

CITY OF ELIZABETH
ZONING BOARD OF ADJUSTMENT
THURSDAY, OCTOBER 28, 2021
7:30 P.M.

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RE: Z-02-21, 705-713 NEWARK AVENUE & 694-702
PENNSYLVANIA AVENUE, THE GRAND AT PENN

BOARD MEMBERS:

FERNANDO FERNANDEZ, Chairman
FERNANDO HORTA
EDDIE FALCON
YOLANDA EADY PERKINS
ELIZABETH CANO

MONAE WHITEHEAD, Board Clerk
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FISHMAN COURT REPORTING AGENCY
89 HEADQUARTERS PLAZA NORTH
4 SPEEDWELL AVENUE, SUITE 1440
MORRISTOWN, NEW JERSEY 07960
(973) 285-5331 - FAX - (732) 605-9391

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

SCARINCI HOLLENBECK, ESQS.
BY PATRICK J. McNAMARA, ESQ.
Appearing on behalf of the Board

LAW OFFICES OF DAVID M. SHAFKOWITZ, ESQS.
BY DAVID M. SHAFKOWITZ, ESQ.
Appearing on behalf of the Applicant

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<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A-1	ELEVATION - NEWARK AVENUE
A-2	ELEVATION - PENNSYLVANIA AVENUE
A-3	ELEVATION - SIDE AND TERRACE

MR. McNAMARA: Members of this board, this application has previously been heard before the board several month ago. As a result of the feedback given to the applicant by the board the applicant has completely redesigned the building in question. As such, for all intents and purposes, this application starting tonight is being treated as if we're starting fresh this evening.

Counsel, your appearance please.

MR. SHAFKOWITZ: Good evening, Mr. McNamara, members of the board. My name is David Shafkowitz, I'm appearing on behalf of the applicant, The Grand at Penn, LLC.

MR. McNAMARA: Thank you. And you've previously effectuated service and adjourned this meeting with consent to the board to tonight, correct?

MR. SHAFKOWITZ: That is correct, and we duly advertised for tonight's meeting as well.

MR. McNAMARA: Okay. Thank you.

And you'll be presenting two witnesses this evening?

MR. SHAFKOWITZ: Yes, Mr. McNamara. What we're planning to do tonight is two of our four witnesses proposed for this application is our architect and traffic engineer. If it's okay to start.

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1 MR. McNAMARA: Yes.
2 MR. SHAFKOWITZ: We can get these guys
3 started.
4 MR. McNAMARA: Yes. The witnesses will come
5 up here and use one of the hand held microphones and use
6 the easels here so the board members can see.
7 MR. SHAFKOWITZ: Yeah, we'll set that up.
8 Mr. Marulanda's going to be the first witness up.
9 Just by way of background, I want to refresh
10 the boards recollection on our project. This one is
11 located at 705-713 Newark Avenue and 694-702
12 Pennsylvania Avenue. This parcel of property that
13 covers Newark and Pennsylvania Avenue is just about 1.29
14 acres and located in the C-5 zone district. The
15 properties located in close proximity to the Elizabeth
16 train station and located in the designated Transient
17 Village area. The property is currently vacant and as
18 the board may recall subject to a prior application and
19 approval. The prior application was for a multifamily
20 structure that ended in 105 units mixed one and
21 two-bedroom units and in particular that prior approval
22 also as one of the items of relief that we will discuss
23 with the board tonight, did not propose commercial on
24 the first floor. It was four story of parking -- four
25 story of residential over parking.

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1 Here tonight we are proposing a similar
2 project. It's multifamily, it also will be five
3 stories, it'll also be four stories over parking. We're
4 not proposing any commercial on the first floor but
5 instead we're proposing 86 units and it's a combination
6 of 7 one-bedroom and 79 two-bedroom units. The
7 applicant is proposing parking on the first floor as
8 mentioned along with the lobby, refuse area, utility
9 rooms and staircase. The parking areas will enter and
10 exit Newark Avenue and Pennsylvania Avenue. The upper
11 floors will contain units, amenities such as individual
12 common terraces, fitness center and outdoor
13 deck/recreation area.
14 The proposal will require the board to
15 consider a use variance proposed for two variances.
16 First one will be the height and other one will be for
17 the use on the first floor.
18 As the board may recall those items were
19 also considered in the prior approval and were granted
20 with the municipal prior approval. The only reason I
21 bring this up is as we go through the testimony tonight
22 somebody might see it consistent with the prior
23 application in that the same principals will hold true
24 for that prior application as for this application.
25 There also will be a few front and side yard

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1 variances that we're going to need and we'll talk about
2 those with the board as well.
3 The last thing we'll ask the board to
4 consider tonight will be the parking. The applicant is
5 proposing a parking ratio in this project of 1.55. We
6 will have testimony by the architect who will talk about
7 the parking, as well as the traffic engineer tonight.
8 So as we, as Mr. McNamara noted, our game
9 plan ultimately for this project is to present four
10 witnesses to the board. We have two of those tonight,
11 and after those two are done, I assume we'll move on to
12 the next agenda, and we'll have our other two witnesses
13 available. As well as if there are any other additional
14 questions, happy to bring our witnesses back for the
15 next meeting.
16 Having said that Mr. Solicitor, I'm happy to
17 start with our first witness.
18 CHAIRMAN FERNANDEZ: Commissioners, any
19 questions?
20 MR. McNAMARA: First witness.
21 CHAIRMAN FERNANDEZ: Okay. Sorry.
22 MR. McNAMARA: Counsel, the photos you're
23 handing out, are they the same as the ones on the
24 exhibit boards?
25 MR. SHAFKOWITZ: Yes.

8

1 MR. McNAMARA: Okay.
2 Do you swear or affirm the testimony you're
3 about to present concerning the application pending
4 before the Zoning Board of Adjustment in the City of
5 Elizabeth shall be the truth the whole truth and nothing
6 but the truth.
7 THE WITNESS: I do.
8 MR. McNAMARA: For the record sir, state
9 your name, spell your last name and provide your
10 business affiliation.
11 THE WITNESS: My name is Ivano Marulanda,
12 M-A-R-U-L-A-N-D-A. I work with James Guerra Architects
13 located here at 55 Jefferson Avenue. I've been working
14 there for 20 years. I'm a graduate of Universidad Del
15 Valle. I have a current New Jersey license. I'm also
16 NCARB certified and I have testified before this board
17 before.
18 MR. McNAMARA: Mr. Chairman, I recommend the
19 board accept him as an expert in the field of
20 architecture.
21 CHAIRMAN FERNANDEZ: Accepted.
22 THE WITNESS: Thank you.
23 Q. Mr. Marulanda, before you get started, why don't
24 we mark the boards in the packets I handed out prior to
25 giving your testimony.

1 **A. Sure. So here will be Exhibit 1.**
 2 **Q.** Call it A-1.
 3 **A. A-1. This is the Elevation at Newark Avenue.**
 4 **Q.** Second board we will call it A-2.
 5 **A. This is actually the same that they have.**
 6 **Q.** Okay. That's the site plan?
 7 **A. Yeah, the floor plan and elevations.**
 8 **Then we have a second board here which would**
 9 **be --**
 10 **Q.** Call that A-2.
 11 **A. -- A-2. This is the Elevation at Pennsylvania**
 12 **Avenue.**
 13 **Q.** And the one behind is identified as?
 14 **A. The one behind it is, we have elevations on the**
 15 **side and the terrace. We call that Exhibit A-3.**
 16 **Q.** And the exhibits you just mentioned as A-1, A-2
 17 and A-3 were in the packets that I just handed out to
 18 the board?
 19 **A. That's correct.**
 20 **Q.** And Ivano, are you are familiar with the project
 21 that's the subject of this application?
 22 **A. I am.**
 23 **Q.** And your firm was retained and involved in the
 24 prior application, is that correct?
 25 **A. We was.**

1 **Q.** And your firm was hired by the applicant to
 2 design this particular project?
 3 **A. That's correct.**
 4 **Q.** Now, if you can just real briefly, I know the
 5 boards probably familiar with the site, just talk a
 6 little bit about the site location, the surrounding
 7 area, the zoning, the size of the property, that kind of
 8 stuff, and then we'll back into the proposed project?
 9 **A. Sure. So this is a big property. The size is**
 10 **56,025 square feet. This is a very big area. There are**
 11 **other two family, multifamily and office uses. The**
 12 **train stations nearby. So there's a lot of uses in this**
 13 **area. I think next to us we have residential and the**
 14 **other side we have an office building.**
 15 **So basically what we're proposing is a four story**
 16 **modern building which has parking on the first floor and**
 17 **four floors above which are residential.**
 18 **Here on the G-101 we're showing the first floor**
 19 **of the building. On this side is Pennsylvania Avenue,**
 20 **that side is Newark Avenue. So towards Pennsylvania**
 21 **Avenue we're proposing the main lobby, which actually is**
 22 **this side because you're right in front of the train**
 23 **station, which is the Newark train station. So just**
 24 **like a residential building the train station will be**
 25 **where most of the residents will be walking to get their**

1 **commute to the train. So we have a lobby there with**
 2 **stairs and elevators. We also have the entrance for the**
 3 **cars for the parking on Pennsylvania Avenue. We have a**
 4 **large refuse area, around 17 feet by 40 feet, which is**
 5 **sufficient for all the garbage and recyclables for that**
 6 **area. And we have the mechanical and electric room.**
 7 **Behind that we have the parking, which we're proposing**
 8 **127 on-site parking spaces all covered and screened from**
 9 **the street. There's a large difference in slope between**
 10 **Pennsylvania Avenue and Newark so the parking will**
 11 **actually be sloped with the terrain. So then we have**
 12 **also another entrance for the parking lot and then**
 13 **inside we have the amenities, which show here in larger**
 14 **scale. Which is a large gym, it is around 3,200 square**
 15 **feet. So that's one amenity for the tenants. We have a**
 16 **gym, we have a lounge area, steam room and sauna and all**
 17 **tenants will be able to, with a key card, be able to**
 18 **come into the gym and we have the facade towards Newark**
 19 **Avenue.**
 20 **We also have an elevator and stair for that lobby**
 21 **which is accessed from Newark. There will be some**
 22 **tenants using the train station but there will be other**
 23 **tenants that use the buses that go through Newark. So**
 24 **we can quickly go to one of the bus stops, so they have**
 25 **access to that.**

1 **On Sheet 102 we are showing the second floor of**
 2 **the building where we have all the apartments. That's**
 3 **what we have a big open space for the terrace open to**
 4 **the sky. It's about 9,300 square feet. We'll have**
 5 **seating areas, it will be landscaped. It will have some**
 6 **barbecue areas there. It will be, all the spaces for**
 7 **the building will be ADA accessible. All the apartments**
 8 **will be ADA adaptable. So the whole parking storage**
 9 **allows us to have this large space here.**
 10 **Towards the north side we have a five foot**
 11 **setback from the building, but it's only at the corners.**
 12 **Actually once you go into the terrace we have more.**
 13 **Right here we have 33 feet 10 setback, so we're much**
 14 **further for most of the building from the property line**
 15 **on that side.**
 16 **On the south side we also have a five foot**
 17 **setback, but we do have apartments with balconies**
 18 **recessed out. So we have five foot setback -- actually**
 19 **the building in places we have 11 feet or more of**
 20 **setback to that side.**
 21 **On Pennsylvania Avenue we have the building at 10**
 22 **feet and the corners are set back as well as the**
 23 **balconies also. And the same thing happens on Newark.**
 24 **Five foot setback and in some locations we have -- here**
 25 **we have 14 foot 11. So it's not a whole wall, there are**

1 a lot of areas that we set back so we have, you know, it
 2 will be set back on both sides.
 3 The apartments are pretty much the same in all
 4 apartments. You come into an open space, we have a
 5 kitchen, living, dining area to one side. There's a
 6 master bedroom with a walk-in closet, a master bathroom.
 7 On the opposite side we have a bedroom, closet, laundry,
 8 a second bathroom. And then in the back we have an area
 9 where we can fit two desks. That's what we call a den.
 10 So one of the changes, we went from 105 units in
 11 the prior approval to 86 was approved pre COVID. With
 12 everybody now working from home, studying from home,
 13 spending more time at home, the market now needs for
 14 bigger apartments. So this is why we reduced the number
 15 of apartments. We're providing more two-bedrooms and
 16 more square footage and we're providing those dens where
 17 you can fit one or two desks, so people can work or
 18 study there and have a little more privacy than just
 19 have a computer in the bedroom or in the living room.
 20 So we can give the space needed by what's happening now.
 21 MR. McNAMARA: And Counsel, are these rental
 22 or for sale units?
 23 MR. SHAFKOWITZ: These are rental units.
 24 MR. McNAMARA: Okay. The -- there probably
 25 will be a condition, if the board acts favorably on the

1 application, that the den be designed in a way that it
 2 can not be converted into another bedroom. No closet,
 3 open access, you know, so that we make sure that the den
 4 is not being converted into something it shouldn't be.
 5 MR. SHAFKOWITZ: No problem.
 6 MR. McNAMARA: Thank you.
 7 **A. Okay. Yes, we don't have any doors, they're**
 8 **open. They're smaller than a room and they're in the**
 9 **back, you don't really have the front. So kind of gives**
 10 **you a little privacy if you're working from home.**
 11 **G-103 is pretty much the same footprint. Again,**
 12 **the same apartments. 22 on the second, 22 on the third,**
 13 **22 on the fourth. So pretty much the same layout as I**
 14 **explained before.**
 15 **Sheet G-104 we have the fourth floor. Here we**
 16 **have two less apartments. So what we did is we removed**
 17 **one apartment on each end and now we're showing much**
 18 **larger apartments. This allows the facade to be a**
 19 **little different on top, which I will show on the**
 20 **renderings. So to finish the building, the top is a**
 21 **little different from the rest helping aesthetically and**
 22 **then we maintain less apartments. So the end apartments**
 23 **are actually very large and have a different setback at**
 24 **the corners that I'll show you later on in the**
 25 **renderings.**

1 **On sheet G-200 we're showing the elevations.**
 2 **Here we show the Newark side elevation, that's the side**
 3 **where we have the terrace. Here we show the**
 4 **Pennsylvania elevation, the Newark elevation and then**
 5 **the south side elevation. We will look at the**
 6 **renderings late on.**
 7 **In terms of height, we have an average height of**
 8 **67 feet. That's taken from each of the corners to the**
 9 **top of the ridge of the roof. Because we have such a**
 10 **different elevation between Newark and Pennsylvania, so**
 11 **it gives us a bigger height than actually the buildings**
 12 **going to look. Because Newark -- I'm sorry,**
 13 **Pennsylvania is going to be like a much shorter**
 14 **building. On Newark, because of the sloping, we have a**
 15 **much higher first floor so we look a little higher but**
 16 **again, it would be a much bigger street, Newark. This**
 17 **is the same thing that we had in the previous approval.**
 18 **We had the same situation of the same heights. Similar**
 19 **heights.**
 20 MR. McNAMARA: Could you please describe the
 21 type of building materials that would be utilized as
 22 shown in these exhibits?
 23 THE WITNESS: Sure. Actually I will go to
 24 the rendering to show it better. So here we have the
 25 elevation on Newark. We are using brown brick and that

1 brick is also carried to some areas on the floors above.
 2 This is where the gym will be, so we'll have large
 3 panels of glass, so it will be a little more commercial
 4 look on Newark Avenue. We have the entrance here for
 5 Newark Avenue and on the area, this part of Pennsylvania
 6 we have slats that will screen the parking there. We do
 7 provide room on the bottom to park cars. As we go
 8 above, the materials now we enter into using the fiber
 9 cement panels and some ornamental features. On the top
 10 we have one of the apartments and we wanted to change
 11 it, give it little different look and provide deeper
 12 homes. So we have a base sort of volume on top to help
 13 aesthetically with the building. We provide a lot of
 14 lighting, so it'll make it very interesting at night to
 15 the building. Let me go to the other one. This is the
 16 one on Pennsylvania Avenue.
 17 Similar materials. We have brick on the
 18 bottom, we have the brick with the fiber cement panels
 19 on the top floor. And again it's a little different as
 20 to give a finish to the end of the building. And then
 21 we have the parapets. Even though the building has a
 22 hip roof on both sides, we provided parapets towards
 23 Pennsylvania Avenue and Newark. You won't see the
 24 actual roof that's sloping and actually the building
 25 will seem like it's smaller, because the top of the

1 parapets around ten feet lower than the actual top of
2 the ridge of the roof structure.

3 Last presentation board. Here we see a
4 rendering from the right side and north side. Here we
5 see the terrace and then we have a terrace here on the
6 bottom and here on the south side of the building. As
7 you can see the same materials are used for the facade
8 are carried over all sides. So we're treating it the
9 same way as the front facade, the same way as the sides.
10 So you can see the balconies that we're putting in are
11 all recessed, so you don't see a straight wall all the
12 way through. Even on this side it's closer the
13 balconies and the setback there. And the balconies
14 here, the terrace as well, you will have different
15 scenarios with barbecues and terraces.

16 **Q.** Thank you for that description, Ivano.

17 With regard to the terracing, you had mentioned
18 there's a requirement in the ordinance we provide for
19 open space and recreation. Can you explain what's
20 required by the ordinance and how we meet that?

21 **A. So the requirement is 200 square feet per**
22 **apartment with a cap of 400. So we more than comply**
23 **with the open space. And it's open to the sky so it's**
24 **exterior space.**

25 **Also the gym that we have also counts to the open**

1 that the closest point?

2 **A. Five foot is the closet point. We have balconies**
3 **where the setbacks, this one has 14 foot 11. So it's**
4 **not all five foot from the property line. We have a lot**
5 **of setbacks within the facade that is more than five**
6 **feet. Also five feet is actually matching the**
7 **buildings, our neighbor to the south side. They have**
8 **the same setback line.**

9 **Q.** So even though when you did the averaging what
10 the setback was presumably the ordinance is larger, we
11 are consistent with the buildings in the area?

12 **A. Yes, we are.**

13 **Q.** And specifically consistent with the building
14 right next to us?

15 **A. Right.**

16 **Q.** I was going to say, do you believe the presence
17 of that setback in that location will be detrimental to
18 the public in any way?

19 **A. No, no. I think that's a good setback for that**
20 **side of the street.**

21 **Q.** And essentially having that setback there allows
22 for the design features that you discussed this evening?

23 **A. Yes, correct. That helps with the design**
24 **features.**

25 **Q.** And would there be any negative impact to the

1 **space, that's interior. So we more than meet the**
2 **requirement for open space.**

3 **Q.** Okay.

4 And as we discussed in the opening portion of
5 your testimony, we discussed the prior approval and the
6 building that was presented back then. With regard to
7 the massing of the building, the height of the building
8 and some setbacks, we are similar to the building that
9 was originally presented?

10 **A. Right.**

11 **Q.** The height?

12 **A. Yes, we are very similar. We are still, and we**
13 **have similar setbacks that we had on that building**
14 **throughout both sides. We are also providing the same**
15 **large terraces that we were showing in the prior**
16 **project.**

17 **Q.** Now, with regard to the setbacks, let's start
18 with the variances necessary for the variance setbacks.
19 Can you describe to the board where they are and how we
20 are mitigating the setbacks as you discussed, the
21 building setback, the terrace and what the various
22 architectural features will be?

23 **A. So for the Newark Avenue side we have a**
24 **setback --**

25 **Q.** Before you go any further. The five foot, is

1 surrounding neighbors of this building?

2 **A. I don't believe so.**

3 **Q.** And do you believe that the same rationale for
4 granting this variance to the building still holds true
5 to the setbacks in that instance?

6 **A. That is correct.**

7 **Q.** Okay.

8 What are the other setbacks?

9 **A. So Pennsylvania side we require 271 feet. It's a**
10 **weird measurement because it's providing the prevailing**
11 **and most buildings aren't actually facing Pennsylvania**
12 **Avenue, so we actually have to measure the rear yards,**
13 **which is why it's so large, the prevailing. So we are**
14 **providing ten feet setback here. And this corner**
15 **setback here we have 18 feet, actually more. More like**
16 **25 feet from the property line on the corners. So we**
17 **provide additional setback there.**

18 **Q.** So again, this instance the setback, even though
19 we have a particular instance in that particular
20 location, it's not the entire facade?

21 **A. That's correct.**

22 **Q.** And do you believe also again that particular
23 setback allows for the architectural features that you
24 discussed?

25 **A. Right. It allows us to have those balconies,**

1 **recessed balconies there, which I think enhances the**
2 **project.**

3 **Q.** And I think you had mentioned the building rises
4 three stories, the balconies are actually set back a
5 little bit further, is that correct?

6 **A. Right, the last floor we actually have the**
7 **balconies set back.**

8 MR. McNAMARA: Do all of the units have
9 individual balcony access?

10 THE WITNESS: That's correct.

11 MR. SHAFKOWITZ: That was a great question.

12 **Q.** My next question is that, we are providing each
13 of the individual units with balconies?

14 **A. That's correct. Every balconies open to the**
15 **street inside through the terrace.**

16 **Q.** Again, how does that particular setback compare
17 to the prior approval?

18 **A. We are a little bit closer, but I think it gives**
19 **us a good -- a good, it's a good play for having those**
20 **recessed balconies toward Pennsylvania Avenue.**

21 **Q.** And is that, even though it's a little bit more
22 intrusive, it's similar to the prior approval?

23 **A. It is.**

24 **Q.** And again the approval rational would be, for
25 lack of a better word, no detrimental impact or any

1 **A. That's correct.**

2 **Q.** For all intents and purposes it's the ordinance
3 imposing a hardship on us rather than imposing it on
4 ourself?

5 **A. Yeah.**

6 **Q.** That takes care of the two front yards on
7 Pennsylvania and what about the side yards?

8 **A. On the side yards we require 30 percent to**
9 **building height, so the requirement is 19.8. We are**
10 **asking for a five foot setback from the side. We had a**
11 **similar requirement for the prior approval, and again,**
12 **the building, since it's not five feet throughout the**
13 **whole side, the north side only ends only actually have**
14 **five feet. The corners are more of a large setback and**
15 **in the terrace this dimensions 26 foot 11 from the**
16 **property line -- actually from the terrace only. So the**
17 **actual setbacks at 29 from that property line.**

18 **On the other side we actually have the same**
19 **setback that we had in the prior approval which is five**
20 **feet. But because we have balconies you will see the**
21 **building set back with some spaces which allows for**
22 **almost like 12 feet from the property line.**

23 **Q.** So almost seems because the first floor, the
24 parking deck, is encroaching more it seems to allow for
25 that architectural design of the balconies throughout

1 other impact on the neighborhood would still apply to
2 this?

3 **A. That's correct.**

4 **Q.** How does that setback compare to the other
5 buildings in the area, across the street as well?

6 **A. Right. The thing is Pennsylvania Avenue most**
7 **buildings in the same zone are actually facing the rear.**
8 **So that's why prevailing is like 271 and that's a very**
9 **strange zone. So we're showing the building here, this**
10 **is the C-5 zone, but as you can see the colors, only a**
11 **few lots actually have the same C-5 zone. So I'm only**
12 **allowed to count the setback for those specific lots.**
13 **And those lots have a large rear and across, so I'm**
14 **counting the other lots actually closer to the property**
15 **line because those are the R-3 zone. So they're**
16 **actually much closer to the property line.**

17 **Q.** So again, this particular application, the
18 applicant by ordinance is being a little bit in the
19 wrong place, so to speak, in the way the averaging is
20 made?

21 **A. That's correct. Because we're dealing with two**
22 **zones. So we're not able to count the full properties.**

23 **Q.** Yeah. So if we counted all the properties we'd
24 probably be more consistent with really the prevailing
25 in the neighborhood?

1 the rest of the building?

2 **A. Right.**

3 **Q.** Like providing that base, so to speak?

4 **A. Right. Covering the whole parking and then**
5 **playing with that in the setbacks given the terrace will**
6 **cover that space that we are covering.**

7 **Q.** So by providing, essentially this that would be a
8 positive criteria for this particular project in that we
9 provide the balconies for each of the units rather than
10 just some of the units?

11 **A. That's correct.**

12 **Q.** So the future residents have access to the
13 outside whenever they want?

14 **A. That's correct.**

15 **Q.** And again, do you believe the side yard setbacks
16 are a detriment in any way to the surrounding
17 neighborhood?

18 **A. I don't believe so.**

19 **Q.** Detrimental to the public at large?

20 **A. I don't believe so.**

21 **Q.** And any impact on the highway?

22 **A. I don't think so.**

23 **Q.** And for the reasons we discussed there's a
24 positive impact on both the development and the area?

25 **A. That's correct, because this areas underdeveloped**

1 so this will bring more development to the area.
2 Especially being so close to the train station, you want
3 to have bigger density closer to the train station.
4 Plus not only do we have the train station have buses
5 over here, so very transient friendly location for what
6 we have.

7 Q. Thank you.

8 My next question for you was, did you get an
9 opportunity to take a look at the Harbor review letter?

10 A. I did.

11 Q. I know in the Harbor review letter there were
12 design waivers that were discussed for the first floor
13 and the parking. Parking deck.

14 A. That's correct.

15 Q. Do you mind going through a little bit -- going
16 through those with the board and explain why they're
17 necessary?

18 A. Sure. We have some design waivers that we
19 actually seek approval from the prior project. We have
20 parking stall depth, the requirements at 19, we are
21 providing 18. That's actually very consistent with most
22 projects built in Elizabeth.

23 Parking stall width is required at 10, we are
24 providing 9 feet. Again, 9 feet is a very standard size
25 for parking in main part of Elizabeth.

1 There's a requirement for a safety island, we're
2 providing none. Well, actually right here, but we do
3 have 10 feet. But this is residential building so
4 there's less traffic. I think the traffic engineer will
5 testify more to that. It's not as much traffic as a
6 commercial building going in and out. People are
7 familiar with the building, most people live here, so
8 very familiar with the parking.

9 We are also asking for a waiver on landscaping on
10 the parking. We are providing 20 percent landscaping on
11 the parking, but as we see we are basically parking most
12 of the lot. We are enclosing it, we have a solid fence
13 on the sides. We have a wall so headlights will not be
14 shining to the neighbors. You will not see the cars
15 because of those fences. But -- and we have landscaping
16 on the terrace, so that's where we are putting some
17 landscaping as well as in the front and on both facades.

18 MR. McNAMARA: Tony, in case somebody asks
19 you questions. Let's swear you in.

20 Raise your right hand, please.

21 Do you swear or affirm the testimony you are
22 about to present concerning the application now pending
23 before the Zoning Board in the City of Elizabeth shall
24 be the truth the whole truth nothing but the truth.

25 MR. GALLERANO: I do.

1 MR. McNAMARA: Thank you.

2 ANTHONY GALLERANO, having
3 been duly sworn under oath according to law testifies as
4 follows:

5 A. And the last one is the clearance around the
6 columns. We are required to provide 18 inches around
7 the columns, we're not providing any. That's also,
8 again, very common of the buildings in Elizabeth. We do
9 have the spaces for the columns to go so they won't be
10 encroaching into the parking spaces, but it would be
11 right next to it. Those columns are commonly a concern
12 for the doors hitting them. We are making sure the
13 columns are to the front or back, because it will not
14 obstruct when the doors open.

15 So that's pretty much the waivers that we are
16 asking for.

17 Q. And do you recall there was the same issue with
18 the design waivers related to the prior approval?

19 A. That's correct.

20 Q. And those were also granted in the prior
21 approval?

22 A. That's correct.

23 Q. So the two buildings had similar parking by
24 design?

25 A. Yes.

1 Q. Is there anything else in the Harbor review
2 letter that needs further discussion or the applicant
3 can comply with all the items in there?

4 A. Yeah --

5 Q. As it relates to your testimony?

6 A. Right. We will comply.

7 Q. Thank you.

8 MR. SHAFKOWITZ: I have no further questions
9 for Mr. Marulanda.

10 MR. McNAMARA: Are there any members of the
11 board who wish to ask any questions of the witness at
12 this time?

13 COMMISSIONER CANO: Hello. I just have one
14 question.

15 The landscaping --

16 MR. McNAMARA: You can take the mask down
17 when you're talking into the mic. The court
18 stenographer needs to hear you clearly, so.

19 COMMISSIONER CANO: Can you hear me now.
20 My question is with regards to landscaping.

21 This building design, I would just want to know all the
22 landscape and hard scape to be provided --

23 THE WITNESS: Yeah, that's actually another
24 witness for the landscaping.

25 MR. SHAFKOWITZ: We will be bringing a

1 witness for the next meeting, he will touch on all the
 2 landscape questions.
 3 MS. CANO: Okay. Thank you.
 4 CHAIRMAN FERNANDEZ: Commissioners, any
 5 other questions?
 6 MR. McNAMARA: Are there any members of the
 7 public wishing to ask questions of the witness?
 8 Seeing none, Mr. Chairman.
 9 MR. SHAFKOWITZ: Thank you, Mr. Solicitor.
 10 At this time we'd like to bring in Justin Taylor, our
 11 next witness.
 12 MR. McNAMARA: Do you swear or affirm the
 13 testimony you are about to present concerning the
 14 application now pending before the Zoning Board of
 15 Adjustment in the City of Elizabeth shall be the truth
 16 the whole truth nothing but the truth.
 17 THE WITNESS: I do.
 18 J U S T I N T A Y L O R, having been duly
 19 sworn testifies as follows:
 20 MR. McNAMARA: For the record, state your
 21 name, spell you last name, provide your business
 22 affiliation, your credentials, licenses, etc.
 23 THE WITNESS: Sure. My name is Justin
 24 Taylor, T-A-Y-L-O-R. Business address is, 1904 Main
 25 Street, Lake Como, New Jersey. I'm a principal in the

1 firm of Dynamic Traffic. I'm a licensed engineer in the
 2 state of New Jersey as well as Pennsylvania, Delaware
 3 and Texas. I'm also a certified National Traffic
 4 Operations Engineer from the Institute of Transportation
 5 Engineering. I've been practicing traffic planning for
 6 approximately the last 20 years and have testified
 7 before this board in the past.
 8 MR. McNAMARA: Mr. Chairman, I recommend you
 9 accept the witness as an expert in his field.
 10 CHAIRMAN FERNANDEZ: Yes.
 11 THE WITNESS: Thank know.
 12 MR. McNAMARA: Counsel, your witness.
 13 MR. SHAFKOWITZ: Thank you, Mr. Chairman.
 14 **Q.** Mr. Taylor, you're familiar with the application
 15 pending before the board tonight?
 16 **A. Yes, I am.**
 17 **Q.** Can you explain your role to the board as it
 18 relates to this application?
 19 **A. Sure. My responsibility as part of this**
 20 **application was to review the project from a traffic and**
 21 **parking standpoint. To ensure at least that the**
 22 **capacity and traffic as proposed and to ensure that the**
 23 **circulation and the parking will allow for safe and**
 24 **adequate access to and from the site and the parking**
 25 **demand that would be generated by the project.**

1 **Now, my job got a little easier, we were involved**
 2 **in the prior application as well with the traffic study**
 3 **as part of the prior application and from a traffic**
 4 **standpoint the reduction of units from 105 down to 86**
 5 **translates into a reduction in traffic that's going out**
 6 **on the roadways. With the approval of the last project**
 7 **all of the intersections in the surrounding area and**
 8 **driveways operated at levels of service C or better,**
 9 **with the 105 units. The reduction in traffic translates**
 10 **into approximately six or eight cars less during peak**
 11 **hours, so those conclusions took us to levels of service**
 12 **of C or better will be maintained with the project as**
 13 **currently proposed today. So from a traffic capacity**
 14 **standpoint there's capacity to handle the additional**
 15 **traffic of the job.**
 16 **The other thing we looked at was the parking**
 17 **requirement for the project. Now, we are proposing 127**
 18 **parking spaces on the site with six on street parking**
 19 **spaces for 100 -- for a total of 132 spaces. When we**
 20 **look at the requirement we looked at the Residential**
 21 **Site Improvement Standards that's set forth by the**
 22 **Department of Community Affairs. A requirement of 1.8**
 23 **spaces per one-bedroom and two spaces per two-bedroom**
 24 **unit. For the project, 7 one-bedroom units and 79**
 25 **two-bedroom units, this equates to a maximum parking**

1 **requirement of 171 spaces. We are providing 133, and so**
 2 **as such a variance is required. I think it's important**
 3 **to note though that that number as set forth, it's**
 4 **actually the maximum number that is allowed to be**
 5 **required and they make allowances for reductions in**
 6 **that, given the characteristics of the specific site,**
 7 **including the buildings near mass transit, the**
 8 **characteristics of the municipality where you are, and**
 9 **the type of units that are being proposed. So what we**
 10 **looked at was instead of trying to apply a global**
 11 **apartment complex across the country, what we kind of**
 12 **looked at was what the parking requirement of Elizabeth**
 13 **really should be. Now, if you go to the census data,**
 14 **the most recent census data that has been collected, it**
 15 **shows that vehicle ownership in Elizabeth is about one**
 16 **per rental unit. It's point 99. And so you are seeing**
 17 **about one vehicle overall for the municipality. But a**
 18 **little further than that we had the ability to take a**
 19 **look at several other developments that are operating**
 20 **and currently existing in the municipality that are**
 21 **operated by the applicant. We studied them in early or**
 22 **late September of this year counting them during the**
 23 **overnight hours to kind of figure out in Elizabeth what**
 24 **kind of parking demand would we see out in residential**
 25 **zoning and what we found is we're finding demands of**

1 about 1.17 vehicles per unit in the overnight, when most
 2 residents are home, the residents might be there, not
 3 the 1.82 the RSIS says for a more suburban environment.
 4 Further more my firm was involved with the residential
 5 development Station -- Station Commons, the site
 6 directly across Pennsylvania Avenue and adjacent to the
 7 train station. We counted the demand at that facility
 8 and what we found was 0.88 spaces per unit. Again,
 9 because of the proximity to the train station, the
 10 availability of mass transit. Our project with the 133
 11 spaces and 86 proposed units translates into a parking
 12 supply of 1.55 spaces per unit. So given all those
 13 pieces I think that within the RSIS we have a reduction
 14 given the characteristics of this location and the board
 15 can feel comfortable that 1.55 spaces per unit that's
 16 being proposed will be sufficient to support any demand
 17 generated by the project. And I would note as a similar
 18 further clarification, but I think we had the ability
 19 since then to collect some additional data, just to make
 20 both us and you more comfortable with the parking
 21 supplies in Elizabeth. So from that traffic perspective
 22 there are two prongs that we looked at. Will there be
 23 sufficient parking to accommodate the project and
 24 there's sufficient passages on adjacent roadways to
 25 accommodate the traffic that will be generated.

1 The final piece that we looked at was the design
 2 of the garage and the architect touched on it briefly.
 3 We're looking for design waivers for the parking stall
 4 dimensions, but those are, the 9 by 18 are really the
 5 common industry standard for residential development.
 6 We're not talking commercial where you have cars coming
 7 in and out. They're what we term in the industry, low
 8 turnover spaces. So again, that 9 by 18 will be
 9 sufficient to accommodate those vehicles. So based on
 10 all that I don't see any detriment or impact to granting
 11 the parking variance or to approving the design as
 12 proposed.
 13 Q. Mr. Taylor, did you also happen to prepare a
 14 report to give to the board?
 15 A. I did. Absolutely.
 16 Q. I understand the report wasn't a part of the
 17 documents provided to the city?
 18 A. Yes, I apologize. I found out it's not included
 19 in the package, but I will submit it prior to the next
 20 hearing.
 21 Q. And should there be more questions on that report
 22 you will make yourself available at the next meeting of
 23 this board?
 24 A. Yes, sir.
 25 Q. And all the opinions you offered today were

1 offered within a reasonable degree of your professional
 2 services?
 3 A. Yes.
 4 Q. And it's your opinion that you believe that the
 5 traffic generated by this site will have no detriment on
 6 the neighborhood?
 7 A. It will not.
 8 Q. And won't have a detriment on the levels of
 9 service of the intersections in the area?
 10 A. It will not.
 11 Q. And it won't have a detrimental impact on the
 12 traffic flow in the area?
 13 A. It will not.
 14 Q. Just for curiosity sake, what kind of trips at
 15 peak will a project like this generate?
 16 A. What you're looking at is between 30 and 45,
 17 depending on which peak hour you're kind of looking at.
 18 So you're talking about say 20 coming out in the morning
 19 during that one busy peak hour all the way to Saturday
 20 20 in to 20 out. So all that falls well below the
 21 threshold of 100 peak hour trips which both the NJ DOT
 22 and the Institute of Transportation Engineers have set
 23 as the threshold of a significant impact.
 24 Q. So in your opinion this project does not
 25 demonstrate a significant impact?

1 A. That's correct.
 2 Q. With regard to the parking rate we discussed, I
 3 know we touched on the presence of the train station in
 4 the area and I believe Mr. Marulanda mentioned there's
 5 bus routes in front of our property as well or really
 6 close proximity.
 7 A. Yes, that's correct. There are actually seven
 8 bus lines and nine bus stops within about a mile.
 9 Q. In your profession how do you look at the
 10 presence of public transportation as it relates to
 11 parking?
 12 A. So it reduces the demand on parking. You provide
 13 easy connection to the mass transit in close proximity
 14 to the project.
 15 Q. And has been the experience you've seen on
 16 projects you worked on, like the ones across the street,
 17 as the proximity to the public transportation reduced
 18 the parking demand?
 19 A. Yes, sir.
 20 Q. And does that case hold true for this particular
 21 application as well?
 22 A. Yes, it does.
 23 Q. And is it your opinion you believe 1.55 spaces
 24 per unit is more than sufficient for this particular
 25 project?

1 **A. Yes, that's correct.**
 2 **Q.** And in fact it is my understanding the RSIS
 3 established provides those numbers to accommodate public
 4 transportation?
 5 **A. Yup, that's correct.**
 6 **Q.** And that's been taken into consideration in your
 7 opinions?
 8 **A. Yes, that's kind of where we start, correct.**
 9 **They would like you to apply and take a look at specific**
 10 **characteristics of the project and the location of where**
 11 **you are.**
 12 **Q.** And because we've been talking a lot about prior
 13 approvals to a prior project, is there any rational
 14 provided in and of the variances there for the parking,
 15 are they applicable to this project as well?
 16 **A. Yes, it's the same rational I think that was**
 17 **utilized to determine that the parking variance was**
 18 **efficient, safe for the prior development can be applied**
 19 **to this application as well.**
 20 **Q.** Thank you.
 21 MS. SHAFKOWITZ: I have no further, Mr.
 22 Solicitor.
 23 MR. McNAMARA: Members of the board, do you
 24 have any questions regarding the testimony of the
 25 witness or questions you wish to put to him.

1 COMMISSIONER FALCON: Mr. Chairman, I have a
 2 few questions for this gentleman.
 3 So we have exits, entrances on both sides of
 4 Newark Avenue and Pennsylvania Avenue. Based upon the
 5 positioning of your apartments now and the increase in
 6 more two-bedroom apartments, do we perceive what ratio
 7 would be exiting and entering on either side of the
 8 building?
 9 THE WITNESS: So I think you're going to have
 10 similar distribution as we worked out the last time. I
 11 think, depending on the needs of Newark Avenue, if you
 12 want to go north, you're going to come out Newark
 13 Avenue. If you want to go south, you may not, you may
 14 go to Pennsylvania and then go in either direction with
 15 the traffic lights, so you can get on Newark Avenue. So
 16 I think again, as you're entering, say coming from the
 17 south, you're most likely going to use the Newark Avenue
 18 driveway. Coming from the north you're going to utilize
 19 Pennsylvania.
 20 COMMISSIONER FALCON: My slight concern, and
 21 not a deal breaker by any means, my slight concern is
 22 anyone exiting onto Newark you will be forced to make a
 23 right only towards the school, is that, in your mind an
 24 impact you perceived on that?
 25 THE WITNESS: So absolutely. When we do talk

1 about impact and about the threshold from the DOT and of
 2 the 100 new trips, like 100 new vehicles through an
 3 intersection would be constituting a significant impact
 4 on the intersection in need of a study to see what the
 5 impact is. The entire project as proposed generates
 6 between 30 and 45 trips during that peak hour. Now,
 7 that's both driveways, so that means 15 and 15, if even
 8 it's not 100 percent will come down Newark Avenue.
 9 Still well below that threshold of significant impact.
 10 So I don't see a minute and an half to two minutes being
 11 significant to the volume on Newark Avenue.
 12 COMMISSIONER FALCON: Also my concern is, my
 13 concern was what impact are we going to put on that peak
 14 during the peak school hour. And I appreciate your
 15 laymen's explanation of it, you're not overly
 16 complicating it. On the Pennsylvania Avenue side you
 17 will be kind of battling with the current big structure
 18 back there. Can you elaborate a little bit on that type
 19 of impact, if any?
 20 THE WITNESS: So again, given the level of
 21 traffic that we're talking about, I don't see any
 22 detrimental impact to the operation of Pennsylvania
 23 Avenue. I would say that based on the prior application
 24 we were projecting levels of service B, as in boy, or
 25 better towards those driveways. So talking about peak

1 level of service we're talking about there is a capacity
 2 in that roadway to accommodate this additional traffic.
 3 COMMISSIONER FALCON: So overall you're
 4 saying level B, we're giving it a letter grade?
 5 THE WITNESS: Uh-huh.
 6 COMMISSIONER FALCON: Thank you.
 7 CHAIRMAN FERNANDEZ: Commissioners, any
 8 other questions?
 9 COMMISSIONER PERKINS: Yes.
 10 On the garage door, as you turn in it opens
 11 or do you have a control that makes it open?
 12 THE WITNESS: It's my understanding, and
 13 that would be better answered from the architect, but it
 14 is my understanding as you pull up, you have a sensor
 15 and it will role up for you.
 16 CHAIRMAN FERNANDEZ: Any other questions,
 17 Commissioners?
 18 Anybody from the public want to testify.
 19 Seeing none.
 20 MR. McNAMARA: Mr. Chairman, at this point
 21 in the proceeding the applicant presented the witnesses
 22 that they have available this evening and as requested
 23 that the application be carried to be placed third on
 24 the agenda the November 10 meeting of the board, at
 25 which time it's the applicants intent to present their

1 civil engineer and planner and hopefully conclude their
 2 testimony on this application.
 3 With your consent Counsel, extend time for
 4 the board to act to and including December 31.
 5 MR. SHAFKOWITZ: Absolutely.
 6 MR. McNAMARA: Okay.
 7 MR. SHAFKOWITZ: Mr. Solicitor, one other
 8 thing. I want to touch on one quick thing.
 9 MR. McNAMARA: Sure.
 10 MR. SHAFKOWITZ: Mr. Taylor, did you have an
 11 opportunity to review the Harbor Consultants letter as
 12 it relates to this -- your testimony relates to this
 13 application?
 14 **A. I did.**
 15 **Q.** And besides what you touched on, the design
 16 waivers related to parking, anything in the Harbor
 17 Consultants letter that the applicant cannot comply
 18 with?
 19 **A. From my standpoint, no.**
 20 **Q.** So it's your understanding the applicant can
 21 comply with the traffic comments in the letter?
 22 **A. Yes, that's correct.**
 23 MR. SHAFKOWITZ: Sorry, Mr. Solicitor.
 24 MR. McNAMARA: That's okay.
 25 Tony, you have any comments on what you've

1 heard so far?
 2 MR. GALLERANO: No, I have no additional
 3 comments, other than what's in the report at this time.
 4 MR. McNAMARA: Thank you.
 5 Mr. Chairman, unless the board has other
 6 questions concerning the witnesses at this point, a
 7 motion to adjourn the hearing and carry to November 10
 8 with no further notice being required from the applicant
 9 would be in order.
 10 CHAIRMAN FERNANDEZ: Can I hear a motion to
 11 adjourn this application until November 10, I believe.
 12 MR. McNAMARA: Yes.
 13 COMMISSIONER FALCON: Motion to adjourn.
 14 MR. McNAMARA: That is a Wednesday. Just so
 15 people are aware, Veterans Day the City Hall is closed,
 16 that's why we're not meeting on Thursday.
 17 CHAIRMAN FERNANDEZ: I need a second.
 18 COMMISSIONER HORTA: Second.
 19 CHAIRMAN FERNANDEZ: Role call, please.
 20 MS. WHITEHEAD: Commissioner Cano.
 21 COMMISSIONER CANO: Aye.
 22 MS. WHITEHEAD: Commissioner Edie-Perkins.
 23 COMMISSIONER EDIE-PERKINS: Aye.
 24 MS. WHITEHEAD: Commissioner Horta.
 25 COMMISSIONER HORTA: Aye.

1 MS. WHITEHEAD: Commissioner Falcon.
 2 COMMISSIONER FALCON: Aye.
 3 MS. WHITEHEAD: Chairman Fernandez.
 4 CHAIRMAN FERNANDEZ: Aye.
 5 (Hearing includes at 8:35 PM.)
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1 C E R T I F I C A T E
 2 I, ERIC S. FISHMAN, a Shorthand Reporter
 3 and Notary Public of the State of New Jersey do hereby
 4 certify that the foregoing is a true and accurate
 5 transcript of the testimony as taken stenographically by
 6 and before me at the time, place and on the date
 7 hereinbefore set forth, to the best of my ability.
 8 I DO FURTHER CERTIFY that I am neither a
 9 relative nor employee nor attorney nor counsel of any of
 10 the parties to the action; and that I am neither a
 11 relative nor employee of such attorney or counsel; and
 12 that I am not financially interested in the action.
 13
 14 
 15 -----
 16 ERIC S. FISHMAN, S.R.
 17
 18
 19
 20 Dated: 11/7/2021
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