZA: I have a copy of the
4 application. Do you need a copy?
5 MR. SALERNO: Please.
6 MR. LOTT: No, of the Class F
7 license.
8 MS. BOYLE: Of the CSLR, the Class F
9 license application.
10 MS. COSENZA: I thought he asked --
11 oh, for the application that --
12 MR. SALERNO: The application to this
13 Board.
14 MS. COSENZA: That got submitted.
15 That's what I thought he asked for.
16 MR. LOTT: We have a copy of the
17 application. I thought you wanted the Class F
18 application.
19 MR. SALERNO: No. Thank you.
20 A The Applicant is William Meade and
21 Hazel House-Living Sober in New Jersey, LLC.
22 Q May I see that, please, where it says
23 that?
24 Signature of applicant, there's no consent of
25 the owner on there, is there?

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1 A I couldn't -- I have no idea what
2 that says.
3 Q Do you see anything that lists an LLC
4 there?
5 MR. LOTT: The Meades own the
6 property.
7 MR. SALERNO: You're not answering
8 the question, he is. Excuse me. I don't mean to be
9 rude.
10 MS. PYSKATY: Can you put the mic up;
11 so we can hear you better.
12 MR. SALERNO: Sure.
13 A The only reference to the LLC is
14 where it says "Applicant name."
15 Q Do you see the LLC as an Applicant on
16 that application?
17 A It says Applicant, William Meade and
18 Hazel House-Living Sober of New Jersey, right here.
19 Q William and Hazel. So it's a joint
20 application?
21 A William Meade and Hazel House.
22 Q Did you look at the notice?
23 A The notice of the hearing? I have.
24 Q Who's the notice to?
25 A I was more interested in the content

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1 of the notice, not this.
2 Q Well, isn't that part of the content
3 of the notice? Are people entitled to know whose
4 named in the application? They're not required to
5 have to come to town hall and look at documents to
6 try to make a determination of who the Applicant is,
7 are they?
8 A I think the application is clear. It
9 says --
10 Q I didn't ask you about the
11 application. We've already covered that. I'm
12 asking you about the notice. Who's the notice from?
13 A Do you have the notice?
14 MR. LOTT: Yes.
15 A The notice, again, it says Sober
16 Living in New Jersey, LLC, and then parenthesis "the
17 Applicant."
18 Q Is Mr. Meade listed?
19 A No. Then it's signed by James Lott.
20 Q And isn't this, this application,
21 isn't it in response to Mr. Marucci's decision that
22 this use was not a permitted use?
23 A Yes.
24 Q And in connection with that,
25 Mr. Marucci based that upon the zoning permit

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1 application that your client made, correct?
2 A That is correct.
3 Q And that zoning application provided
4 what Mr. Marucci recited before.
5 Do you see that anywhere on that notice?
6 A Yes. It says the Applicant --
7 paragraph 2, The Applicant appeals from the zoning
8 officer's decision and seeks an interpretation of
9 the Township zoning ordinance pursuant to N.J.S.A.
10 40:55D-70 A and B.
11 Q That's a resonation of the statute
12 that pertains to these appeals. Where does it refer
13 to what the letter Mr. Marucci -- I'm sorry, strike
14 that.
15 Where does it refer to the application that
16 your client made, which was for a rooming house?
17 A Well, it's not a rooming house.
18 Q That's the application your client
19 made. I didn't make it. You didn't make it.
20 A It says Sober Living in New Jersey,
21 and it says that -- let me continue where I stopped
22 off at 40:55D-70A and B, that it's proposed
23 cooperative sober living residence constitutes a
24 single-family detached dwelling for a family or
25 household and is, therefore, a permitted use in the

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1 zone.
2 Q It doesn't refer to what the zoning
3 permit application was applied for, does it?
4 A I think it's very clear and anyone
5 that reads this public notice would understand
6 what's being referred to.
7 Q I'm asking if it refers to that.
8 A I think it's very clear what it
9 offers and is consistent with that.
10 Q So your answer is no, it's not
11 consistent.
12 A The answer is what I gave you.
13 Q Well, you can't qualify it, but
14 that's okay. I got it.
15 So now, what do we have? People that move
16 into this facility, you testified about some of the
17 operation. How do you know about the operation?
18 A This particular operation, I sat down
19 with the operator and --
20 Q When you say "the operator," who's
21 the operator, because I'm not sure?
22 A I sat down with Mr. Meade.
23 Q You can't ask Mr. Lott for the
24 answer.
25 A And Dylan Meade.

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1 Q Dillard Meade?
2 A Dylan Meade.
3 Q Who's Dylan Meade?
4 A He's the son of the elder Meade.
5 Q And he is one of the --
6 A Operators.
7 Q Operators. Do you know of your own
8 personal knowledge whether this operator has any
9 professional training with regard to running this
10 kind of establishment in your interview to testify
11 with regard to what you testified to?
12 A No. I was more interested in the
13 manner in which the house actually operated. I know
14 that they have received the appropriate licensure
15 and the NARR certification that indicates that they
16 have the appropriate background certification to run
17 the facility.
18 Q How many applications for this
19 specific type of use have you participated in?
20 A I've participated in one.
21 Q Where was that?
22 A In Bergen County.
23 Q You don't remember the town?
24 A Hillsdale. Sorry. I've reviewed
25 others for other places.

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1 Q Was that on what we call a local
2 street?
3 A Yes.
4 Q It was in a strictly residential
5 neighborhood, no mixed use?
6 A The only nonresidential use was a
7 church down the street.
8 Q In your professional experience, do
9 you find it unusual to find this many proposed --
10 strike that. Find this many uses on one block?
11 A No. I haven't seen five within a
12 certain radius, but I've seen more than one in some
13 municipalities.
14 Q In the municipality, but none on the
15 same street?
16 A That I would have to double check.
17 Q Do you think it's kind of unusual
18 that this occurs in this town?
19 A No. I think it's reflective of the
20 need.
21 Q If it was reflective of the need, why
22 isn't the State of New Jersey, the ultimate
23 protector of the people with a governor who espouses
24 that he wants to do all he can do to help this
25 opioid crisis, why doesn't the State of New Jersey

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1 open facilities all over the State, if that's what
2 the issue is?
3 A You would have to talk to the
4 governor about that.
5 Q I probably will.
6 (Applause.)
7 Q When you were in the house, is there
8 a basement?
9 A Yes.
10 Q Is the basement finished?
11 A Yes.
12 Q Is the basement used in conjunction
13 with the rest of the house?
14 A Yes.
15 Q Does anything in the paperwork
16 indicate that?
17 A One of the photographs showed it.
18 Q I said in the paperwork. I didn't
19 say in the photographs.
20 A In the paperwork there's a reprint of
21 all those photos; so yes.
22 Q Is there a bathroom in the basement?
23 A No.
24 Q Can the basement be converted to
25 rooms?

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1 A I don't understand the question.
2 Q I'm sorry. Bedrooms.
3 A No.
4 Q No. Why is that?
5 A It wouldn't meet the definition
6 for -- did you say a bedroom -- for a bedroom.
7 Q Yes. And that's by who, DCA?
8 A Yes.
9 Q Building code?
10 A Building code.
11 Q But they permit people to be in the
12 attic, correct?
13 A Yes.
14 Q And there's only one means of ingress
15 and egress from the attic?
16 A That's correct.
17 Q So if there's a fire in the
18 staircase, whoever's in the attic, good-bye? Is
19 that the idea?
20 A That is certainly not the idea.
21 That's why they have smoke detectors, carbon
22 monoxide detectors.
23 Q Of your knowledge, and I don't know
24 if you know the answer to this, as a result of the
25 death that occurred in the early days of the

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1 compilation of this facility, what remediation has
2 taken place in terms of this operation to prevent
3 that occurrence from occurring again?
4 A There's a lot more security.
5 Q Could you explain that?
6 A They've got keypads at the doors that
7 will closely monitor comings and goings. They've
8 got a 24/7 surveillance camera now that they didn't
9 have before.
10 Q Excuse me. But I thought the police
11 report indicates that there was a surveillance
12 camera and that the operator was turning the film
13 over to the police department? Did you look at that
14 police report?
15 A No, I did not.
16 Q Okay.
17 A In discussing it with the client,
18 clearly they have tightened up the method that
19 people could come and go.
20 Q Did they ascertain the basis upon
21 which, or how this particular individual was able to
22 get that much heroin into this house?
23 A My understanding is he was given a
24 car by his parents and late at night, he left the
25 facility.

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1 Q Aren't they free to leave?
2 A No. There's a curfew involved --
3 imposed. Excuse me.
4 Q This family that theoretically
5 resides in this premises, do they have a kitchen
6 that they eat in common?
7 A Yes. There's a picture right behind
8 you.
9 Q The reason I ask the question is
10 because my doorbell rang 10:30 one night and I
11 looked out, there was a guy with a big bag. So I
12 opened the door and I say, "Can I help you?" And he
13 said, "Yes. Is this 103?" I said, "No." I said,
14 Why? He said, "I have a food delivery."
15 So I was curious if this family is operating
16 why I'm getting a food delivery to my house 10:30 at
17 night?
18 (Laughter and indiscernible
19 cross-talking.)
20 CHAIRMAN MICHALSKI: Mr. Salerno,
21 Mr. Salerno.
22 A Food delivery guys can make a mistake
23 and go to the wrong house, obviously.
24 Q Did you take the pictures that are
25 used in that? Was that part of your packaging?

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1 A I took some of them. I don't know if
2 they were used in the final.
3 Q If the town of Bloomfield came to you
4 and hired you as a planner and asked you to develop
5 a master plan, would you include all these
6 facilities on one block, as a planner?
7 A I understand the way the Municipal
8 Land Use Law is structured and the way that these
9 regulations are set that I think you would be
10 hard-pressed to impose a distance of standard
11 between these kinds of facilities because they're
12 considered a single-family house. And if it's
13 considered a single-family house, there would be no
14 basis to conclude that a distance measurement would
15 be appropriate.
16 Q Are you aware of any zoning ordinance
17 in any town in the State of New Jersey that contains
18 a provision for sober housing? And I know you've
19 traveled around all over the State.
20 A Yes.
21 Q Where?
22 A I think Mahwah has it. There's a
23 few. I think West Windsor has it. Princeton may
24 have it. I have to double check.
25 Q Princeton always has those.

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1 Where does the managers, or whatever they're
2 called, the supervisory person, the two people,
3 whoever, do any of them have professional training
4 in dealing with drug addicts and alcoholics?
5 A I can only say that they've been
6 given the certifications.
7 Q From who?
8 A From NARR.
9 Q Who is that?
10 A You'll hear from another expert who
11 will explain that in detail.
12 Q What's your understanding? Is it a
13 trade organization?
14 A Yeah. It's the --
15 CHAIRMAN MICHALSKI: Please use the
16 microphone, gentlemen. We're not getting it on the
17 record.
18 A It's the National Alliance for
19 Recovery Residences.
20 Q That's like a trade organization for
21 these type of facilities, isn't it?
22 A It's a professional organization that
23 sets standards.
24 Q Does the State of New Jersey have
25 standards that match their standards?

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1 A In some measure, yes.
2 Q So what do they need NARR for?
3 A Because I think NARR goes a little
4 farther than the State because in that certification
5 is a further indication of the property of the
6 house.
7 Q Is that like the certification you
8 get for green buildings, or some setup organization
9 so they can charge people to get certifications?
10 A I guess in some way you can relate it
11 to --
12 MR. LOTT: Mr. Chairman, he didn't
13 testify as to NARR. We have a witness here who can
14 testify to NARR.
15 MR. SALERNO: He testified with
16 regard to NARR. He used the description of NARR.
17 MR. LOTT: He indicated that we have
18 a certification from NARR.
19 MR. SALERNO: That's correct.
20 MR. LOTT: If you'd like to hear more
21 about the standards --
22 MR. SALERNO: If he testified with
23 regard to it, then he must know something about it
24 or he wouldn't have testified to it, unless he
25 testified he doesn't know anything about it. So he

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1 could tell us either way.
2 A I know some of the regulations that
3 they impose, but I cannot say I'm an expert on it
4 like the gentleman you'll hear after me.
5 Q Before somebody asked you a question
6 and Mr. Lott said well, that's a legal question.
7 Didn't you describe some Supreme Court decision?
8 A Yes.
9 Q So you know some law but not others?
10 Is that the idea? Selective choice?
11 A You know that planners -- there are
12 certain planning cases out there that are for
13 planners and certain legal questions that are
14 strictly for the lawyers.
15 Q Is there any requirement from DCA
16 that someone who wishes to operate this type of
17 facility and obtain a license have to establish a
18 need and a qualification that they're capable to run
19 a facility like this, or do you just have the money
20 to be able to go through the process?
21 A I believe you have to show -- I
22 really prefer to defer that to the next person
23 testifying who can answer that question.
24 Q Doesn't that come into your judgment
25 about whether or not this particular use is

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1 appropriate in location?
2 A No. But, you know, interestingly
3 enough, we will talk about that if we have to go
4 through the use variance process. But the question
5 before this Board is whether or not this is a family
6 that is consistent with single-family zoning and,
7 therefore, we're not talking about need yet.
8 Q I don't disagree with you, but I have
9 to say to you your testimony went afield of that,
10 and you may not have intended it to go beyond that.
11 A I don't believe it did.
12 Q The record will reflect whether you
13 did or you didn't.
14 You mentioned use. How many single-family
15 homes are on Hazelwood Road between Walnut and
16 Williamson Avenue?
17 A A dozen or so.
18 Q And how many are on the other side of
19 Williamson Avenue and how far down does Hazelwood
20 Road go?
21 A A couple of blocks. I never counted
22 the houses so I'm not going to make a guesstimate.
23 Q You mentioned the dialysis center to
24 show that there are other uses in the neighborhood.
25 Do you know what the zoning is on Belleville Avenue

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1 where that's located?
2 A That's a business zoning of some
3 sort.
4 Q It's permitted, isn't it?
5 A Yes.
6 Q So when you described the area and
7 you describe 60, 68, and then the dialysis center,
8 isn't that to demonstrate that this isn't a pristine
9 single-family area?
10 A Actually, it was to demonstrate the
11 variety of uses nearby. If I hadn't identified
12 those, I'm sure somebody would have questioned why I
13 didn't bring it up. And the fact that the dialysis
14 center is right behind this property, I think it
15 bears mentioning.
16 Q Do you know anything about the
17 history of your client's property and the property
18 that constitutes the property for the dialysis
19 treatment center?
20 A No, I don't.
21 Q You're aware that the Garden State
22 Parkway is adjacent to your client's property about
23 40 or 50 feet below it, and that's adjacent as well
24 to where the dialysis treatment center is?
25 A I believe I mentioned that in my

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1 direct testimony.
2 Q And the property configurations are
3 rather strange when you look at both of those
4 properties. Would that be -- did you look at that?
5 A I looked at the tax maps. I looked
6 at an aerial. I visited the site and surrounding
7 areas. So yes, I'm aware of that.
8 Q Did it strike you as unusual as a
9 planner that there would be lots of that unusual
10 configuration when the majority of lots in the area
11 are all conforming in size?
12 A Well, recognizing that this property
13 predated the construction of the Garden State
14 Parkway and when they created that right-of-way,
15 there's a number of properties along the
16 right-of-way that ended up with subdivided
17 configuration. It doesn't surprise me. But it has
18 nothing to do with whether or not the ordinance
19 issue of family, whether this property could be
20 occupied with the proposed use. It has nothing to
21 do with that.
22 Q Then what does the dialysis center
23 have to do with this use?
24 A Nothing other than the fact that it
25 abuts it.

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1 Q So shouldn't you compare, when you do
2 your comparison, shouldn't you count all the houses
3 in that area? Because you went all the way around
4 the corner and picked out a business use on
5 Belleville Avenue.
6 A Only to be comprehensive in terms of
7 identifying abutting land uses and some other land
8 uses that are a bit of an anomaly of the
9 neighborhood.
10 Q What are the uses on the opposite
11 side of Williamson Avenue across from the dialysis
12 center?
13 A There's a mix of commercial. I think
14 some multifamily in there.
15 I didn't focus on that because I didn't think
16 it was relevant to the issue at hand. I'm just
17 trying to recall from just driving around.
18 Q You acknowledge the fact that there's
19 a facility on Clarendon?
20 A Yes, I did.
21 Q So you went beyond Williamson because
22 you couldn't get to Clarendon unless you did?
23 A Yes, correct.
24 Q So you pick and chose what you chose
25 to look at?

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1 A Well, I asked my client are there
2 other such facilities in the area, and those were
3 the ones that he directed me to. So I drove around
4 and looked at them. That's all.
5 Q So if you were back to revising the
6 town of Bloomfield with regard to its new master
7 plan, how would you deal with these issues,
8 particularly where you have a block and an area that
9 has a concentration -- and I would ask you this: Do
10 you know of any other municipality in the entire
11 State of New Jersey that has that concentration of
12 these types of uses?
13 A I haven't looked to see if they did.
14 There's municipalities that have it or not.
15 My focus here was to an interpretation
16 question and the use area issue, if we don't get
17 that. So that issue really wasn't germane.
18 Q Did you see the letter from the chief
19 at DCA of rooming houses to Mr. Marucci or the
20 construction official -- I don't remember right now
21 which one it was -- where he indicated that
22 jurisdiction with regard to building code in this
23 instance was in the hands of DCA because it was a
24 rooming house, and that Bloomfield zoning still was
25 the zoning that governed the use of this property?

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1 A Yes, but they also indicated that
2 they consider this a family, and families of this
3 type are allowed to occupy a single-family house.
4 Q Is there a provision in the
5 Bloomfield zoning ordinance that permits rooming
6 houses in a single-family zone?
7 A No.
8 Q So in terms of use in zoning, not who
9 the inhabitants are, this use is not permitted in
10 this zone?
11 A We're not talking about the
12 inhabitants per se.
13 Q Yes, we are.
14 A We're talking about --
15 (Indiscernible cross-talking.)
16 MR. LOTT: Mr. Chairman, let the
17 witness answer the question. One at a time.
18 A We're talking about these residents
19 and whether or not they represent a family
20 consistent with the municipality zoning ordinance.
21 That's what this discussion should be all about.
22 Q Is rooming house considered family?
23 A We're not talking about a rooming
24 house.
25 Q You're not talking about a rooming

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1 house?
2 A That's correct.
3 Q Is a rooming house considered a
4 family?
5 A No, they're not.
6 Q Are they transients?
7 A But in addition to myself, DCA, I
8 believe, is also talking about this in the context
9 of family and single-family occupancy.
10 Q Because the State of New Jersey has a
11 problem. They don't know to deal with it, so they
12 dump.
13 A But that's a different --
14 MR. LOTT: Mr. Chairman, is that a
15 question or statement from Mr. Salerno?
16 MR. SALERNO: It's a statement. I'll
17 withdraw it.
18 Q The people that occupy this premises
19 as part of the family, do they pay a fee?
20 A They pay rent.
21 Q Rent. Are they tenants under the New
22 Jersey Landlord-Tenant Law?
23 A I would assume so since they pay rent
24 and they're renting in a house.
25 MR. LOTT: I think that calls for a

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1 legal conclusion. He didn't testify to that.
2 MR. SALERNO: Well, he's a planner.
3 He's discussing the use of this property and that
4 Mr. Marucci's decision is in error. So I think I
5 have some leeway with regard to the question. If
6 the Chairman declares me the question is
7 inappropriate, then it's inappropriate.
8 CHAIRMAN MICHALSKI: We'll see if he
9 can answer it. Ask it.
10 A I really don't know the answer to
11 that question.
12 Q You're analyzing this. It's a
13 family. There's regulations. Do the regulations
14 say anything about rent?
15 A I don't know that they do or don't.
16 Q How much is the rent? Do you know?
17 A No, I don't know.
18 Q You didn't ask that question?
19 A No.
20 Q Did you look at the website that your
21 client has?
22 A I did earlier when I was first
23 contacted.
24 Q Doesn't the website indicate it's
25 \$300 a week?

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1 A That rings a bell. Something like
2 that.
3 Q Do you charge any money, \$300 a week,
4 for your family to live in your house?
5 You don't have to answer that.
6 A I wasn't planning to.
7 Q Now, do the regulations from DA say
8 anything about what you do with a recalcitrant
9 tenant -- because that has a particular legal
10 meaning and that's why Mr. Lott doesn't want you to
11 address it because it's a legal question. Do the
12 regulations say anything about how you get rid of
13 that person?
14 A A recalcitrant in what way? Because
15 the regulations we talked about --
16 Q They use drugs.
17 A Well, then, they can get thrown out.
18 Q How do you do that?
19 A You're obligated to, and that
20 individual would be obligated to go into a detox
21 facility. That's part of the regulations and that's
22 part of the documentation that in --
23 Q How is that accomplished? Suppose
24 the resident says, "I'm not leaving."
25 A The same way if you are -- I'm not

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1 sure how that's accomplished.
2 Q Okay. Fair enough.
3 MR. SALERNO: I have no further
4 questions at this time.
5 (Applause.)
6 MR. LOTT: Mr. Chairman, before we
7 take additional questions, I'd just like to address
8 an issue that was raised by Mr. Salerno with respect
9 to jurisdiction.
10 So the application was filed, all
11 right, by the Applicant as Hazel House-Sober Living,
12 LLC. The sole member of that corporation is William
13 Meade who signed the application. The property is
14 owned jointly by Mr. and Mrs. --
15 MR. SALERNO: I don't mean to
16 interrupt, but is he going to be sworn under oath
17 and testify?
18 MR. LOTT: No, it's not testimony.
19 It raises a question as to jurisdiction. I think
20 your question was --
21 MR. SALERNO: Of course it does.
22 That's the whole point.
23 MR. LOTT: And I wanted to provide an
24 explanation as to why the application was filed --
25 MR. SALERNO: And you're testifying.

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1 MR. LOTT: I'm not testifying. I'm
2 explaining why the application --
3 MR. SALERNO: Self-serving
4 explanation.
5 MR. LOTT: It's not self-serving
6 explanation. It's the real party and interest in
7 the application. Mr. Salerno --
8 MR. SALERNO: Says who? Where is it
9 contained in the application?
10 MR. LOTT: We'll let the Board rule
11 on that.
12 MR. SALERNO: The Board will rule on
13 that.
14 MR. LOTT: If the allegation is
15 that --
16 MR. SALERNO: You can't change --
17 MR. LOTT: Mr. Salerno, don't speak
18 over me.
19 If the allegation is that the Board
20 doesn't have jurisdiction, we should confront that
21 issue now so we could re-notice. So I'd like a
22 ruling on that now.
23 MR. SALERNO: Well, let me --
24 MR. LOTT: There's no sense in
25 proceeding if your allegation is that the Board

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1 doesn't have jurisdiction.
2 MR. SALERNO: Fine. Let me address
3 the jurisdiction, if I may. Mr. Rubin?
4 MR. RUBIN: I'm listening. I'm not
5 asleep yet.
6 MS. COSENZA: I'm almost there.
7 MR. SALERNO: Mr. Chairman, members
8 of the Board, the application that's been filed with
9 you contains a drawing. Your ordinance requires
10 certain things with regard to drawings: Number one,
11 they have to be professionally done, signed and
12 sealed. They have to have dimensions. They have to
13 have a scale. These drawings offer nothing.
14 Absolutely nothing. They do not conform with your
15 requirements.
16 Number two, the application does not
17 contain a disclosure form. Now, under N.J.S.A.
18 50D:48.1, I believe it is, there's a requirement
19 with regard to disclosures, if, in fact, this is an
20 LLC.
21 Now, the interesting thing about the
22 law is in the statute, it refers to partnerships and
23 corporations. Because when they wrote the statute,
24 LLCs didn't exist. However, if you look at the
25 attributes of an LLC under the law, it has

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1 attributes of corporation and a partnership
2 depending upon what the issue is.
3 So my view of that is that it covers
4 an LLC, and I think that's what any court in the
5 State would rule.
6 Now, why is the disclosure important?
7 MR. RUBIN: Excuse me. Let's just
8 stop there. It requires a disclosure only when a
9 client wishes to subdivide the parcel into six or
10 more lots when applying for a variance to construct
11 a multiple dwelling of 25 or more family units, or
12 approval of the site to use for commercial purposes.
13 MR. SALERNO: Commercial purposes.
14 MR. RUBIN: But the point is we're
15 now before a board talking about whether or not this
16 is a single-family use, not a commercial purpose.
17 So I don't believe they have to file a disclosure
18 statement for purposes of --
19 MR. SALERNO: Let me finish.
20 MR. RUBIN: -- for this appeal.
21 MR. SALERNO: Let me finish.
22 Why this is a commercial use is this
23 is a for profit entity that charges every individual
24 that occupies the premises \$300 a week. You do not
25 charge any member of your families \$300 a week.

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1 MR. RUBIN: If you have a
2 single-family home that you rent out to students,
3 are you telling me that that's not a single-family
4 home and you have to pre-disclose?
5 MR. SALERNO: If -- if you make an
6 application, yes, because it's commercially used.
7 MR. RUBIN: I don't agree.
8 MR. SALERNO: Well, you may not
9 agree. That's what makes for lawyers. My position
10 is this is --
11 MR. RUBIN: This is for appeal only.
12 We're here for purposes of the appeal. It doesn't
13 require that for purposes of appeal.
14 MR. SALERNO: The appeal encompasses
15 three elements under section A, B and D. That's
16 what the application --
17 MR. RUBIN: No. Those are separate
18 applications. It's in the alternative.
19 MR. SALERNO: There's only one
20 application I see.
21 MR. RUBIN: If the Board grants A or
22 B, they don't get to D.
23 MR. SALERNO: I don't disagree with
24 that.
25 MR. RUBIN: So there may not be a D

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1 variance application.
2 MR. SALERNO: You're speculating.
3 MR. RUBIN: You're speculating
4 because you're the one --
5 CHAIRMAN MICHALSKI: Gentlemen,
6 gentlemen, please. One at a time.
7 MR. SALERNO: I'm not speculating
8 because there's a possibility for that to occur, and
9 if we're dealing with --
10 MR. RUBIN: And there's a possibility
11 that it won't occur.
12 MR. SALERNO: Mr. Lott has asked that
13 we address the issue of notice because if he has to
14 re-notice, he will.
15 So let me get back to --
16 MR. RUBIN: You're not on notice.
17 You're on disclosure.
18 MR. SALERNO: I just -- I'm
19 encompassing what my comments are with regard to
20 this application because you have the ability -- the
21 Board has the ability to address those issues and
22 dismiss this application at this point for
23 noncompliance.
24 So if I can finish, this application
25 speaks of a cooperative.

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1 MS. COSENZA: I'm going to ask you to
2 use the microphone.
3 MR. SALERNO: Sorry.
4 MS. COSENZA: It's okay. Thank you.
5 MR. SALERNO: Of a cooperative -- I
6 lost the word.
7 UNIDENTIFIED SPEAKER: Sober living.
8 MR. SALERNO: Yes, sober facility.
9 Now, that's in the notice. The notice should be
10 predicated on what the denial was by Mr. Marucci,
11 and that was with regard to rooming house, boarding
12 house, whatever title you want to put on it; not
13 with regard to a cooperative sober house.
14 And by the way, if you look at a
15 dictionary and you look up the word sober, you don't
16 find anything with regard to drug use. The term is
17 used in conjunction with the use of alcohol. When a
18 police officer stops a drunk driver, they administer
19 a sobriety test. When they arrest someone in
20 connection with the use of drugs, the illegal use of
21 drugs, there is no sobriety test. There's either a
22 drug test or a physical observation in regards to
23 the laws. So there's a distinction between sober.
24 When you get that notice, the
25 implication is this is a house for people who have

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1 alcohol abuse problems. It may not be intentionally
2 misleading but it's misleading.
3 It also contains --
4 MR. LOTT: I have to object. It's
5 not misleading. It represents what the State has
6 determined the license is.
7 MR. SALERNO: Let me finish. I'm
8 going to address that.
9 It also uses the word "cooperative."
10 And the reason those words are used is because they
11 want regulation. I don't disagree with that.
12 However, that in and of itself is also misleading
13 because cooperative is a defined term in real estate
14 law. It's a form of ownership of real estate. I'm
15 sure all of you have seen on T.V. or read in the
16 newspaper about some famous person buying a co-op in
17 the New York. It's relates to the ownership of
18 property.
19 So the average person, which is the
20 test on notice, reading that could draw the
21 impression that these people that reside in there
22 are owners. That's misleading. It may not be
23 intentional, or I'm not suggesting that Mr. Lott or
24 whoever drew this notice did it intentionally
25 misleading. I think they crafted it in the best

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1 fashion that they could for their client.
2 That's not the test. The test is
3 what does the average person reading the notice or
4 reading the publication, more importantly, because
5 that produces a broader scope of people who may be
6 interested in what's happening on Hazelwood Road
7 because it could happen on their block.
8 MR. LOTT: I drafted the notice. All
9 right? I drafted the notice. All right? And it
10 tracks the requirements of the Class F license.
11 There could be no doubt that anybody read this was
12 adequately informed as to what we were seeking.
13 MR. SALERNO: See all these people in
14 this room? Do you think they know what a Class F
15 license is? They know what a rooming house is.
16 MR. LOTT: But it would have apprized
17 enough to inquire with the municipality about the
18 nature of the application. That's the test.
19 MR. SALERNO: That's your judgment.
20 MR. LOTT: It's not my judgment.
21 That's the legal test.
22 MR. SALERNO: I know what the test
23 is. I've tried those cases.
24 MR. LOTT: I've tried the cases, too,
25 Mr. Salerno.

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1 MR. SALERNO: My position is the
2 notice is defective. This hearing shouldn't even be
3 proceeding. There's deficiencies in the
4 application. You're entitled to all the information
5 you need to make an informed decision with regard to
6 this application, whether it's A, B or D.
7 And Mr. Rubin's position that this is
8 a bifurcated application is not correct, because
9 there's only one application, not three. There are
10 three components in one application. So I differ
11 with his position.
12 MR. LOTT: And the administrative
13 officer determined the application to be complete.
14 MR. SALERNO: So what?
15 MR. LOTT: It gives jurisdiction to
16 the Board. We submitted the required materials.
17 MR. SALERNO: It's not curative of
18 the defects. You know that. Thank you.
19 CHAIRMAN MICHALSKI: Mr. Rubin?
20 MR. RUBIN: Move on. Let's just keep
21 going.
22 MR. LOTT: I'd like a ruling from the
23 Board, Mr. Chairman, on jurisdiction.
24 MR. RUBIN: I'm not the Board.
25 MR. LOTT: I know that. That's why I

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1 directed my question to the Chair.
2 MR. RUBIN: I think the notice is
3 adequate. Let's just move on.
4 CHAIRMAN MICHALSKI: The Board, any
5 discussion?
6 MR. RUBIN: I think the number of
7 people that are here, including Mr. Salerno himself,
8 indicates the people understood what was going on.
9 MR. SALERNO: Mr. Rubin, can you
10 speak up? I can't hear you.
11 MR. RUBIN: I said the number of
12 people here, including Mr. Salerno himself,
13 indicates that people understood what was going on.
14 CHAIRMAN MICHALSKI: Any discussion,
15 Board?
16 MR. SALERNO: Mr. Chairman,
17 respectfully --
18 CHAIRMAN MICHALSKI: I'm sorry.
19 MR. SALERNO: I said respectfully,
20 how does Mr. Rubin make that conclusion? There
21 might be 300 people here if the notice wasn't in the
22 format that it was.
23 MR. RUBIN: The notice isn't
24 defective.
25 MR. SALERNO: He doesn't know no more

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1 than I.
2 MR. RUBIN: The notice isn't
3 defective. It accurately reflects what the
4 application is. It's for a license with permission
5 to operate a sober living environment, and that's
6 what it's called by regulation and they used the
7 words that are in the regulation. There's nothing
8 in the law that requires them to use different
9 terminology than the one the State uses.
10 MR. SALERNO: It requires them to
11 notice for the denial that his client received which
12 related to a rooming house, and that is not what
13 that notice says.
14 MR. RUBIN: Let's move on,
15 Mr. Chairman.
16 MR. PRINCE: I have a discussion, but
17 I do agree with Mr. Rubin and also Mr. Marucci in
18 that this was presented to us as to --
19 UNIDENTIFIED SPEAKER: I can't hear
20 you.
21 MR. PRINCE: I'm sorry. This was
22 presented to us as to define whether it's a means
23 (phonetic) in our jurisdiction, and I believe as
24 time goes on and society changes, use changes. So
25 therefore, the word "sobriety" I believe is the word

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1 for it in the State. It may have at one time been
2 singular to alcohol, but as time and society has
3 changed, sobriety kind of can be included today in
4 meaning other inebriated compounds as well.
5 CHAIRMAN MICHALSKI: Any other
6 discussion?
7 MR JOHNSON: Mr. Chairman, I think
8 that even if the Applicant were to go back and
9 correct whatever issues underlie the application or
10 claims to be within the application process, we
11 would still -- they would still have to appear
12 before the Board and determine whether, in fact,
13 this application needs to be heard, right?
14 CHAIRMAN MICHALSKI: The question at
15 hand is was the legal notice adequate and proper?
16 And we all have a copy of it. So that's what we
17 need to refer to per Mr. Rubin's advice, Board.
18 May I have a motion to either accept
19 the notice as adequate, satisfactory, or not?
20 MR. PRINCE: I'll make that motion,
21 Mr. Chairman, that we should accept the notice as
22 being adequate, satisfactory, and on the advice of
23 our attorney, the Board's attorney.
24 MR. MOORMANN: I second.
25 CHAIRMAN MICHALSKI: Was there a

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1 second?
2 MR. MOORMANN: I'll second.
3 CHAIRMAN MICHALSKI: Would you poll
4 the Board, Nicole, please?
5 MS. COSENZA: Okay. Mr. Moormann?
6 MR. MOORMANN: Yes.
7 MS. COSENZA: Mr. Prince?
8 MR. PRINCE: Yes.
9 MS. COSENZA: Ms. Brandt?
10 MS. BRANDT: Yes.
11 MS. COSENZA: Mr. Scurman?
12 MR. SCEURMAN: Yes.
13 MS. COSENZA: Mr. Johnson?
14 MR JOHNSON: Yes.
15 MS. COSENZA: Chairman Michalski?
16 CHAIRMAN MICHALSKI: Yes.
17 The motion carries. The Board
18 accepts the application as adequate and
19 satisfactory.
20 This gentleman had a question.
21 BY THE PUBLIC
22 MR. MEITERMAN: Steven Meiterman, 16
23 Farmersville Road, Califon, New Jersey.
24 MS. COSENZA: I'm sorry. You're
25 going to have to --

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1 MR. MEITERMAN: Meiterman,
2 M-e-i-t-e-r-m-a-n.
3 MS. COSENZA: And what was your first
4 name?
5 MR. MEITERMAN: Steven.
6 MS. COSENZA: And your address?
7 MR. MEITERMAN: 16 Farmersville Road,
8 Califon.
9 MS. COSENZA: What town?
10 MR. MEITERMAN: Califon.
11 MR. SALERNO: The numbers were better
12 than I thought.
13 MR. MEITERMAN: Made it out to
14 Hunterdon County.
15 MS. COSENZA: Sorry. Go ahead.
16 MR. MEITERMAN: I just wanted to
17 refocus on the planner's testimony and keep it
18 focused to planning so I can understand.
19 Based on the information you have,
20 did the Applicant file the appropriate documents
21 with the DCA?
22 THE WITNESS: For this application,
23 the Applicant has filed the appropriate documents
24 for the A and B interpretation question.
25 MR. MEITERMAN: I assume that -- are

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1 you aware, did they receive a license from the DCA?
2 Obviously, they did.
3 THE WITNESS: Yes, they did.
4 MR. MEITERMAN: So I made the
5 assumption that they filed the appropriate papers.
6 That's my assumption.
7 THE WITNESS: Yes, they have.
8 MR. MEITERMAN: In this zone in
9 Bloomfield, for example, if I bought a house on that
10 street, can the town tell me who I can invite to
11 stay at my house?
12 THE WITNESS: No.
13 MR. MEITERMAN: Can they tell me if I
14 can ask somebody to pay me to stay in the house?
15 THE WITNESS: Absolutely not.
16 MR. MEITERMAN: Can I buy a house in
17 Bloomfield and rent it out to somebody and make
18 money on it?
19 THE WITNESS: Yes, you may.
20 MR. MEITERMAN: Can I buy every house
21 on the block and do that if I wanted?
22 THE WITNESS: Yes, that's possible.
23 MR. MEITERMAN: Do people die in
24 houses in Bloomfield?
25 THE WITNESS: Yes.

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1 MR. MEITERMAN: And occasionally from
2 a drug overdose?
3 THE WITNESS: I'm sorry.
4 MR. MEITERMAN: Occasionally,
5 unfortunately, from a drug overdose?
6 THE WITNESS: There have been such
7 instances, yes.
8 MR. MEITERMAN: Does the zoning get
9 involved in regulating other houses where people die
10 from drug overdoses?
11 THE WITNESS: No.
12 MR. MEITERMAN: Okay. Thank you.
13 (Applause.)
14 MS. SATO: How many of those types of
15 houses are near your house in Califon?
16 CHAIRMAN MICHALSKI: Excuse me.
17 MR. GONZALEZ: Hello. My name is
18 Jason Gonzalez, with a Z at the end. My address is
19 984 Bloomfield Avenue, West Caldwell, New Jersey.
20 MS. COSENZA: Thank you.
21 MR. GONZALEZ: I have a question. As
22 far as alcoholism is defined, is that defined as a
23 disease?
24 THE WITNESS: Yes.
25 MR. GONZALEZ: So would it be fair to

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1 say that if someone else in another family has
2 another type of defined disease, would they be able
3 to live on this block as well?
4 THE WITNESS: Yes.
5 MR. GONZALEZ: Thank you. No further
6 questions.
7 (Applause.)
8 CHAIRMAN MICHALSKI: Anyone else from
9 the public that has questions?
10 Any other questions from the public,
11 Board? Come up.
12 MS. O'BOYLE: Hi. My name is Ashley
13 O'Boyle, 6 Winding Way, Verona, New Jersey.
14 MR. RUBIN: Use the microphone. Your
15 name again.
16 MS. O'BOYLE: Ashley O'Boyle, 6
17 Winding Way, Verona, New Jersey.
18 MS. COSENZA: Thank you.
19 MS. O'BOYLE: I do have one quick
20 question. Entering the town of Bloomfield, did you
21 notice the sign "Stigma Free" to proclaim -- by the
22 Mayor Council in 2015?
23 THE WITNESS: I'm sorry. I didn't
24 hear.
25 MS. O'BOYLE: Did you see the large

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1 sign entering the town of Bloomfield "Stigma Free"?
2 THE WITNESS: Yes.
3 MS. O'BOYLE: And I assume that's
4 still valid, right, with the town?
5 CHAIRMAN MICHALSKI: The question is
6 for the witness, not for the Board.
7 MS. O'BOYLE: Well, it's still up,
8 right?
9 THE WITNESS: It's still up.
10 MS. O'BOYLE: Thank you.
11 (Applause and boos.)
12 CHAIRMAN MICHALSKI: Any other
13 questions from the public?
14 MS. COSENZA: Someone else is coming
15 up. He hasn't been up yet.
16 MR. ZURLO: Good evening. My name
17 Steven Zurlo, Z-u-r-l-o. 76 Hazelwood.
18 So I have a question between -- to go
19 back to the R-1A versus the R-5 use, what's the
20 difference?
21 THE WITNESS: R-1A refers to zoning
22 and R-5 refers to the characterization of dwellings
23 by DCA. It's two separate distinct issues.
24 MR. ZURLO: And what is the R-5?
25 THE WITNESS: Single family.

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1 MR. ZURLO: R-5 is a single family?
2 THE WITNESS: Yes.
3 MR. ZURLO: As in a single-family use
4 or single-family dwelling?
5 THE WITNESS: Single-family dwelling.
6 MR. ZURLO: Single-family dwelling.
7 Okay. Thank you.
8 So my question is we have a couple
9 of -- a lot of, several issues going on tonight,
10 obviously. I think there's been some misinformation
11 given out by the family who owns it by --
12 CHAIRMAN MICHALSKI: You can't --
13 this is not a time to say anything about
14 misinformation. You can ask questions.
15 MR. ZURLO: I'm going to ask
16 questions.
17 There's, I think, some misinformation
18 by the family that's been given out to residents and
19 neighbors, as well as misinformation on the
20 application --
21 MR. RUBIN: Stop. Ask questions.
22 MR. ZURLO: I'm going to ask a
23 question.
24 MR. RUBIN: No, no, no. You can't
25 preface by saying that they have misrepresented. If

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1 you have any questions, ask them. You can't prep it
2 by characterizing what they've said. It's not part
3 of the record.
4 MR. ZURLO: Okay. So on the, several
5 things, applications here, it states the application
6 that they applied for and that they received, if I'm
7 correct. This is from documents handed out tonight.
8 It states that they received an application for a
9 Class F rooming house, correct?
10 THE WITNESS: Correct.
11 MR. ZURLO: Which is a cooperative
12 sober living residence, correct?
13 THE WITNESS: Yes.
14 MR. ZURLO: Okay. On their
15 application -- oh, sorry. In Exhibit G of the same
16 document there was an email which states some of the
17 State regulations. I don't know them offhand so I'm
18 going off of what was given out. And it talks about
19 the CSLR as an R-5 use, group occupancy, which the
20 application from the State is for a group or is a
21 rooming boarding home, how I understand it given
22 here; is that correct?
23 THE WITNESS: Yes.
24 MR. ZURLO: So it's an R-5 use group
25 occupancy. It does say that it's located in a one-

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1 or two-family dwelling, but does that state that
2 it's a single-family residence? It's only a
3 dwelling, not a single-family use -- sorry,
4 single-family use.
5 THE WITNESS: First of all, DCA
6 specifically created for CSLRs this category of
7 Class F because they recognized that it didn't
8 neatly fit into the umbrella of a rooming house.
9 And they also recognize in their regulations that
10 only single-family and two-family dwellings are
11 appropriate for a CSLR. And then they go on to talk
12 about how CSLRs are only appropriate in a
13 single-family dwelling.
14 MR. ZURLO: Right. A single-family
15 dwelling, but it doesn't make it a single family.
16 THE WITNESS: No. That's why we are
17 here to discuss the definition of family and how
18 that fits this use.
19 MR. ZURLO: I understand that. Sure.
20 So my next question is -- you're a lawyer, correct?
21 THE WITNESS: No. Never insult me.
22 MR. ZURLO: I thought you were. I'm
23 sorry.
24 CHAIRMAN MICHALSKI: He's qualified
25 as a professional planner licensed in the State of

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1 New Jersey certified to --
2 MR. ZURLO: Sorry. I missed the
3 beginning.
4 So they opened the house in, I
5 believe it was January 2019?
6 THE WITNESS: I believe it's
7 February.
8 MR. ZURLO: February. Okay, February
9 '19, and they didn't apply for the application until
10 April, correct?
11 THE WITNESS: That's when Mr. Marucci
12 filed his report.
13 MR. ZURLO: So as far as we know,
14 they did not apply until April, correct? That's
15 what it says here, April.
16 THE WITNESS: I thought it was
17 shortly thereafter, but okay.
18 MR. ZURLO: So, but they opened up
19 prior to getting proper permission from the town?
20 THE WITNESS: That may be.
21 MR. ZURLO: Okay. So they
22 disregarded township ordinances? They opened up
23 without getting --
24 THE WITNESS: From my perspective,
25 that's not the case because it's a single-family use

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1 in a single-family zone. That's --
2 MR. ZURLO: Well, that's to be
3 determined, obviously, by this Board.
4 THE WITNESS: Yes.
5 MR. ZURLO: Because they applied for
6 a rooming-boarding permit from the State, from the
7 DCA?
8 THE WITNESS: Because that was the
9 umbrella category. But again, there's this
10 distinction that we keep talking about.
11 MR. ZURLO: They also, from what I
12 understand from these documents, were given the stop
13 construction for doing construction that they were
14 not permitted to do?
15 THE WITNESS: That I understand, yes.
16 MR. ZURLO: So they've potentially
17 disregarded town ordinance by opening up a facility
18 that they were not permitted to do. They
19 disregarded township ordinance by doing construction
20 they were not permitted to do. They potentially --
21 MR. LOTT: Mr. Chairman, I'm going to
22 object to the question. Much of this was not
23 testified to by the witness.
24 CHAIRMAN MICHALSKI: You can ask him
25 a question regarding his testimony.

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1 MR. ZURLO: But the documents that
2 were handed out, according to his witness, so I'm
3 going over this. Record on Appeal.
4 CHAIRMAN MICHALSKI: What's the
5 question?
6 MR. ZURLO: The question is if they
7 are -- have several times disregarded Township
8 ordinances and potentially been deceitful on some of
9 the forms. In one of the forms they put --
10 MR. LOTT: Mr. Chairman, I'm going to
11 object to the characterization of being deceitful.
12 It's outrageous.
13 MR. ZURLO: On the application they
14 put down an R-1A when the code states that they're
15 R-5. Is that not deceitful?
16 MR. RUBIN: No. R-1A is the zoning.
17 R-5 is the use category set up by the DCA. They are
18 not the same thing. They don't deal with the same
19 thing. They're two different. The R-1A zone's
20 created by the Township. The R-5 characterization
21 for residents is set up by DCA. One has nothing to
22 do with the other.
23 MR. ZURLO: Okay. Thank you for the
24 clarification.
25 MR. WILLIS: Apples and oranges.

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1 MR. ZURLO: But my question is if
2 they disregarded Township ordinances on multiple --
3 CHAIRMAN MICHALSKI: Hold on, hold
4 on, hold on.
5 MR. ZURLO: -- occasions, why should
6 they be allowed to continue --
7 CHAIRMAN MICHALSKI: Please don't
8 start with characterizing what they said. This is a
9 time for asking questions. Later on there will be a
10 time for public comment and you could say whatever
11 you want.
12 MR. ZURLO: My question is why should
13 they be continued -- be allowed to continue to
14 operate?
15 CHAIRMAN MICHALSKI: Hold on. We are
16 not an enforcement agency. You've come to the wrong
17 place.
18 MR. ZURLO: You are an enforcement
19 agency.
20 MR. RUBIN: No, we're not.
21 CHAIRMAN MICHALSKI: We have no
22 enforcement authority.
23 MR. ZURLO: I'm sorry, Ms. Cosenza.
24 Do you have anything to say?
25 MS. COSENZA: No. I mean, it's just

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1 listen. We're trying to get through everybody's
2 testimony. So everyone should be paying attention
3 and listening. They're explaining it.
4 MR. ZURLO: I am listening.
5 MS. COSENZA: To me, it doesn't seem
6 that way.
7 CHAIRMAN MICHALSKI: Thank you.
8 MR. RUBIN: Sir, do you know that we
9 get applications where people have constructed
10 additions without permits?
11 MR. ZURLO: I'm sure.
12 MR. RUBIN: And that doesn't mean
13 that we can't hear those applications. In fact,
14 we're obligated to hear those applications. And in
15 fact, there have been instances in this town where
16 people have done work without permits, come before
17 the Board later than they should have. The Board
18 has denied the variances and they've had to tear
19 those additions down. But that doesn't deprive them
20 of the right to come before the Board and seek
21 relief to validate what they have done.
22 Similarly, they opened a facility
23 that they believe is legal and required no
24 approvals. Mr. Marucci, in his -- in my correct
25 judgment, determined that this was sufficiently

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1 ambiguous that he decided that they should come
2 before the Board to determine whether or not they,
3 in fact, are a use that require no approvals. So we
4 are here to make a determination as to the fact they
5 are a permitted use that, otherwise, requires no
6 approvals -- zoning related approvals to operate.
7 If the Board concludes that they
8 require no zoning approvals to operate because they
9 are a single-family use in a single-family zone,
10 that they didn't violate any laws.
11 MR. ZURLO: Okay.
12 MR. RUBIN: Okay?
13 MR. ZURLO: Okay. Thank you.
14 MR. MEADE: My name is Bill Meade,
15 William Meade.
16 MR. RUBIN: No, you can't testify.
17 MR. MEADE: I can't testify?
18 MR. RUBIN: No, not without -- only
19 through counsel.
20 MR. MEADE: I thought I was going to
21 ask a question. That's all right.
22 CHAIRMAN MICHALSKI: Any other
23 questions from the public? No.
24 Board, questions for this witness?
25 Mr. Moormann?

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1 BY THE BOARD
2 CHAIRMAN MICHALSKI: I didn't see
3 you.
4 MR. SCEURMAN: Again, I'm not a
5 lawyer. I'm just a volunteer for the zoning, and I
6 have some questions and I've been trying to write as
7 you've been speaking. So bear with me a little bit
8 and we'll take these hopefully one at a time.
9 This sober living is considered
10 short-term stay? I think somebody mentioned 90
11 days. Is that true? Or is it 120 days or?
12 THE WITNESS: It's a minimum 90.
13 Typically because of the 12-step program that they
14 are required to go through, it's more often
15 minimally six months. So it could be significantly
16 longer than that.
17 MR. SCEURMAN: So someone could be
18 there, it can be up to six months, but by then they
19 should be -- I don't want to say cured, but they've
20 gone through the steps and now they're going
21 somewhere else or can they stay there longer?
22 THE WITNESS: From what I understand,
23 it's a fairly rigorous 12-step program. In all
24 likelihood, it could take longer than six months.
25 MR. SCEURMAN: So they talk about a

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1 supervisor being on site, correct?
2 THE WITNESS: Yes.
3 MR. SCEURMAN: Is that supervisor
4 there 24/7, seven days a week all the time? I mean
5 other than of running to the post office or
6 something like that.
7 THE WITNESS: In a broad sense, the
8 answer is yes.
9 MR. SCEURMAN: And he or she lives in
10 one of those bedrooms?
11 THE WITNESS: Yes.
12 MR. SCEURMAN: So one of those
13 bedrooms is not for the residents, it's only for the
14 supervisor.
15 THE WITNESS: Only eight of the
16 bedrooms are for residents.
17 MR. SCEURMAN: How many beds were
18 there again?
19 THE WITNESS: Pardon me?
20 MR. SCEURMAN: How many beds are
21 there again?
22 THE WITNESS: Ten. Eight are for
23 residents and then there's the two for the --
24 MR. SCEURMAN: I thought you
25 mentioned eight was the maximum?

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1 THE WITNESS: Eight is the maximum
2 number of residents that they're entitled to have.
3 MR. SCEURMAN: Let me ask this
4 question. Is this facility for men and women?
5 THE WITNESS: Only men.
6 MR. SCEURMAN: Only men. Thank you.
7 Also, is there a -- do the residents
8 have a curfew at night when they're going to be
9 hopefully back in the room?
10 THE WITNESS: Yes.
11 MR. SCEURMAN: Do you know what time
12 that is?
13 THE WITNESS: It can vary depending
14 on far along they are in the program. I think the
15 earliest --
16 MR. SCEURMAN: It's staggered more or
17 less?
18 THE WITNESS: Yes.
19 MR. SCEURMAN: But there's got to be
20 a cutoff at some point?
21 THE WITNESS: Yes, there is.
22 MR. SCEURMAN: And you don't know
23 what that is?
24 THE WITNESS: I don't.
25 MR. SCEURMAN: You said this is a

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1 nonprofit organization? I'm sorry. It's a for
2 profit.
3 THE WITNESS: Correct.
4 MR. SCEURMAN: Could they ask for a
5 nonprofit status?
6 THE WITNESS: I guess they could.
7 MR. SCEURMAN: It's a possibility?
8 THE WITNESS: I would assume so if
9 they went to the attorney.
10 MR. SCEURMAN: My last question is
11 from what Mr. Marucci mentioned, I kind of would
12 think the same thing. If I went there and there was
13 people going in and out, I would think it was a
14 boarding house myself. That would be my first
15 opinion. So I think the initial zoning request I
16 think was valid at that time. Sober living is
17 something that I've never dealt with here before.
18 So I kind of see where that would be the information
19 to start with that there was a violation.
20 THE WITNESS: Given the terminology
21 and the history, I could understand where
22 Mr. Marucci is coming from. But clearly there's a
23 distinction to be made between a boarding house and
24 this type of facility.
25 Now, if the boarding house were

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1 single room occupancies, you get a little room and
2 that's it. This --
3 MR. SCEURMAN: You can take a room
4 and stick four beds in it, if you wanted. But you
5 say one bed, one room. Now you've got two bedrooms.
6 THE WITNESS: In a boarding house,
7 you have a key to that one room and that is yours.
8 Here it's more like a family. You have bedrooms and
9 you can't even lock the doors in this particular
10 place.
11 But it's much more open. It's much
12 more communal. It's all designed to be communal,
13 just like the way a family lives, unlike the way a
14 boarding house lives where there's not that
15 communality at all. You come and go and that's it.
16 Here you've got a communal nature.
17 The activities with mediation -- the kind of
18 activities I had mentioned earlier. And all
19 designed to create a sense of family, because these
20 people have to work well together so as a group, as
21 a family, they all could recover well. And that's a
22 huge difference between a boarding house.
23 MR. SCEURMAN: Do residents sign any
24 kind of a lease or any kind of --
25 THE WITNESS: There is a -- they do

1 sign an agreement that they're going to abide by all
2 the regulations, even more than what I had mentioned
3 earlier, that if they fall back and drink again or
4 take drugs, they can immediately get thrown out, and
5 they have to immediately get to a detox facility.
6 They don't just walk out on the street. There's a
7 process involved.

8 So there's a lot of differences
9 between a boarding house and this, and it's all
10 designed to encourage recovery and get these people
11 back into mainstream living and this is that first
12 step.

13 MR. SCEURMAN: And they also, by
14 signing this agreement, agree to pay \$300 a week, if
15 that's the cost?

16 THE WITNESS: Whatever the exact rate
17 is.

18 MR. SCEURMAN: But you're saying they
19 agree to pay \$300?

20 THE WITNESS: No different than you
21 sign a lease --

22 MR. SCEURMAN: I'm finding it hard
23 when you're saying you're using the word family,
24 family, family, but you're charging \$300 a week.
25 That to me is a little funny when it comes to

1 family, but just a definition of what we're talking
2 about.

3 THE WITNESS: But the issue, and I
4 think your attorney touched upon it, you know, if
5 you're renting to four people in their 20s, they're
6 not a family in the sense that you're thinking of a
7 family, but they all have a lease for the rent of
8 that apartment, and -- but they're living as a
9 family unit for the time they're together.

10 MR. SCEURMAN: One other thing.
11 Looking at the, I guess it's your Section 8. Your
12 operating license expires at the end of this month,
13 according to your document. So you might want to
14 check that out.

15 THE WITNESS: I think we're all aware
16 of that, yes.

17 MR. SCEURMAN: Thank you.

18 THE WITNESS: Thank you.

19 CHAIRMAN MICHALSKI: Mr. Moormann.

20 MR. MOORMANN: Just referring to the
21 plans and the photos that were submitted and the
22 grant the operating license that you're permitted
23 eight licensees. The photos for the interiors show
24 eight beds. Those eight beds are within three
25 bedrooms. The photos aren't labeled, but they're

1 physically in three bedrooms.

2 The one operator I would expect you
3 testified is in their own bedroom, but per the plans
4 there are six bedrooms total in the entire house.

5 The plans are also very poor and
6 incomplete, hard to read, but I gather that those
7 six bedrooms are located solely on the second floor
8 in the attic loft space; is that accurate?

9 THE WITNESS: I believe there's five
10 bedrooms.

11 MR. MOORMANN: Not per your plans. I
12 just counted six.

13 Sorry. I read your bathroom on the
14 attic level as a bedroom. There's five bedrooms.

15 But still your photos document three
16 bedrooms and there are two additional bedrooms that
17 we weren't provided photos of, one being used by a
18 manager. What is the fifth bedroom being used by?

19 THE WITNESS: I'm not sure of the
20 exact distribution but the two operators are in
21 bedrooms and then --

22 MR. MOORMANN: There's two operators
23 or one?

24 THE WITNESS: There's two.

25 MR. MOORMANN: You said one multiple

1 times.

2 THE WITNESS: No, I thought I said
3 two.

4 MR. MOORMANN: I wrote down one
5 multiple times, possibly two. But right now
6 currently you said that there are four residents and
7 one operator.

8 THE WITNESS: No. I said four and
9 two. And if I misspoke, let's clear that up right
10 now.

11 MR. MOORMANN: I'm trying to
12 understand the distribution of beds, because what
13 you provided is photographs for only three bedrooms
14 and there are five total.

15 THE WITNESS: That is correct. We
16 didn't show every room in the house. We didn't show
17 every bathroom in the house either.

18 MR. MOORMANN: Again, trying to
19 interpret the plans because they're difficult and
20 inaccurate. I say inaccurate because the first
21 floor, as per the survey, has a one-story extension
22 off of, I believe it's the kitchen area that's not
23 shown on the plan and it includes the porch area
24 where presumably there could be living quarters
25 there.

1 THE WITNESS: And you're talking
2 about not the photographs, you're talking about the
3 illustration showing the floor plans themselves?

4 MR. MOORMANN: I'm cross-referencing
5 your survey, your submitted floor plans, and your
6 photographs. So I'm piecing all three together.
7 That's the only way I can paint a picture because
8 the plans are poor and inaccurate. I'm trying to
9 figure out where does everybody fit in.

10 You provided photographs of eight
11 bedrooms as per your eight licensee permitted
12 physically in three bedrooms in a five-bedroom
13 house. I'm just trying understand is there a
14 potential that there was more beds that were not
15 being presented here? I want to clarify are there
16 any beds on the first floor? Are there any sleeping
17 quarters that are not shown?

18 I'm just trying to understand what's
19 presented here.

20 THE WITNESS: I will have to get back
21 to you on that to clarify.

22 MR. MOORMANN: And then my other
23 question, as far as the introduction of people into
24 this house, how does that happen? Are these people
25 coming at will? Are they coming through a rehab

1 center? Are they court ordered to show up? Are
2 they identified because they were, you know, court
3 ordered because they were in possession and they
4 have to go through a program now? Like, how do
5 people actually come to this house?

6 THE WITNESS: Yeah. They are coming
7 from a rehab facility. But they're all volunteers.
8 They're not the being directed to come here.

9 MR. MOORMANN: Okay.

10 THE WITNESS: I thought I had
11 explained Hazel House gets contacted by a
12 representative from an inpatient rehab facility.
13 They arrange a site visit to determine if they think
14 they're -- this facility is appropriate for their
15 person.

16 If everything seems okay, they then
17 contact Hazel House and refer the patient and
18 provide some initial information about the
19 Applicant. And amongst the questions touched upon,
20 they ask for the sobriety date because they have to
21 be drug free and alcohol free for minimally 30 days.

22 And then some of the forms they fill
23 out, they have to identify whether or not they've
24 ever been convicted of a sex crime or registered as
25 a sex offender, or convicted of a violent felony.

1 Because if they are, they're not allowed entry into
2 Hazel House.

3 And then if they pass that test,
4 Hazel House then brings in a company called Good
5 Hire and they do a very definitive background check
6 of everything they can get about that person to
7 confirm all the things that they've been told. And
8 if everything checks out, then there's an in-person
9 interview.

10 MR. MOORMANN: No, I -- I understand
11 the way you already testified. I just wasn't clear
12 whether the beginning of this is more medically
13 prescribed. Someone went to a rehab center. The
14 rehab center reaches out to these type of homes and
15 facilities, rather than if someone had a criminal
16 offense that then has to --

17 THE WITNESS: No.

18 MR. MOORMANN: -- move through this
19 process.

20 THE WITNESS: No, that's not the
21 way -- they finished their rehab, and then this is
22 the next step in the process to introduce them back
23 into society.

24 MR. MOORMANN: Okay.

25 CHAIRMAN MICHALSKI: Mr. Prince.

1 MR. PRINCE: Thank you, Mr. Chairman.
2 Mr. Burgis, Mr. Salerno had asked you
3 as a professional planner, were you not concerned
4 with the number of facilities in this one particular
5 neighborhood or vicinity. And as a professional, I
6 ask you the same. Are you not concerned with the
7 multiple uses of this type of facility within a
8 small area?

9 THE WITNESS: I mean, I purposely
10 asked the question of our client as to where others
11 are because I wanted to get a sense of it. But
12 while we're talking about a decision of whether or
13 not you meet the criteria of the definition of
14 family, I don't think that is applicable. If you're
15 talking about the issue of the use variance and then
16 there's substantial detriment to the public good, I
17 think that's an appropriate question to be asked and
18 I'll certainly answer it at that time.

19 But I am intrigued by the fact that
20 the Municipal Land Use Law does mandate that all
21 manner of community residences are allowed to locate
22 in residential zones and the regulations that they
23 do impose do not include a distance measurement
24 separating such facilities. So the State has
25 already made the determination about the propriety

1 of establishing the distance separation.
2 MR. PRINCE: As a planner, what's a
3 critical point where a facility changes a
4 neighborhood and is no longer the neighborhood that
5 it was that attracted this type of facility to begin
6 with?

7 THE WITNESS: That's a valid question
8 that if we have to get to that use variance issue,
9 I'll be prepared to answer. I was prepared to deal
10 with the issue of the interpretation tonight.

11 MR. PRINCE: Okay. One other
12 question I have is you keep referring to the DCA
13 saying that a house located in a single-family home
14 is, therefore, okay. Isn't that constraint on the
15 facility and not on the community that just because
16 a community has designated an area as a
17 single-family home, it does not necessarily mean
18 that it's -- or are you saying that it no longer has
19 control or any type of jurisdiction over that
20 facility? From what I can see, I think, doesn't it
21 respect the constraint on the single-family home
22 occurs to the facility and not to the town?

23 THE WITNESS: My reading of the DCA
24 regulation, when they say that the municipality
25 still maintains zoning control, I believe they're

1 talking about how a municipality can zone property
2 for residential use, single-family residential or
3 multifamily, or commercial, or whatever. But once
4 they make the determination that -- excuse me one
5 second. Once they make the determination that
6 there's an area to be zoned for detached
7 single-family residential development or use, the
8 DCA has said in such zones, a sober living house
9 would be entitled to occupy the dwelling because
10 they perceive it as a family occupancy.

11 MR. PRINCE: I see that constraint
12 being put on the facility and operator and not on
13 the town itself.

14 If the NJ NARR, if their intent was
15 to usurp local control to the zoning office and even
16 the zoning board concerning these type of facilities
17 and regulating them, why not, when the New Jersey
18 ARR decided that the facility is legal, it can do
19 this, do they not contact the zoning office and
20 state to the zoning office, Your jurisdiction has
21 ended, you therefore -- this facility, therefore, is
22 deemed by us to be viable and that is it? Why then
23 is it that the town is not notified of the -- this
24 agency's decision?

25 THE WITNESS: Why the town wasn't

1 notified of the agency decision?

2 MR. PRINCE: If we put up -- if the
3 town decided that a single-family detached home is
4 zoned and, therefore, the DCA can say we can put a
5 house in there and, therefore, any constraint that
6 the town has put on single-family dwelling homes is
7 null because the DCA has claimed it to be, then
8 shouldn't someone notify the town that you have now
9 put up a single-family zoning; therefore, your
10 constraint over that house being used by us is null
11 and we can do as we wish?

12 THE WITNESS: Let me offer two
13 comments: One, I mean, DCA adopts these
14 regulations. Municipalities are often made aware of
15 that, of that new rule. I know we represent about
16 fifty municipalities and we get a lot of information
17 from DCA and all the other -- other state agencies
18 about new regulations. They're always being
19 adopted.

20 So there is that process where towns
21 are being made aware of it, but to suggest that
22 because DCA then has given a permit for someone to
23 occupy a house, I find troublesome because they
24 don't control any single-family dwelling when it's
25 occupied by a family -- a family. Some

1 municipalities don't like to see six- or
2 eight-person families move in because of the school
3 impacts. I think that's the wrong road to go down.

4 MR. PRINCE: It seems to me then,
5 therefore, you're saying that the control still
6 belongs to the town and that this Board and the
7 zoning office can still make a determination about
8 this facility and whether it can be used or not.

9 THE WITNESS: I think you certainly
10 can make the determination. But what I'm suggesting
11 is, based on my reading of the information and your
12 ordinance and your definitions, that the
13 determination is to be made is that these kinds of
14 houses with this kind of occupancy represents
15 another form of a family that can move into any
16 house.

17 MR. PRINCE: I don't know if you know
18 the answer to this, but if a person were to fall --
19 you know, lose their sobriety, whatever form, and
20 they're asked to leave, as a renter -- do they have
21 rights as a renter? As someone asked -- are asked
22 to leave, are they reimbursed for security? Is
23 there a security given? They're renters.

24 THE WITNESS: That I don't know, but
25 I do know they sign an agreement whereby they would

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1 be obligated to leave and enter a detox facility.
2 MR. PRINCE: But it would be no
3 different if I'm renting a house from someone and I
4 violated the rules that the owner had said to do,
5 I'm given notice 30 days. Are you saying renters do
6 not have -- these family members do not have that?
7 THE WITNESS: Because they're
8 voluntarily entering into an agreement where they
9 are going to follow the rules and regulations of
10 this house.
11 MR. PRINCE: It's not really a house
12 then. It's not really a family home because if I
13 rent a house for my family and I, and me or someone
14 violates the rules of the owner of the home, we have
15 a certain period of time for which to leave. But
16 you're saying that it's immediate. They don't have
17 any rights to that place, or are you saying they
18 give up that right?
19 THE WITNESS: They are agreeing to
20 follow the rules of the house, the same way my
21 children follow the rules of the house when they
22 lived with us.
23 MR. PRINCE: Okay. Thank you.
24 CHAIRMAN MICHALSKI: Who else?
25 MR JOHNSON: Mr. Chairman.

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1 CHAIRMAN MICHALSKI: Mr. Johnson.
2 MR JOHNSON: Yes. Starting with the
3 operators, there are two operators, is that correct,
4 currently in the facility?
5 THE WITNESS: They're management
6 operators.
7 MR JOHNSON: Management operators.
8 And so these two manager operators, do they
9 basically establish the rules and bylaws that
10 governs the facility?
11 THE WITNESS: Yes.
12 MR JOHNSON: Are there any -- is
13 there any other governance that oversees the rules
14 that they put in place or do they have a lot of
15 discretion as to what rules are put in place?
16 THE WITNESS: There is discretion.
17 On the other hand, there's a series of governance
18 rules that DCA requires be followed, and some of
19 those rules within -- within some of the rules there
20 is some discretion.
21 MR JOHNSON: Okay. And who enforces
22 these rules?
23 THE WITNESS: The operators.
24 MR JOHNSON: The operators. And who
25 collects the rent?

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1 THE WITNESS: The operators.
2 MR JOHNSON: The operators. So the
3 operators, they collect the money, they make the
4 rules, they enforce the rules?
5 THE WITNESS: Yes.
6 MR JOHNSON: To me that seems like a
7 little conflict of interest, but be that as it may.
8 So moving on --
9 THE WITNESS: That's the DCA.
10 MR JOHNSON: That's the DCA. It
11 seems kind of loose.
12 With respect to the definition of
13 family, we are relying -- your exhibit is -- it's
14 the Municipal Land Use definitions, is that correct,
15 that you have here that we're using?
16 THE WITNESS: The definition of
17 family comes out of your zoning ordinance.
18 MR JOHNSON: Out of our zoning
19 ordinance. Okay. And would there be any definition
20 of family that would supersede the Bloomfield Zoning
21 Board's definition of family?
22 THE WITNESS: No.
23 MR JOHNSON: So we're relying on our
24 definition of family?
25 THE WITNESS: Yes.

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1 MR JOHNSON: All right. So I totally
2 am clear that family does not necessarily need to
3 constitute blood relatives, and they basically also
4 pay rent. I'm clear about that. However, it's the
5 second part of this definition, the second sentence
6 that I'm a little unclear of. So the second part of
7 the definition goes on to say what a family is not.
8 So a family is not a society of blood, fraternity,
9 sorority, association, lodge, federation, et cetera.
10 So I'm trying to understand how this
11 family of sober residents living together, how would
12 they differ from say an association or a federation,
13 in your mind?
14 THE WITNESS: Because you have to
15 read the rest of that definition because it says
16 or --
17 MR JOHNSON: Or likely organizations
18 or any group of individuals who are in a group
19 living arrangement --
20 THE WITNESS: As a result of criminal
21 offenses. That doesn't apply here.
22 MR JOHNSON: But are we saying that
23 all of these definitions of society, club,
24 fraternity, sorority or association -- association,
25 those all are subject to the criminal offenses?

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1 THE WITNESS: It's a combination of
2 that. But clearly, this isn't a society -- it isn't
3 any of those things.
4 MR. JOHNSON: Why is it --
5 THE WITNESS: Because clubs or
6 societies have their own separate charter.
7 MR. JOHNSON: But there's a set of
8 rules and governance here.
9 THE WITNESS: There's a set of rules.
10 I have a set rules for my family. That's just
11 typical of any family. But the societies and clubs,
12 et cetera, all have a formal charter that's
13 distinguishable as having a set of rules in your
14 house.
15 MR. JOHNSON: Well, I mean, that's not
16 true. I mean, I'm sure there are some that do have
17 charters, but we don't define anywhere within our
18 code here what a sorority, a fraternity, association
19 lodge, or federation is. So it's not clear to me
20 how this family differs from an association or a
21 federation, except maybe perhaps by function or
22 purpose.
23 THE WITNESS: I think if your
24 ordinance doesn't define the terms, you can use a
25 standard dictionary definition to see how they were

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1 distinguishable from a family.
2 MR. JOHNSON: I think what a lot of us
3 are getting stuck on -- I mean, and I'm clear that
4 you're clear as to what a family is, but I don't
5 think the rest of us are clear as to what a family
6 is. So I think that's what we're getting hung up
7 on. Because it seems like the way that the CSA and
8 yourself is defining family really aligns more in
9 spirit with an association or even a fraternity, for
10 that matter, where you have residents occupying a
11 single-family house for a particular purpose or
12 function and they pay dues or rent.
13 THE WITNESS: I think you need to
14 look at this in the context of a number of people
15 agreeing to live in an apartment together. It isn't
16 an apartment, it's a house, but it's the same
17 concept.
18 MR. JOHNSON: Right, but that's like a
19 fraternity house.
20 MR. RUBIN: No, it's not. Legally
21 it's not. There's a Supreme Court case that says
22 you cannot discriminate on the basis of familial
23 relationships or anything else. In other words, the
24 Supreme Court case was if there's a bunch of
25 students who rent a house together, they're going to

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1 be treated as a single family of residents.
2 MR. JOHNSON: Okay.
3 MR. RUBIN: And what the witness is
4 trying to suggest to you is that this living
5 arrangement is no different from what the Supreme
6 Court has already recognized as a single-family
7 dwelling, which is different from a fraternity,
8 different from a sorority.
9 MR. JOHNSON: Is it different from an
10 association?
11 MR. RUBIN: Yes. Associations are
12 formal organizations. These people are not part of
13 a formal organization. They're renting a space in a
14 sober living environment. Those definitions do not
15 apply.
16 MR. WILLIS: But you're
17 discriminating male and female.
18 MR. RUBIN: That's another issue that
19 is not for this Board. Whether that violates any
20 federal law, that's not for this Board.
21 MR. WILLIS: I'm just speaking the
22 point you're making that when you look at the family
23 with the definition he's giving you, he's talking
24 about association concerning a sorority.
25 MR. LOTT: Mr. Chairman, we should

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1 call the speaker up.
2 (Cross-talking of several people.)
3 MR. RUBIN: I'm just telling you that
4 the Supreme Court has already absolved this question
5 in terms of whether or not people who are
6 unaffiliated rent a house together can be treated as
7 a single family, and the answer to that is yes. The
8 question is is this use operating like a
9 single-family residence? They're relying --
10 UNIDENTIFIED SPEAKER: No.
11 MR. RUBIN: Sir, please.
12 UNIDENTIFIED SPEAKER: Sorry.
13 MR. RUBIN: They're relying on what
14 the DCA has described and said that they -- a CSLR
15 is designated as a single-family home. They're
16 relying on that representation or statement from the
17 DCA.
18 The question is not whether they're a
19 fraternity or sorority, or anything like that,
20 because they're not. The question is whether or not
21 they operate as a single-family residence. They're
22 saying because the DCA says they are, that's binding
23 on this Board.
24 MR. JOHNSON: But the DCA also says
25 that it relies on the municipality, right, under

1 municipal codes?
 2 MR. RUBIN: No. What they say is
 3 they allow the municipality to make the zoning
 4 determination. So the zoning determination that
 5 they're telling you has been made is that because we
 6 have single-family zones, DCA has basically dictated
 7 to this town that these uses are permitted in every
 8 single-family zone. Whether that is true or not is
 9 I think the debate that needs to take place here,
 10 and I don't think your questions go to that
 11 question.

12 There are questions that should be
 13 raised about that but I don't think they've been
 14 raised yet, and I'm perfectly willing to ask those
 15 questions if you want me to, but trying to argue
 16 that this is a sorority or fraternity is not the
 17 right way to go because it's not.

18 MR JOHNSON: All right. So I would
 19 definitely appreciate you asking those questions
 20 because I do not understand. I don't think our
 21 definition of family is clear in our code here.

22 MR. RUBIN: I think the definition of
 23 family is very clear that people who are not related
 24 by blood or anything else, as long as they're living
 25 as a single-family unit. The question is what is a

1 single-family unit? That's the question.

2 MR JOHNSON: I agree.

3 MR. RUBIN: And that's not a
 4 fraternity. It's not a sorority. It's not anything
 5 like that.

6 The reason it's not like that, or one
 7 of the reasons is because when you live in a
 8 fraternity house, the fraternity house generally is
 9 an association that you have joined because it is
 10 related to your college and, you know, so forth, and
 11 there's initiation and all these other things.

12 This is, like, not like that. This
 13 is a situation where people come and live here
 14 because they want to be around people who are going
 15 to help them stay sober. A fraternity house is
 16 exactly the opposite.

17 MR JOHNSON: Well, the intent and the
 18 purpose may be different, but I'm still not clear
 19 that there's a clear line of difference here.
 20 Because, I mean, most of these people, not all of
 21 them are referred.

22 MR. RUBIN: What they're saying is
 23 the DCA says that it's a single-family home, and
 24 because it says they're a single-family home,
 25 they're saying that it's permitted. A fraternity

1 house is not a single-family home. A sorority is
 2 not a single-family home. They don't operate a
 3 single-family home. They're not treated as a
 4 single-family home. They're not -- you couldn't --
 5 our own ordinance says you can't operate a sorority
 6 in a single-family residential zone because it's not
 7 a -- it's not a family unit. Each of the doors are
 8 locked in every room. It's not treated as a
 9 single-family home. All right?

10 MR JOHNSON: All right.

11 MR. RUBIN: So the issue is whether
 12 or not the DCA has the right to dictate zoning.
 13 That is the issue here. Does DCA have the right to
 14 tell a municipality that these are single-family
 15 homes and, thus, should be permitted in all your
 16 single-family residences?

17 That to me is the fundamental issue
 18 here. What authority does the DCA have to dictate
 19 zoning in a municipality? That I think is the
 20 question. And if -- if it's determined by this
 21 Board that the DCA has the ability to dictate
 22 zoning, if that's what they're arguing they do, then
 23 they're right. But that is the question.

24 Zoning is determined by Municipal
 25 Land Use Law. DCA is not a function of the

1 Municipal Land Use Law. And whether or not DCA has
 2 the right to dictate zoning is, to me, the question
 3 that this witness needs to be answered. If I'll be
 4 allowed to ask a question of the witness, I think I
 5 might be able to help here.

6 Are you aware of any regulation that
 7 DCA has issued similar to this that dictates zoning
 8 in municipalities?

9 THE WITNESS: No, but it seems that
 10 they've done it here based on --

11 MR. RUBIN: But do they have the
 12 authority to do it? That's the question. They're
 13 not a function of the Municipal Land Use Law, are
 14 they?

15 THE WITNESS: No, they're not but --

16 MR. RUBIN: But we are, are we not?

17 THE WITNESS: You are.

18 MR. RUBIN: And our zoning ordinance
 19 is a function of the Municipal Land Use Law, is it
 20 not?

21 THE WITNESS: Correct.

22 MR. RUBIN: It's not a function of
 23 any -- any regulatory structure or statute that has
 24 anything to do with DCA, does it?

25 THE WITNESS: I'm troubled by the

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1 idea that a municipal board can make the
2 determination that a state agency doesn't have some
3 authority.
4 MR. RUBIN: But aren't you troubled
5 by a state agency that has nothing to do with zoning
6 and isn't a creation of the Municipal Land Use Law
7 dictating zoning for municipalities?
8 If you go back to 66, all the
9 sections in 66, they're enacted under the Municipal
10 Land Use Law, and they say all these uses are
11 permitted in all residential zones. DCA doesn't say
12 they're permitted in all residential zone. DCA says
13 they have to be in single-family dwellings.
14 There's a distinction between a
15 single-family dwelling and a single-family zone.
16 Not all single-family dwellings are in single-family
17 zones. Wouldn't you agree with that?
18 THE WITNESS: Yes.
19 MR. RUBIN: So the question I have is
20 what authority does DCA have to dictate to this or
21 any other municipality how to zone their town?
22 MR. LOTT: Mr. Chair, I know I'll get
23 an objection from Mr. Salerno, but this is a legal
24 issue, right? It's beyond the witness' expertise as
25 a planner. All right?

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1 MR. RUBIN: No, it's not because he
2 knows zoning and he knows the process by which
3 zoning ordinances are enacted. He understands the
4 process by which courts review zoning ordinances.
5 He understands the process by which sections like 66
6 and 66.1, et cetera, are enacted and how they
7 restrict zoning.
8 The question before this Board, it
9 seems to me, is how can a DCA regulation restrict
10 municipal zoning? What authority does DCA have to
11 restrict municipal zoning? And can that witness --
12 he's already testified he knows of no similar
13 regulation by DCA that seeks to restrict municipal
14 zoning.
15 And the question to this Board is
16 can -- is this Board, would you suggest that this
17 Board is bound by a governmental agency that has
18 absolutely no connection to, or any legal standing
19 to issue zoning regulations?
20 MR. LOTT: Is that question for me,
21 the witness, or both?
22 MR. RUBIN: The witness.
23 THE WITNESS: What I find interesting
24 in this whole discussion, in the end when you look
25 at the definition of family in the Supreme Court

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1 decisions about what a family is constituted, I
2 still believe that it meets that definition. If you
3 put aside for a moment the DCA connection, the
4 grouping of these eight people in this house
5 represent a family.
6 MR. RUBIN: But Oxford House, which
7 has been deemed a family, they don't have
8 supervisors, correct?
9 THE WITNESS: Correct.
10 MR. RUBIN: They live on their own?
11 They live as -- as a group of students would live in
12 a house that they rent near Bloomfield College,
13 correct?
14 THE WITNESS: Correct.
15 MR. RUBIN: This is a different
16 structure than that; isn't it not?
17 THE WITNESS: And there's nothing
18 wrong with that different structure.
19 MR. RUBIN: I'm not saying it's right
20 or wrong. I'm questioning doesn't that distinguish
21 it from a single-family dwelling that had been
22 recognized by the Supreme Court?
23 THE WITNESS: I still -- I'm not sure
24 if it does to that degree.
25 MR. RUBIN: The Oxford House, the

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1 people decide who's living there, not the operators,
2 correct?
3 THE WITNESS: Correct.
4 MR. RUBIN: Here the operators decide
5 who's living here, correct?
6 THE WITNESS: Correct.
7 MR. RUBIN: Doesn't that distinguish
8 it from the Oxford House Supreme Court cases?
9 THE WITNESS: It does, but it still
10 doesn't distinguish in terms of the definition of
11 family itself from that Supreme Court case. This is
12 still a family in terms of how --
13 MR. RUBIN: No. You're arguing it's
14 a family because DCA says it's a family.
15 THE WITNESS: No.
16 MR. RUBIN: But the Supreme Court has
17 not ruled that this is a family living environment,
18 because I'm not aware of any case that has ruled on
19 whether or not the CSLRs are actually a family
20 living environment. You're relying on what DCA has
21 said, correct?
22 THE WITNESS: We are, yes.
23 MR. RUBIN: And the question is does
24 the DCA -- has DCA ever, ever, dictated zoning
25 before, in your knowledge?

1 THE WITNESS: I already answered that
 2 question.
 3 MR. RUBIN: That's no, correct?
 4 THE WITNESS: Yes, correct.
 5 MR. RUBIN: And to me, that's the
 6 issue that this Board needs to grapple with, is
 7 whether or not they're bound by DCA's definition of
 8 what a single-family residence is. And I'm not sure
 9 how to answer that question because, fortunately,
 10 I'm not a Board member. But I'm not aware of any
 11 case that I can guide you to that will help you
 12 because these structures have not been addressed by
 13 a court of law, as far as I know, and I'm befuddled
 14 by where DCA gets the authority to issue zoning
 15 regulations. And that's what I think that when we
 16 convene, I would like to have some testimony or
 17 something that helps the Board with this question
 18 because I think that's the fundamental question
 19 here.
 20 MR. LOTT: Mr. Chair, I'd just like
 21 to address some of the legal issues that were raised
 22 by Board counsel.
 23 And I'm not barring Mr. Salerno,
 24 please object. All right?
 25 This is one of the reasons why we

1 briefed the issue.
 2 MR. RUBIN: But your briefing doesn't
 3 address the power of DCA to dictate zoning.
 4 MR. LOTT: Right, that's because DCA
 5 has not superseded the municipal zoning regulation.
 6 MR. RUBIN: Your witness testified it
 7 did.
 8 MR. LOTT: No, that's not -- that's
 9 not what he testified to.
 10 MR. RUBIN: He said if you have a
 11 single-family zone, DCA says this is a single-family
 12 use and, therefore, it has to be permitted in all
 13 your single-family residence zone.
 14 MR. LOTT: For purposes of use
 15 classification under the construction code, the
 16 structure is a one- or two-family home. Those are
 17 the only places where a sober living facility can be
 18 located.
 19 What DCA has said is is that that
 20 determination is made under the Uniform Construction
 21 Code and for purposes of the Rooming and Boarding
 22 House Act.
 23 Now, the Department in its regulatory
 24 commentary, as well as the guidance letters it
 25 provides, recognizes that those single-family

1 dwellings are most likely going to be located in
 2 single-family zone districts.
 3 MR. RUBIN: I don't see that anywhere
 4 here. I don't even see them talking about
 5 single-family zone districts. They talk about
 6 single-family dwellings, they don't talk about
 7 single-family zoning districts.
 8 MR. LOTT: Because that determination
 9 rests with local zoning officials. That's why DCA
 10 has not superceded the area and occupied it by State
 11 regulation.
 12 MR. RUBIN: As long as you agree with
 13 me they could never issue a regulation that says
 14 these have to be permitted uses in all single-family
 15 zones. They don't have authority to do that.
 16 MR. LOTT: Only if they did it by
 17 statute, and that's not what's happened here.
 18 MR. RUBIN: Correct. So how could
 19 this be binding on the Board?
 20 MR. LOTT: The determination that's
 21 binding on the Board, which is what the witness
 22 testified to, is what constitutes a family and a
 23 household? I think that the structure, all right,
 24 that the use is located in is undeniably a
 25 single-family detached structure. The question is

1 are the occupants who live there a family and a
 2 household under the Township zoning ordinance.
 3 MR. RUBIN: No. What I'm suggesting
 4 to you is you're relying on the fact that they are a
 5 single-family use pursuant to DCA regulations and
 6 their -- their bulletin which says they are. And
 7 what I'm suggesting to you is there's no court case
 8 out there that says this structure where you have
 9 operators who decide who live there, who could kick
 10 people out whenever they want, who can set up
 11 whatever rules they want, who have people paying on
 12 a weekly basis are the single-family use. There is
 13 no court case on that. There is nothing in the
 14 Municipal Land Use Law that says that's the case.
 15 If the legislature, in their infinite
 16 wisdom, wanted this to be treated as a single-family
 17 use, they should have amended Section 66 to say that
 18 these are permitted in all residential zones. But
 19 they haven't done that, at least not yet.
 20 The only thing, the only legal
 21 authority you have that this is a single-family use
 22 based upon the type of structure that has been
 23 defined by your witnesses and by regulations that
 24 you site to is the fact that DCA says they are,
 25 because they are not an Oxford House. They do not

1 have the kind of supervision that -- or the lack of
 2 supervision that Oxford House does.
 3 Your witness even in testimony, they
 4 all cook together. The owner testified to that.
 5 They don't operate as a single-family unit because
 6 they don't all cook together. They don't all --
 7 they have access to it, but in the kind of
 8 operations that Supreme Courts found in terms of
 9 students and so forth, they talk about the fact they
 10 all share kitchens. They all contribute to one pile
 11 of money that gets paid to rent. There are all
 12 these standards that the Supreme Court has
 13 recognized in Judge Pashman's decision that are
 14 different from the way this operates.
 15 I'm not saying you're not right.
 16 Please don't -- no one here on this Board should
 17 suggest that I'm dictating the determination of this
 18 Board. What I'm suggesting to you is there needs to
 19 be more definitive analysis of why this meets the
 20 standards that have been recognized throughout the
 21 State as to what a single-family home really is.
 22 And simply because DCA says it's a single-family
 23 home, in my humble opinion, doesn't give them the
 24 right to be dispositive of this question, because
 25 they have no zoning authority.

1 MR. LOTT: So it's clearly an issue
 2 of first impression. I think we've acknowledged
 3 that in our legal brief. All right. There's an
 4 interplay between state regulation and local zoning
 5 authority, which we also acknowledge.
 6 MR. RUBIN: Not with DCA there isn't.
 7 There is no interrelationship between DCA
 8 regulations and zoning. Your witness has testified
 9 to that. At least none that I'm aware of and none
 10 that he's aware of. So I don't think you should say
 11 that simply because DCA has issued regulations, that
 12 there's some interrelationship between what DCA has
 13 dictated and zoning.
 14 MR. LOTT: The regulation provides
 15 that the use can only be occupied in a single-family
 16 home, one- or two-family home. DCA has also said
 17 that there's no need for a certificate of occupancy.
 18 MR. RUBIN: Which is different from a
 19 zoning permit.
 20 MR. LOTT: That's correct. And
 21 they've also said that the municipality retains its
 22 authority to make those zoning decisions. The
 23 Township has a functional definition of what
 24 constitutes a family and what constitutes a
 25 household.

1 What he's testified to is is that the
 2 application presented by Hazel House meets those
 3 definitions.
 4 MR. RUBIN: And that is subject to
 5 debate. There's no court -- there's no court
 6 decision that agrees with that, because this
 7 structure is different from those other structures
 8 that the court has recognized as being a single
 9 family use. That's undeniable.
 10 MR. LOTT: As I said, this is a case
 11 of first impression. There's no case to the
 12 contrary either.
 13 MR. RUBIN: Correct. I agree with
 14 you. And I'm sure Mr. Salerno, who is much more
 15 learned in these matters than I am, has things to
 16 say about this, and I just don't know whether now is
 17 the time to debate this issue from a legal point of
 18 view, or is this something that we should do when we
 19 all return and have more opportunity to consider
 20 this question, which is to me, you know, what I've
 21 been struggling with since I first got involved in
 22 this, is how does DCA tell this -- any town that
 23 this is a single-family use when DCA has absolutely
 24 no jurisdiction over zoning?
 25 MR. SALERNO: May I jump in? In the

1 appeal packet, there's a letter to Mr. Marucci dated
 2 April 25th, 2019 from Bernard Raywood. Bernard
 3 Raywood, so you know who he is, Bernard Raywood is
 4 the Bureau of Rooming and Boarding House Standards
 5 chief. And in his letter on page 2 he states:
 6 Zoning and land use requirements remain under the
 7 jurisdiction of the municipality. But more
 8 importantly he says, DCA does not require proof of
 9 prior zoning or land use approval to lend a CSLR.
 10 So there's no question DCA
 11 acknowledges they have no zoning jurisdiction.
 12 And your point is well taken that it
 13 speaks to a single-family dwelling, not a
 14 single-family zone. Because in this town, we have
 15 zones that permit single-family dwellings that
 16 aren't exclusively single-family zones. So the
 17 intention, obviously, could be that they could be
 18 located in other locations, not necessarily in a
 19 singular single-family zone.
 20 So as I listen to the testimony and
 21 as I listen to your points and I listen Mr. Lott's
 22 points, I think clearly there is no basis by statute
 23 for DCA to have anything to do with zoning and to
 24 dictate anything to this Board. And even if there
 25 isn't a case decided, common sense should prevail as

1 to what this is about and how this functions.
 2 And you're absolutely correct in your
 3 analogy of the comparison of Oxford House, which has
 4 a specific plan of operation which is distinctly
 5 different than what's proposed at this facility.
 6 And you're right, it does function in
 7 a family structure, if that could be a family
 8 structure. But certainly this is you pay money,
 9 you're told what you're going to do, what you can't
 10 do. That isn't a single-family resident. That
 11 isn't a family.
 12 So this Board will make its decision.
 13 MR. RUBIN: I'm not -- I am not
 14 arguing that this should be denied. I don't know
 15 what the answer is to what should happen here.
 16 Honestly I don't. I think this is, as Mr. Lott has
 17 accurately stated, this is a first impression issue.
 18 The other municipalities that he has cited either
 19 have capitulated or have granted use variances. I'm
 20 not aware that anyone has, you know, wrestled with
 21 this issue, but I think it's an issue that needs to
 22 be wrestled with. I just -- I don't know how DCA
 23 has the right to tell a municipality that this is a
 24 single-family use.
 25 Use your microphone, Mr. Chair.

1 CHAIRMAN MICHALSKI: So why is this
 2 Board charged with grappling with the issue of
 3 whether the State agency could tell us what to do or
 4 not?
 5 MR. RUBIN: I think that this Board
 6 is grappling with the question of whether or not
 7 this is a single-family use, and what I'm suggesting
 8 to you is DCA may be informative of that decision,
 9 but I don't think it's dispositive of that decision.
 10 And there are a whole lot of other factors that
 11 should form that issue that have not been explored.
 12 For example, what kinds of facilities, what kinds of
 13 living environments have been recognized by either
 14 the Municipal Land Use Law in Section 66 and 66.1,
 15 et cetera, or court decisions that have been
 16 recognized as single-family uses? And how do
 17 they -- how are they comparable to or how do they
 18 differ from this particular use? And are those
 19 differences substantial enough to allow a board to
 20 say we don't think this is a single-family use, or
 21 are those similarities so substantial that they bind
 22 the Board as to whether or not these are
 23 single-family uses. And I think that's the
 24 direction that this hearing on an A and B
 25 application should proceed, and those are the issues

1 that I think we should be focusing on.
 2 And I think that the witness'
 3 testimony has been very informative about how this
 4 facility operates, but I don't think you've had any
 5 testimony as to whether or not those kinds -- that
 6 operation is substantially similar or not to the
 7 kind of operations that have been recognized either
 8 through statute or case law to bind us or make -- to
 9 leave the Board free to reject that comparison or
 10 that analogy.
 11 MR. LOTT: But some of that
 12 definition is -- most of that definition is already
 13 recognized in the Township code. The Township code
 14 has a functional definition of what constitutes a
 15 family and a household.
 16 MR. RUBIN: But I think it's
 17 questionable as to whether or not this functions in
 18 a manner that meets that definition, because these
 19 people don't get the opportunity to choose whether
 20 or not they're going to live there. In a -- in a
 21 single-family home that's not related by blood --
 22 look, my daughter goes to college. She lives in a
 23 house with seven other girls. They decide who
 24 they're going to live with. They each pay rent
 25 individually to the landlord, but they join all the

1 utilities. They pay for, you know, cable and the
 2 electric and all that. In fact, I pay for it and my
 3 daughter gets reimbursed and makes a hundred bucks a
 4 month off me. And my wife's furious about that.
 5 But the fact of the matter is there's
 6 a distinction. There is -- you can't deny that
 7 there's a distinction between how these facilities
 8 operate and how the types of single-family
 9 non-related residences that have been recognized by
 10 courts and are reflected in the Municipal Land Use
 11 Law. And if they're the same, then tell us they're
 12 the same. Explain that. Explain how a community
 13 center for disabled, you know, 66.1. Tell us how
 14 they operate. Do they operate in the same way or do
 15 they not operate in the same way?
 16 MR. LOTT: I think we heard some
 17 testimony earlier from the witness to say that the
 18 community -- and maybe we need to focus on this
 19 again -- that those community residences authorized
 20 by 66.1 do, in fact, employ operators.
 21 MR. RUBIN: I don't know whether they
 22 do or not.
 23 But these also -- these also, they
 24 say that, (as read) As required, to not -- with
 25 development of disabilities or mental -- who require

<p style="text-align: right;">Page 189</p> <p>1 assistance, temporarily or permanently, in order to 2 live in the community. 3 Well, these people, you don't want 4 these people to have -- you're not providing these 5 people with assistance to live in the community. 6 Your -- in fact, your hope is that they can live 7 independently, and the whole idea of this structure 8 is that they do live independently. They can order 9 food at 10:30 at night and -- you know. Does that 10 make them different than a community residence with 11 persons with disabilities? 12 I think those are the fundamental 13 issues here that we need to address. And even more 14 important are the Oxford House cases, which is what 15 you're really relying on as the analogy, and how 16 different they are or how similar they may be. I 17 think that's what we need. Rather than talking 18 about all these other issues and everything else 19 and, you know, what kind of impact do they have on 20 the community. Yeah, that goes to the use variance. 21 That goes to the negative criteria and all those 22 other things, but it doesn't go to the fundamental 23 issue in the A and B application, which is are these 24 single-family residences and is DCA determination 25 that they are binding on this Board?</p>	<p style="text-align: right;">Page 191</p> <p>1 for what constitutes living as a single housekeeping 2 unit. Simply because our definition says that if 3 they live as a single housekeeping unit they're a 4 family doesn't mean in this particular instance 5 they're living as a single housekeeping unit, other 6 than the fact that the DCA says they are. 7 And the question that I have that 8 I've raised is can DCA bind this Board in 9 determining whether or not this meets our definition 10 of a family? 11 MR. LOTT: But that's not what the 12 witness testified to. Or he testified to the 13 indicia required under the Township ordinance as to 14 what constitutes a family and a household. 15 MR. RUBIN: Yeah, that they live as a 16 single housekeeping unit. 17 MR. LOTT: Now, we could go back and 18 reread the testimony, but he testified to the fact 19 that the residents, all right, have common access 20 and use of the essential -- essential facility as a 21 whole. 22 MR. RUBIN: A household is a family 23 living together in a single dwelling unit with 24 common access to and common use of all living and 25 eating areas and all areas in facility as to</p>
<p style="text-align: right;">Page 190</p> <p>1 MR. LOTT: So I think the answer I 2 gave, which I'll stick to, is that what the DCA has 3 done here is clearly persuasive. It may not be 4 dispositive. But I think what is dispositive is the 5 plain language in the Township ordinance. And we 6 should be careful not to make up requirements that 7 are not in the Township ordinance, because that's 8 not the role of the Board either. 9 MR. RUBIN: But it says -- the 10 Township ordinance says -- hold on a family living 11 together in a dwelling unit is a single housekeeping 12 unit. 13 I don't believe we have any testimony 14 that tells us they live as a single housekeeping 15 unit. 16 UNIDENTIFIED SPEAKER: You only heard 17 one person. 18 MR. RUBIN: I'm just saying. Excuse 19 me, ma'am. 20 UNIDENTIFIED SPEAKER: I'm sorry. 21 MR. RUBIN: You're not under oath. 22 That's my point. My point is is that 23 I think, what is living as a single housekeeping 24 unit. The Supreme Court has made that definition in 25 Judge Pashman's decision. They laid out standards</p>	<p style="text-align: right;">Page 192</p> <p>1 preparation and serving food within the dwelling. 2 That's what it says. 3 MR. LOTT: That's what he testified 4 to. That's the Township's functional definition of 5 what constitutes a family in a household. 6 Now, I think the court reporter is 7 about to surrender. 8 COURT REPORTER: Yeah, I'm taking a 9 break. 10 (Off the stenographic record.) 11 CHAIRMAN MICHALSKI: What date are we 12 adjourning with the planner? I don't think we're 13 finished with the planner. 14 MR. LOTT: We're not. I don't think 15 we're going to be able to come back on the 17th. So 16 we'd asked to be carried until the November meeting. 17 CHAIRMAN MICHALSKI: The 17th is not 18 available. 19 MR. LOTT: So I need to check with my 20 witnesses as to whether or not we could be available 21 for the first meeting in November. 22 MR. RUBIN: Mr. Salerno is not 23 available and Mr. Steck is not available. 24 MS. COSENZA: The next meeting is 25 December 12th.</p>

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1 MR. LOTT: So we need to carry -- I
2 think everybody would agree, we need to carry the
3 hearing to a date certain.
4 MR. RUBIN: Yes.
5 MR. LOTT: So I will respectfully
6 suggest that we do that for November, and then we
7 work on scheduling. And if we need to reschedule
8 again, based on Mr. Salerno's availability and
9 Mr. Steck's availability, my witness' availability,
10 then we put that on the record.
11 MR. RUBIN: If we can resolve that
12 before next week, then at the hearing next week, we
13 can either entertain the possibility of another
14 special meeting. So that if we had your
15 availability by next Thursday, this Board has a
16 meeting on Thursday, and then you can announce that
17 or maybe you can give new notices just for -- if we
18 hold another special meeting, just as a courtesy.
19 MR. LOTT: Absolutely.
20 MR. RUBIN: I think that may make
21 sense.
22 MR. LOTT: I can speak to Mr. Salerno
23 and you can speak to Mr. Steck, and I'll check with
24 my witnesses. And so why don't we carry it then for
25 short term until the 17th.

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1 MR. RUBIN: October 17th?
2 MR. LOTT: To October 17th, and
3 hopefully by then we'll have a date, and then we can
4 announce it and I'll re-notice it.
5 MR. RUBIN: Okay. Just people, you
6 don't need to come on the 17th. There will be no
7 hearing. But just for purposes of legal niceties,
8 we're going to carry to October 17th, and hopefully
9 on October 17th we can resolve a date and Counsel
10 will issue new notices.
11 MR. LOTT: Correct.
12 CHAIRMAN MICHALSKI: Does everyone
13 understand that?
14 The various parties do not know at
15 this time what their availability is so that this
16 hearing could be adjourned to that new date. So
17 instead what we're going to do is adjourn it from
18 tonight to the meeting of October 17th where we'll
19 simply handle the administrative matter of where to
20 reschedule this hearing to a future date.
21 So there will be no hearing of the
22 facts on October 17th. It will be
23 administratively to determine a new date. Is that
24 clear, everyone?
25 MR. WILLIS: So when you make that

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1 determination on the 17th to the actual date, how
2 will we know?
3 MR. RUBIN: Counsel is going to issue
4 new notices in the paper and to everyone within 200
5 feet.
6 MR. WILLIS: Okay.
7 CHAIRMAN MICHALSKI: Motion to
8 adjourn this to the 17th of October.
9 MS. BRANDT: I move.
10 MR. PRINCE: Seconded.
11 CHAIRMAN MICHALSKI: All in favor?
12 Anyone opposed? No one opposed.
13 (Several people speaking at once.)
14 CHAIRMAN MICHALSKI: Finish up,
15 please. All in favor?
16 (Unanimous "aye" vote.)
17 CHAIRMAN MICHALSKI: Anyone opposed?
18 Hearing no one opposed, 103 Hazel is adjourned to
19 October 17th at seven p.m.
20 (Whereupon the meeting was adjourned
21 at 11:07 p.m.)
22
23
24
25

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1 C E R T I F I C A T E
2 I, DIANE DiTIZII, Certified Realtime
3 Reporter, a Notary Public and Certified Court
4 Reporter of the State of New Jersey, Certificate No.
5 XI01674, do hereby certify that the forgoing is a
6 true and accurate transcript of the proceeding as
7 taken stenographically by and before me at the time,
8 place and on the date hereinbefore set forth.
9 I DO FURTHER CERTIFY that the within
10 transcript format complies with Rule NJ ADC
11 13:43-5.9.
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13 relative nor employee nor attorney nor counsel of
14 any of the parties to this action, and that I am
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16 counsel, and that I am not financially interested in
17 this action.
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3 Reporter, a Notary Public and Certified Court
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13 relative nor employee nor attorney nor counsel of
14 any of the parties to this action, and that I am
15 neither a relative nor employee of such attorney or
16 counsel, and that I am not financially interested in
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