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BEFORE

NEW HOPE BOROUGH COUNCIL

In Re: Regular Meeting

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TUESDAY, JULY 27, 2021

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A public meeting was held at the Borough
Municipal Building, 125 New Street, New Hope,
Pennsylvania 18938, commencing at 7:00 p.m. on the day
and date above set forth, before Wendy Crowley,
Professional Reporter and Notary Public in and for the
Commonwealth of Pennsylvania.

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BOROUGH COUNCIL:

Connie Gering, President
Dan Dougherty, Vice President
Tina Leifer Retting
Laurie McHugh
Peter Meyer
Ken Maisel
Louise Feder
David Truelove, Esquire, Solicitor

ALSO PRESENT:

Chief Michael Cummings
New Hope Police Department

Peter Gray, Borough Manager
Mayor Keller
Michele A. Fountain, Engineer
Mary Stover, Zoning Officer

1 MS. GERING: We'd like to call the meeting to
2 order. Please stand up for the Pledge of Allegiance.

3 * * *

4 (Whereupon, the Pledge of Allegiance was
5 recited at this time.)

6 * * *

7 MS. GERING: Pete, if you could call the roll
8 call, please.

9 MR. GRAY: Certainly. Mr. Dougherty?

10 MR. DOUGHERTY: Here.

11 MR. GRAY: Ms. Rettig?

12 MS. RETTIG: Here.

13 MR. GRAY: Ms. Feder?

14 MS. FEDER: Here.

15 MR. GRAY: Ms. McHugh?

16 MS. MCHUGH: Here.

17 MR. GRAY: Mr. Maisel?

18 MR. MAISEL: Here.

19 MR. GRAY: Mr. Meyer?

20 MR. MEYER: Here.

21 MR. GRAY: Mayor Keller?

22 MAYOR KELLER: Here.

23 MR. GRAY: Also present tonight is Ms.
24 Fountain, engineer, Ms. Stover, interim zoning officer,
25 Mr. Truelove, solicitor, Chief Cummings, and myself.

1 MS. GERING: And you forgot me.

2 MR. GRAY: I apologize. Ms. Gering.

3 MS. GERING: Thank you. All right. Mayor's
4 report?

5 MAYOR KELLER: Yeah, very brief. Just a
6 couple updates. One is we have one of our full-time
7 officers is down, was injured while on patrol. He'll
8 be down for about three weeks rehabbing, and, secondly,
9 the accreditation process that we've been working on
10 for quite sometime is going very well. We have all the
11 SOPs that are the standard operating procedures down,
12 and now it's just a matter of the company that's been
13 hired to come in and double check that what we say that
14 we've done that we've done. So hopefully by the end of
15 the year, we'll be fully accredited, which is what our
16 goal is and very exciting.

17 And lastly, not that anybody doesn't know it,
18 but we will have -- there will be a grand opening
19 tomorrow night at the Logan Inn from 6:00 to 8:00. So
20 if you have any plans to drive north or south on Main
21 Street between Ferry and Bridge Street, please keep in
22 mind that it will be a bit of a log jam. We're going
23 to have officers on duty that were hired by the Logan.
24 They're going to do the best -- Chief has done a very
25 nice job setting up the traffic flow; however, there's

1 going to be a lot of traffic. So just to let you know,
2 it's finally going to happen tomorrow night. So we're
3 all pretty excited about it, and that's it, Connie.

4 MS. GERING: Thank you.

5 First on the agenda, a certificate of
6 appropriateness for 21-23 Ferry Street.

7 UNIDENTIFIED SPEAKER: Excuse me. If you
8 would move the microphone closer to your mouth. We
9 really can't hear anybody.

10 MS. GERING: All right. So what I will do is
11 take my mask off when I speak and then put it back on.
12 Yeah, it is a problem. Thank you.

13 First on the agenda is 21-23 Ferry Street for
14 a certificate of appropriateness. Can I have a motion
15 for approval?

16 MR. MAISEL: I make a motion.

17 MS. MCHUGH: I second.

18 MS. GERING: Any questions from counsel?

19 I have a question here. Would the
20 certificate appropriateness, it looks like you're
21 bundling two approvals on there. One is the driveway,
22 which should be, in my opinion, zoning and engineering,
23 and the other one is the historic portion.

24 Can I get our either engineer or zoning
25 explain that, please?

1 MS. FOUNTAIN: There was a zoning permit --

2 MS. GERING: Michele, if you could take your
3 mask off.

4 MS. FOUNTAIN: There was a zoning permit that
5 was submitted to the Borough for review. As part of
6 that review, the previous zoning officer asked our
7 office to look at it from an engineering perspective,
8 and we did that, and we generated a letter to the
9 Borough, which I believe the previous zoning officer
10 made a condition of her zoning permit. Part of that
11 review was the review of the sidewalk or lack of, the
12 curb cut along the roadway and the sight distance, and
13 that was all included in our letter.

14 MS. GERING: Thank you. I guess this is for
15 counsel. Dave, is it customary to lump them together
16 what would be a zoning and then an application together
17 like this?

18 MR. TRUELOVE: Typical lawyer's answer,
19 depends. Those circumstances depends on whether the
20 issues that Michele pointed out rise to the level of
21 the requirement for a variance or some other type of
22 zoning relief. So it depends on the facts and
23 circumstances. It may. I'm not going to tell you it
24 doesn't. I would defer initially to the zoning officer
25 or the engineer on the technical aspects of it. If the

1 Council feels like it should be part of a zoning
2 application, certainly the applicant would have to go
3 through that process.

4 MS. GERING: Thank you. Any questions from
5 Council? Any from the public?

6 All in favor?

7 BOARD MEMBERS: Aye.

8 MS. GERING: Opposed?

9 Motion passes.

10 MR. MEYER: Excuse me. I just realized that
11 I need to say that I was recusing myself on the
12 consideration on this particular item since I have a
13 known property within that hundred-foot radius.

14 MS. GERING: Thank you.

15 Next is the certificate of appropriateness
16 for 22 South Street -- 22 South Main Street. Can I
17 have a motion for approval?

18 MS. MCHUGH: I'll make that motion.

19 MS. GERING: Can I have a second?

20 MS. RETTIG: I'll second it.

21 MS. GERING: Discussion from counsel?

22 This is the certificate that received
23 approval over four years ago, and they were back to
24 HARB for another approval because their certificate
25 expired after 18 months. So any -- Ken, can you give

1 some light to this?

2 MR. MAISEL: Yes. So on July 6th, the
3 Applicant came to HARB with the -- and I'm going to ask
4 Mr. Truelove to reframe something that I might not say
5 correctly because we have spoken about it and was under
6 the impression that he -- with getting the approval
7 four years ago, this was just, you know, going from
8 HARB was just a matter of course, even with the advice
9 of administrative people at the meeting indicating that
10 it had to be dealt with as a new application. There
11 was a significant insistence that the hearing be made
12 and be adjudicated, and they didn't feel comfortable
13 doing that considering the fact that HARB -- that the
14 Council four years ago was the one who gave the
15 certificate of appropriateness, not the HARB board four
16 years ago. So that complicated things significantly in
17 that they didn't feel comfortable speaking to an
18 approval at that time. So they said they need Council
19 to determine whether or not they should, you know, have
20 to see. The Applicant was insistent that it be heard,
21 and they to some degree punted on it in the sense that
22 if HARB -- if Council had given approval four years ago
23 under those conditions, then we'll give that same
24 approval and let Council decide what they want to do.

25 It turns out subsequently that they were

1 supposed to have been heard at the time, the
2 application should have been heard and voted on by HARB
3 as a new application, but it was not, and from what I
4 understand, after talking to our counsel after the
5 fact, it appears as though they were -- they are going
6 to have to go back in front of HARB for approval of one
7 of the two applications that they were prepared to
8 present that night, because it was somewhat ambiguous
9 as to exactly what they wanted because there were two
10 plans at the time.

11 So it was kind of a mixed bag of unfortunate
12 circumstances and just not a complete understanding of
13 how to handle this, and regrettably we're at this point
14 where the Applicant is to going to be encouraged to
15 come back in front of HARB with one or two of -- with
16 one of the two submissions that they were making on
17 July 6th.

18 MS. GERING: Mr. Truelove, if you can chime
19 in.

20 MR. TRUELOVE: Yes. Thank you, Madame
21 President. I think Mr. Maisel adequately, more than
22 adequately described the circumstances. Because the
23 prior application had expired as was noted, there's no
24 vested right. It's as if it didn't exist. So
25 unfortunately because the HARB was not adequately

1 prepared for that circumstance in some form or fashion,
2 they should have had a full hearing on the matter,
3 which they didn't.

4 So I agree with Mr. Maisel that the remedy
5 that should be available is not a denial but would be
6 what's called a remand back to the HARB so that a full
7 hearing can be heard and then whatever the
8 recommendation is to the Council, then you would
9 consider that at that time. That would be my
10 recommendation to Council tonight is to amend the
11 motion to approve a remand of the matter back to the
12 HARB, whenever the hearing would be, whether it's the
13 next one or the one after that, full hearing on the
14 merits of that particular application will be
15 considered at the July 6th HARB meeting.

16 MS. GERING: Thank you. Any discussion or
17 questions from Council?

18 All in favor of sending the Applicant back to
19 HARB?

20 BOARD MEMBERS: Aye.

21 MS. GERING: Opposed?

22 Applicant has to return back to HARB. Thank
23 you.

24 Next on the agenda is a certificate --

25 MR. PANZEKA: Excuse me. Do I have a chance

1 to talk?

2 MS. GERING: Sure. Come on up. Please
3 identify yourself.

4 MR. PANZEKA: Lawrence Panzeka, the owner of
5 22 South Main Street. We had a hearing. We asked for
6 a vote. They voted on it two to one in favor. It's
7 your choice. You can deny it, and we will go to court.
8 We're not going back. You have a duty to either deny
9 it and I can appeal it and go to Bucks County Court of
10 Common Pleas, which I'm going to do. I'm not going
11 back to HARB.

12 MS. GERING: Mr. Truelove, you're going to
13 have to chime in on this one.

14 MR. TRUELOVE: Well, if Mr. Panzeka would
15 prefer to have a denial rather than a hearing, I guess
16 it would be up to the Council, you can vote on a
17 remand. If he doesn't accept that, he can take that as
18 a denial, I suppose, under that circumstance and
19 determine whether he wants to file an appeal to the
20 Court of Common Pleas or seek what's called a mandamus
21 here first with the Council and the court and then go
22 from there. It would seem to be an unnecessary amount
23 of time and expense for both the Applicant and counsel,
24 but I can't tell him what to do under those
25 circumstances, but it seems to me if the record

1 indicates that there's not a full hearing, the Zoning
2 Hearing Board determines the applicability of the first
3 application or the first approval that this point, you
4 know, that's entirely up to him.

5 I guess Mr. VanLuvanee is here on his
6 behalf.

7 MR. VANLUVANEE: I do represent Mr. Panzeka.
8 John VanLuvanee from Eastburn and Gray.

9 My understanding is that HARB did vote.
10 Whether they had full benefit of Mr. Truelove, counsel,
11 before they voted, doesn't change the fact that under
12 your regulations, they're entitled to a decision from
13 Council within 30 days. Council has already approved
14 this application before. There have been no changes to
15 circumstances. There have been no changes of any
16 relevant regulations, and, in my view, the entitlement
17 to an approval is very clear. Nothing could possibly
18 change as far as counsel is concerned between now and
19 then other than perhaps a change in personnel, but that
20 doesn't change the applicable regulations.

21 So we're asking that you approve the
22 application. Either way, we're entitled to a decision,
23 as I read your rules.

24 MS. FEDER: May I ask a question? For me,
25 the only point that I'm having trouble understanding is

1 that the application, there are two versions of it.
2 One for a second floor and one for a third. So -- and
3 just for just a moment. So I think for us, it's hard
4 for me to say, you know, HARB voted and we're okay with
5 what they said because it seems as though in reading
6 what we were given in our packet, HARB was not a
7 hundred percent sure on which design they were voting
8 on. So it's hard for us in our role to green light
9 either a two-floor or a three-floor building. That's
10 my only point of pause.

11 MR. VANLUVANEE: The administration asked my
12 client to clarify that, and my client elected to
13 proceed and gave notice to the administration he was
14 proceeding on the third floor, which is what is
15 scheduled for your decision tonight, not the second
16 floor. It's the same plan that was approved before.

17 MS. RETTIG: Excuse me. The plan was
18 approved before. It was, like, four years ago. Then
19 why do we -- like, what's happened --

20 MR. VANLUVANEE: Because you have a technical
21 provision Mr. Truelove recited in your regulations that
22 states if it's not applicable -- if the permit is
23 not --

24 MS. RETTIG: What I'm asking --

25 MR. VANLUVANEE: If the applicant doesn't

1 proceed, the certificate of appropriateness expires.
2 We have other circumstances that aren't really relevant
3 tonight. The fact of the matter is that Mr. Truelove
4 correctly stated what the regulations provide, and
5 that's why Mr. Panzeka went back to HARB.

6 MS. RETTIG: I understand that. I'm just
7 trying to figure out, you were given a certificate of
8 appropriateness, it was not acted upon, what's to say
9 we're going to give another one tonight and that one is
10 not going to be acted on and then we're going to be
11 back in the situation again two, three, four years from
12 now.

13 MR. VANLUVANEE: Well, I guess that's the
14 problem your ordinance creates, I mean, if it was
15 appropriate at the time and the regulations haven't
16 changed and the relief is the same, there would be no
17 reason to change your decision. This is true of many
18 zoning applications. Variances often have expiration
19 dates. If you don't act on them within a year, they
20 expire and you have to go back and ask for the same
21 relief, but as long as the circumstances haven't
22 changed and your regulations haven't changed, the
23 applicant should be entitled to the same relief, and
24 it's just as simple as that from our perspective.

25 MS. FEDER: May I ask one more question of

1 Mr. Truelove, just for it's a point of clarification
2 for the materials in our packet. It looked to me when
3 HARB voted, they said that in their motion, they were
4 voting, like, citing the original Council decision as
5 why they were passing it along to us, and you're saying
6 that because that decision is expired, they were not
7 allowed to do that.

8 MR. TRUELOVE: Well, here's what I'll try to
9 articulate. I wasn't there. Nobody from my office was
10 there. We understand from the report from the
11 administrator who was present that the HARB decided
12 that somehow they were under the impression, prior
13 decision, even though it expired, compelled them to
14 approve it at this time. That's the way it was phrased
15 to -- the way we understand it.

16 So the issue then is, did they have a full
17 hearing on it, as if they had no prior decision, and
18 they may have approved it anyway with the full hearing,
19 but that's the issue, was there a full hearing. I
20 think that's where there's a difference here of
21 opinion. The applicant says they voted on it
22 regardless of whether they had a full hearing. They
23 approved it, and, you know, that's where the process
24 was honored from our perspective, and obviously there's
25 a difference of opinion here what the remedy may be.

1 MR. VANLUVANEE: Might be a difference of
2 opinion, plus the fact that my client proceeded in
3 accordance with the regulations. HARB had an
4 opportunity to take action. They could have denied it.
5 They could have decided to take no action. They could
6 have voted to approve it. In this case, they voted to
7 approve it. It's not my client's fault that HARB
8 wasn't prepared that evening. They scheduled the
9 matter. My client proceeded. He had his architect
10 available. He spent -- he prepared for the hearing,
11 and he had the hearing. The fact that HARB may have
12 decided something different, had they properly prepared
13 for the hearing, is not -- should not be to my client's
14 prejudice.

15 MS. GERING: Any other questions or
16 discussions?

17 MR. DOUGHERTY: So it would seem,
18 Mr. Truelove, that before us is a certificate -- a
19 recommendation from counsel from the HARB board to
20 grant a certificate of appropriateness, correct? Now,
21 there's a lot of background noise here that --

22 MR. TRUELOVE: Yes.

23 MR. DOUGHERTY: -- that it's our feeling,
24 it's our sense that maybe we read the minutes and say
25 it's our sense there was so much conflict at that

1 meeting, so much confusion, that we're reading into
2 this that they didn't know what they were approving or
3 they didn't know if it was the second floor or the
4 third floor.

5 I would suggest with this amount of dust in
6 the air that we -- is it possible for us to deny this
7 this evening or to -- I'm sorry. Not deny it, but for
8 Council to basically ask for a 30-day review, rather
9 than deny it outright, and then come back next month
10 after we can actually read the minutes -- are the
11 minutes -- is the HARB meeting -- is it a court
12 reporter?

13 MS. GERING: Yeah, they have a court
14 stenographer.

15 MR. DOUGHERTY: Okay. So it wouldn't be that
16 hard for someone to sit there and actually read -- Ken,
17 were you at that meeting?

18 MR. MAISEL: I was at the meeting. I don't
19 think there was a court stenographer. I think Joanne
20 was taking notes.

21 MR. DOUGHERTY: So there was not a court
22 stenographer?

23 MR. MAISEL: I do not recall a court
24 stenographer there, but I think the extenuating
25 circumstance here was, and I don't want to have it be

1 represented that HARB board was not prepared for this,
2 because they were prepared for it. What they were not
3 prepared for was the insistence that a ruling be made
4 when, in fact, Council had provided the written -- the
5 ultimate approval.

6 MR. DOUGHERTY: Five years ago.

7 MR. MAISEL: Five years ago. So that's where
8 they were having difficulty because they said, why are
9 we dealing with this, this board didn't even approve
10 this application. As a matter of fact, they very
11 strenuously were opposed to it, and they indicated that
12 during their hearing when we did have a hearing two
13 years ago or whatever, a year after the fact.

14 So what happened was that they felt that they
15 were between a rock and a hard place. They wanted to
16 get counsel. They wanted to try to do the right thing,
17 and what they did was the most expedient thing in their
18 minds was to, look, they approved it like that before
19 and he's insistent on a -- you know, some kind of a
20 decision, then they just punted it and delivered it to
21 us exactly what we had approved, granted four years
22 ago.

23 MR. DOUGHERTY: Five.

24 MR. MAISEL: Five years ago.

25 MS. MCHUGH: So we, Council did that because

1 we didn't have a HARB board at the time, and that's why
2 that decision was made by Council, right?

3 MR. MAISEL: No, there was a HARB board.

4 MS. MCHUGH: There was a HARB?

5 MR. VANLUVANEE: And my client did present
6 his case to the HARB. He had his architect there.
7 They did present a case at this last meeting. My
8 feeling is that HARB has the ability to deny making a
9 recommendation and forward it to you. There's no
10 compelling reason that they have to make a
11 recommendation, and for that reason, it comes to you,
12 and you have an obligation within 30 days of their
13 recommendation to make a decision, and we're asking you
14 to do that. The circumstances I think are clear
15 regardless of what HARB did or did not do. They had
16 the evidence in front of them to consider.

17 MR. DOUGHERTY: Mr. Truelove, I'd like to
18 have some clarification around the 30-day aspect of
19 things and specifically what was the date of the
20 application when it was accepted and when does the
21 clock run and who -- is it HARB has 30 days and then we
22 have 30 days thereafter? Please explain that to me.

23 MR. TRUELOVE: It's my understanding that the
24 30 days starts to run from the date of the HARB
25 approval, not the date of the application.

1 MR. DOUGHERTY: When was the HARB meeting?

2 MR. TRUELOVE: July 6th.

3 MR. DOUGHERTY: So we would have until
4 August --

5 MR. TRUELOVE: August 5th, next Thursday.

6 MR. DOUGHERTY: And should this Council not
7 act this evening --

8 MR. TRUELOVE: It would be --

9 MR. DOUGHERTY: If we choose -- nobody can
10 force us to do something. So if we basically don't
11 vote this evening on this thing, what is the next step
12 for the Applicant?

13 MR. TRUELOVE: Mr. VanLuvanee, being the
14 experienced attorney he is, would argue it would be a
15 deemed approval.

16 MR. DOUGHERTY: He would argue that, but in
17 order to enforce that, he would have to go to court to
18 get that --

19 MR. TRUELOVE: Yes, that would be the
20 mechanism at that point.

21 MR. DOUGHERTY: Which is what his intentions
22 are in the event that we shoot it down this evening as
23 well.

24 MR. TRUELOVE: Either shoot it down or --

25 MS. FEDER: May I ask a question? We have a

1 workshop meeting on Monday. Is there anything to be
2 gained -- no? Okay.

3 MR. DOUGHERTY: So it's 30 days from the HARB
4 meeting?

5 MR. TRUELOVE: Yes, and it's similar in some
6 ways that Mr. VanLuvanee has mentioned the zoning
7 ordinances would have similar provisions from the time
8 frames and deemed approval and aspects like that.

9 MS. GERING: All right. Council, any other
10 discussions or questions?

11 MR. TRUELOVE: Just want to make sure, at
12 this point, I think on the floor is the motion to
13 remand. So I think --

14 MS. GERING: That's absolutely correct. On
15 the floor is a motion to approve.

16 MR. DOUGHERTY: Remand.

17 MS. GERING: To remand.

18 MR. TRUELOVE: First there was a motion to
19 approve, then there was a motion to remand and then --
20 so I want to make sure we know what the motion is --

21 MS. GERING: All right. Thank you.

22 MR. TRUELOVE: -- unless Council has a
23 separate idea they want to pursue.

24 MS. GERING: Right. So the motion is to
25 remand and go back to HARB, correct? All right.

1 MR. MAISEL: Can I just bring up one other
2 point? I think that the difficulty I think we're
3 struggling with here is and it's technical because this
4 is why I was just talking to Mr. Truelove and our
5 Borough manager is that your point regarding there's no
6 laws that have changed in four years that would
7 prohibit this application, you know, it seems like it's
8 a technical matter that we're struggling with, and I
9 can see the frustration that could be elicited from
10 that, but the technical matter is a point that has to
11 be considered, and that's what we're grappling with
12 right now. So --

13 MR. DOUGHERTY: First off, they have a vote,
14 it was two to one. I understand that, and we say that
15 it's not that they weren't prepared, it's just that
16 they felt that our prior approval, which was five years
17 ago, had so much weight to overcome that they didn't
18 maybe felt empowered, didn't know they were allowed to
19 approve --

20 MR. MAISEL: And it was not adhered, that it
21 was -- it was not a full day. So it was not -- the
22 application was really completely laid out.

23 MR. DOUGHERTY: Was not?

24 MR. MAISEL: Was not. But because of all the
25 extraneous things that were going on, the insistent and

1 the encouragement and they indicated that this has to
2 be heard, but approval wasn't given by HARB before it
3 was given by Council, so they should be dealing with it
4 and then them wanting Council and it was just a -- it
5 was a tough side for everybody, and everyone handled
6 it, in my opinion, earnestly, and we're stuck with this
7 right now.

8 MR. DOUGHERTY: My observation is that the
9 approval was granted five years ago. Your client did
10 not act upon the approval for five years. 24 days
11 after a two to one vote that was not very well
12 presented, it sounds like, we're now being almost
13 coerced that if we don't grant an approval, after five
14 years of no action on the property, that this cannot
15 apparently wait, that your client cannot imagine going
16 back to HARB next month, even though for more than five
17 years after the prior approval, they did not act upon
18 the prior approval. Now, suddenly, this must be done
19 or we will litigate. So to me, I have a problem
20 with -- I basically feeling I'm being coerced. Five
21 years passes with no action on a property, which
22 clearly needs a lot of work, and after five years,
23 we're being told tonight that if we don't grant this,
24 we're going to see you all in court. I don't think
25 another month is going to make much difference.

1 MR. VANLUVANEE: Let me explain why that
2 position is not helpful or acceptable to my client.
3 You have a series of regulations unfortunately.

4 MS. GERING: Can you speak a little better in
5 the microphone? I don't know if it's our microphone or
6 get closer.

7 MR. VANLUVANEE: Try this. Is that any
8 better?

9 MS. GERING: Little bit.

10 MR. VANLUVANEE: One of the problems with
11 your regulation is that when an application is filed
12 with HARB, you have no time limit in the ordinance or
13 your regulations within which HARB is required to make
14 a recommendation. In that regard, it's different from
15 the situation you're used to dealing with in
16 subdivisions or land developments where you are
17 compelled to make a decision on a application within a
18 certain period of time regardless of whether HARB --
19 rather the Planning Commission makes a recommendation
20 to you or not. They are the recommending body. You're
21 the body that makes the decision.

22 In this case, it's analogous to that except
23 that you don't give an absolute time from in which HARB
24 has to act. If we accept a remand back to HARB, we go
25 back to HARB. HARB decides to table it, they decide to

1 ask for more information, and Mr. Panzeka is in the
2 same position where he's just rolling around here, and
3 he has no ability to force HARB to do anything, and
4 we'll end up having to go to mandamus to compel HARB to
5 make a decision, and we're just spinning wheels, and
6 it's time, in our view, it's been years that he's been
7 I won't say harassed but he's had issues with the
8 Borough for the last five years. It's not entirely his
9 fault that he hasn't proceeded with the renovations,
10 but the fact of the matter is he's entitled to a
11 decision one way or the other, and the fact that HARB
12 did not make a recommendation yes or no is no different
13 than if your Planning Commission decides not to
14 recommend approval or disapproval of a subdivision
15 plan. It's the same thing. You're the governing body.
16 The buck stops with you. There's no reason that HARB
17 has to say anything to you, and the problem is that
18 they can remand it and we're sitting there for another
19 six months.

20 MS. GERING: Thank you. Mr. Truelove?

21 MR. TRUELOVE: Yeah. The only response I
22 would say that there is a HARB meeting next week. You
23 could direct -- remand it and direct the HARB to hear
24 the matter next week and provide us a recommendation in
25 a manner timely enough so that they consider it at the

1 next Council meeting, which I think is August 17th?

2 MS. GERING: Correct.

3 MR. TRUELOVE: So that would be the time
4 frame that we would frame.

5 MS. GERING: All right. So --

6 MS. RETTIG: To echo Dan and Mr. Truelove
7 just said, when I asked you before, how do we know
8 something is not going to happen again for five years,
9 you said, well, our rules and our regulations -- let me
10 finish. But now you're saying to us, well, HARB
11 doesn't have to -- they don't have to answer. Okay?
12 You can't have it both ways. If you can get this
13 remanded and it goes back to HARB, they hear it next
14 week, we're looking at another month before we come
15 back to here and we give you a decision. That's all
16 we're saying.

17 MR. DOUGHERTY: It's three weeks. It's three
18 weeks roughly from today. I don't think --

19 MR. VANLUVANEE: My client has advised that
20 he's not willing to accept a remand. So you have a
21 right to make that motion, which is effectively a
22 denial.

23 MR. TRUELOVE: I would echo Mr. VanLuvanee, I
24 would agree, if you vote for remand, it would
25 effectively be a denial. From his perspective, he

1 would then have the opportunity to appeal. He's not
2 willing to take your olive branch, so to speak, to try
3 to come to some kind of accommodation.

4 MS. GERING: All right. Council, should we
5 do individual votes here to remand and to send it back
6 to HARB?

7 MR. DOUGHERTY: As mentioned, I believe Mr.
8 Truelove said that remand is not really our option. It
9 would be, I believe, but really the right answer is if
10 we were not to approve it tonight is to deny it, not
11 remand it.

12 MR. TRUELOVE: That would be true, except if
13 you want to make a record, you offered the remand, it
14 would have the effect of a denial if it's not
15 accepted.

16 MR. DOUGHERTY: So we can still remand?

17 MR. TRUELOVE: Yes. You can make the motion
18 to remand, see if the Applicant would be willing to
19 accept that again with the direction that the remand be
20 to the HARB to hear it at its next meeting, which is
21 next Tuesday, August 3rd.

22 MS. GERING: 2nd. No. 3rd, you're
23 absolutely correct.

24 MR. TRUELOVE: Then for the -- so that
25 Council may make its decision on that application at

1 its next meeting on August 17th.

2 MS. GERING: Correct. Thank you. So that's
3 the motion on the table. All right? All in favor of
4 that?

5 BOARD MEMBERS: Aye.

6 MS. GERING: Opposed? All right. You have a
7 choice. Thank you.

8 MR. VANLUVANEE: Thank you.

9 MR. TRUELOVE: Just for my benefit, who
10 opposed that motion?

11 MS. GERING: You made the motion. We all
12 agreed with you.

13 MR. TRUELOVE: Okay. Just wanted to make
14 sure.

15 MS. GERING: All right. Thank you.

16 BOARD MEMBER: At what point do we have to
17 come vote by as to whether or not they want to be
18 heard --

19 MR. TRUELOVE: Well, what I would suggest is,
20 you place it on the agenda, unless you hear from the
21 Applicant or Mr. VanLuvanee between now and next
22 Tuesday, I would recommend that you place it on the
23 agenda for HARB. If you hear from them, that they
24 indicate that they are rejecting your remand, just make
25 sure it's a written record of that. If they accept the

1 remand, then it's placed on the agenda. By accepting
2 it, at least we're not rejecting it, then place it on
3 the agenda and hope that they show up with their team
4 and make their presentation and then be ready to make a
5 determination at this level on the 17th.

6 MS. GERING: All right. Thank you.

7 Next on the agenda is a certificate of
8 appropriateness for 10 West Randolph Street for utility
9 shielding. Can I have a motion for approval?

10 MR. MEYER: So moved.

11 MS. GERING: Second?

12 MS. MCHUGH: I'll second.

13 MS. GERING: Any discussion from Council?
14 Any questions from the public?

15 All in favor?

16 BOARD MEMBERS: Aye.

17 MS. FEDER: And I abstain.

18 MR. TRUELOVE: Ms. Fedder is abstaining.

19 MS. GERING: Yes. Ms. Fedder is abstaining.

20 All right. Next on the agenda is a Zoning Hearing
21 Board application for 26 West Bridge Street, and we
22 have the Applicant here?

23 MR. MEYER: Once again, I recuse myself.

24 MR. BURNS: My name is Michael Burns. I'm an
25 architect for the Favarosso (ph) family, who are the

1 owners of 26 West Bridge Street, and Fred and Joe
2 Favarosso are also here.

3 MS. FEDER: Mr. Burns, I'm so sorry. It's
4 difficult to hear you.

5 MR. BURNS: So the property is 26 West Bridge
6 Street, tax parcel 27-010-030. It's about 5.25 --
7 5,251 square feet. It's located in the central
8 business district, and the permitted uses are service
9 business restaurant by special exception in a dwelling
10 combination business.

11 UNIDENTIFIED SPEAKER: We still can't hear
12 him.

13 MR. BURNS: So the existing building has a
14 restaurant, Villa Vito, on the ground floor, and there
15 are two existing apartments, one on the second floor,
16 one on the third floor. Previous applications had
17 indicated that the third floor apartment is considered
18 the permitted apartment and the second floor apartment
19 is considered a nonconforming apartment. So this
20 application is to expand the second floor apartment,
21 which is considered a nonconforming apartment, by
22 expanding the second floor to add a living space on the
23 second floor with a stair to a new third floor level of
24 the apartment.

25 There are a number of existing

1 non-conformities that include the maximum impervious
2 coverage which is required to be 70 percent, and the
3 property is pretty much completely covered with
4 impervious. So it's at a hundred percent.

5 The minimum lot width, which is 40, the
6 requirement is 40 feet, and the existing and proposed
7 lot width are 20.58 feet.

8 There's a minimum front yard setback
9 requirement of 10 feet and the existing building is set
10 back 5 feet from the property line.

11 There's also existing minimum side yard
12 violations. There's a 6-foot side yard requirement.
13 The existing is zero, and we'll also be asking for a
14 variance for the addition, which would also have a zero
15 side yard setback.

16 So the variances that are being requested by
17 the application are expansions of the existing
18 non-conforming apartment and a side yard setback for
19 the expansion.

20 That's essentially it.

21 MS. GERING: Thank you. Any questions from
22 Council?

23 I'll stay neutral. All right. Good luck at
24 zoning.

25 MR. BURNS: Thank you.

1 MS. GERING: Thank you so much.

2 Next on the agenda is 18-20 West Mechanic
3 Street.

4 MR. LYONS: Hi. Thank you. My name is Dan
5 Lyons. I'm here on behalf of the Applicant. I'm here
6 for Gavin Laboski, who could not be here today. He was
7 the filing attorney.

8 Here, there's a long history in this matter,
9 but to sum it up kind of briefly why we're here today
10 and what the Zoning Hearing Board application is all
11 about, the land development was previously granted for
12 mixed use development with three townhouses and one
13 two-family dwelling and two apartments with a retail
14 use and a restaurant use on the bottom floor in the
15 same historical --

16 MS. GERING: Can I interrupt you? I thought
17 it was five townhouses to start with.

18 MR. DOUGHERTY: Two family --

19 MS. GERING: Okay. Go ahead.

20 MR. LYONS: Thank you. The Applicant is here
21 this evening, and with the Applicant is the Zoning
22 Hearing Board application to remove or limiting the two
23 apartment uses, the restaurant use and the retail use
24 and going to almost replace those uses and that
25 existing and that existing historical existing

1 structure with a two-family dwelling, and the
2 two-family dwelling use is actually granted by the
3 Zoning Hearing Board. That use is granted by the
4 Zoning Hearing Board back in 2012.

5 So it's a little unorthodox, but we're
6 requesting a zoning variance, or in the alternative, a
7 modification of the prior Zoning Hearing Board
8 determination. One of those conditions of the prior
9 Zoning Hearing Board determination was that there would
10 be one two-family dwelling, three townhouses, two
11 apartments, one retail and one restaurant, and now we
12 are eliminating the two apartments, the one retail and
13 the one restaurant and then going to do a second
14 two-family dwelling unit on the property.

15 MR. DOUGHERTY: So basically the existing old
16 building, that building was going to be two apartments,
17 plus a retail, plus a restaurant?

18 MR. LYONS: Correct.

19 MR. DOUGHERTY: Now you would like that to
20 instead be two effectively side-by-side townhouses?

21 MR. LYONS: Correct.

22 MR. DOUGHERTY: Thank you.

23 MS. GERING: So I have a question for you. I
24 drove past there today. You've already poured a
25 foundation where for it looks like it could have been

1 the restaurant next to the historic building.

2 MR. LYONS: So I believe the foundation and
3 I'm going to refer back here to Rich Calabrese (ph),
4 but I believe the foundation is for a different
5 structure.

6 UNIDENTIFIED SPEAKER: Good evening. What
7 was the question?

8 MS. GERING: If you could just take your mask
9 off when you speak.

10 Well, as you know, I drove up the street
11 today to take a look at what's going to happen. So you
12 poured a foundation next to the historic building?

13 UNIDENTIFIED SPEAKER: Yes.

14 MS. GERING: It appears that my guess would
15 be that would be where the restaurant would have gone.

16 UNIDENTIFIED SPEAKER: Well, that was a side
17 addition to the structure. The use was previously
18 approved for a restaurant, but that side addition would
19 just be a side addition to one of the new townhomes.

20 MS. GERING: So I guess I'm a little confused
21 because I'm really familiar with that property. I used
22 to be a tenant in there. So what are you going to do
23 with the historic building? Are you putting an
24 addition --

25 UNIDENTIFIED SPEAKER: The historic building

1 will be built exactly as it was approved with an
2 extension off the back and the extension off the side
3 in the land use development plan, unit number seven.

4 MS. GERING: So where is the additional -- so
5 what's going to happen to that side where you were
6 going to have a restaurant? That's what I'm --

7 UNIDENTIFIED SPEAKER: That could become the
8 living room.

9 MS. GERING: So that's going to be in
10 addition to the historic building?

11 UNIDENTIFIED SPEAKER: Correct. Yeah, the
12 historic building itself will be renovated as was
13 previously approved by you guys.

14 MS. GERING: Okay. And so what would have
15 been the restaurant which was the addition to the
16 historic building --

17 UNIDENTIFIED SPEAKER: It's now a very large
18 single family townhome.

19 MS. GERING: Okay. So are you looking to
20 raise that height-wise to be --

21 UNIDENTIFIED SPEAKER: No.

22 MS. GERING: My question was, if the height
23 was going to be the same as the height as the
24 restaurant and you answered me yes.

25 UNIDENTIFIED SPEAKER: The height of the

1 building does not change.

2 MS. GERING: All right. Thank you.

3 MS. McHUGH: Why do you want to change the
4 use?

5 UNIDENTIFIED SPEAKER: The way the town has
6 been, the way the vacancy rate is up on retail space,
7 the amount of restaurants on that particular street and
8 in the area and the adjacent building being raised, the
9 commercial building being torn down and the residence
10 being put up and the community that we've developed
11 ourselves in those five townhomes which is basically
12 called a double family, it seems to be more productive
13 and more beneficial for the Borough that it be designed
14 into two residential units.

15 MS. McHUGH: It's really not. We approved a
16 retail and a restaurant for a reason, and you obviously
17 wanted to put a retail and a restaurant in there for a
18 reason. Your location hasn't changed.

19 UNIDENTIFIED SPEAKER: That was absolutely
20 four years ago, also. Times have changed.

21 MS. FEDER: I am so sorry, but I do agree
22 with Laurie. It is zoned commercial for a reason and
23 Mechanic Street in New Hope has for generations been a
24 place for retail and restaurants, and I think anybody
25 who was out this past Saturday saw that street

1 absolutely packed, and I know it's been a challenging
2 year certainly, but I think there's with good reason if
3 you're building in the commercial district and you've
4 already gone through the variances, part of the reason
5 I would imagine those were granted is because of the
6 mixed use nature of the lot, but you're preserving some
7 of the history of that street as a center for
8 residences and tourists alike to go out to dinner, to
9 shop and to not just walk by more townhomes.

10 MR. DOUGHERTY: Just I certainly don't want
11 to cast disparage on anyone's fine character here, but
12 this project has been for a long time, it has taken
13 every bit of a width and guideline of this Council to
14 try to keep this project from doing things that were
15 not agreed to. The existing building is the most
16 recent example whereby we had agreements with these
17 developers. It might be the developers. It might be
18 the architects, who knows, but there were agreements
19 reached as to replacing windows and all those things.
20 It took engagement of our attorneys to reengage all of
21 those agreements and to come to some sort of -- to get
22 those actions to take place. It took Council's direct
23 involvement repeatedly with this development to enforce
24 the previous agreements.

25 So, frankly, I'm looking here and saying how

1 much am I missing this time, what am I missing? So I,
2 frankly, I would be against granting any kind of relief
3 unless we have complete and thorough understanding of
4 every aspect of it.

5 MS. GERING: Well, I personally am against
6 you receiving relief. I think you should stay as it is
7 with the restaurant. That street is restaurant row.
8 So there is no reason why a business wouldn't succeed
9 on there, and you're right in the commercial district
10 there. From the bridge up, it's definitely
11 residential, but where you're at, it's definitely
12 commercial. So I personally am totally, like I said,
13 I'm only one voice on this Council, I'm totally against
14 it.

15 MR. MEYER: If I may, as far as I can tell,
16 since the last time that this body had a chance to look
17 at the project in question, there's been one property
18 that has been rezoned for commercial to residential. I
19 do not believe that there has been a single change in
20 the commercial use in the last few years that would
21 justify the kind of change the rationale that you're
22 providing to us.

23 When you say to us that it's to the benefit
24 of the Borough, may I point out to you that a
25 commercial operation has got employees which generate

1 taxes for the Borough that are above and beyond those
2 that we get from real estate. So, in fact, going from
3 commercial to residential is detrimental to revenues of
4 the Borough and therefore the taxpayers of the Borough.

5 I do not see in anything that you presented
6 to us any rationale other than the fact that you may
7 have figured out now after the fact, after something
8 like two dozen variances were given for the project in
9 the first place that now you can make a little bit more
10 money by converting and changing the use. I'm totally
11 opposed to the uses. Thank you.

12 MS. GERING: Any other comments from Council?

13 UNIDENTIFIED SPEAKER: Will a vacant property
14 benefit the Borough? Would a vacant property, not
15 being renovated, benefit the Borough? If you don't get
16 a buyer or a renter, it's going to sit the way it is.

17 MS. GERING: Can I chime in? That property
18 was vacant for 7, 8 years.

19 UNIDENTIFIED SPEAKER: I know it was, and
20 that wasn't a fault of my own.

21 MS. GERING: So but anyway, this is on the
22 agenda. So we have the option to oppose or stay
23 neutral.

24 MR. TRUELOVE: I'm sorry. You have three
25 options; to stay neutral, participate or oppose.

1 MS. GERING: Okay.

2 MR. TRUELOVE: So the motion would be
3 appropriate if --

4 MS. GERING: To participate is where we send
5 Council?

6 MR. TRUELOVE: Send Council. And if you
7 participate, it's really just to kind of investigate
8 and at least offer the sense of the Borough what your
9 concerns are. To oppose it, you're saying, we don't
10 want this, we oppose it, here's the reasons why, some
11 of which has been expressed tonight, but a motion would
12 be required and obviously the majority to support
13 whatever the motion would be to do.

14 MR. LYONS: May I have one more -- may I have
15 one more person, Ralph Fey, come up to speak to you
16 about --

17 MS. GERING: Sure.

18 Mr. Fey, how are you?

19 MR. FEY: Ralph Fey, F-E-Y. So I am fully
20 sympathetic to the concept that we are losing
21 commercial in the downtown area. One of the reasons
22 that as a team member who brought this to you was our
23 concern that we don't have parking to support the
24 restaurant. So it will set up based on the drawings
25 that we originally submitted to be in the neighborhood

1 of 75 to 85 seats and then small, four tables outside,
2 and the concern I had was when we're done and I come to
3 you and say I cannot park on site the way the current
4 ordinance is established, I saw some problems moving
5 ahead, and I thought it was appropriate to tell my
6 client that we should be asking the questions now, not
7 finishing the project uninformed.

8 MS. GERING: Mr. Fey, with utmost respect,
9 you've worked in this town for years, so where was your
10 outlook on where you were going to park when you
11 originally proposed this? Nothing has changed in town
12 since then.

13 MR. FEY: Sure. Sure. So we started this
14 project in my office nine years ago. I'm sure you had
15 some of our earlier presentations eight and seven years
16 ago, and eight and seven years ago, you could purchase
17 off-site parking when you did not have it. It was
18 \$1,000 a space, and that would have been our intention
19 under that ordinance, not knowing where we would be
20 today.

21 So I'm going to respectfully say things have
22 changed, but if Council feels that there is an avenue
23 to address the parking now differently, that's kind of
24 why I'm speaking.

25 MS. GERING: Thank you.

1 Any other questions from Council?

2 From the public? Ms. Delevich.

3 MS. DELEVICH: Good evening. Geri Delevich,
4 New Hope. I want to remind everyone, I've lived here
5 for 40 years and was on Council for 18 years, and when
6 we lost -- some of you might not remember it, but we
7 had commercial property above the canal, and that was
8 the Hacienda and that was also the Tow Path House, and
9 when the Borough Council then decided to allow George
10 Michael to do residential, we also at that time
11 strongly agreed that that was the line, that above that
12 could be commercial but below that -- I mean, above
13 that could be residential but below that had to remain
14 commercial. People still regret that the Hacienda is
15 no longer there, and I want to remind everyone that we
16 are the jewel, and we are the model. Yardley Borough,
17 Perkasio, Quakertown, they all want to be New Hope.
18 They want that tourism that we have here, and what were
19 they before that, they were residential communities,
20 and we all know the money is in the townhouses, but if
21 we let everybody build townhouses, we have lost New
22 Hope. We are not that kind of town. We are becoming a
23 bedroom community.

24 So I totally agree with Council that we have
25 to make a stand somewhere, plus our zoning ordinance

1 that was passed was trying to exactly do the protection
2 that we're talking about. The zoning ordinance said
3 that anything that was commercial in the ground floor
4 had to remain commercial and the feeling behind that
5 was we didn't want to lose the town that we were and
6 become a bedroom community. Thank you.

7 MS. GERING: Thank you.

8 MR. TRUELOVE: To the court reporter, the
9 name is spelled D-E-L-E-V-I-C-H, Geri, G-E-R-I.

10 MS. GERING: Any other comments? Comments
11 from the public?

12 All right. Back to Council. We have a
13 choice. Who is in favor of opposing the application?
14 We'll start with down there.

15 MR. MAISEL: I'm in favor of participating.

16 MS. GERING: You're in favor of
17 participating?

18 MS. RETTIG: I oppose.

19 MS. MCHUGH: I oppose.

20 MR. DOUGHERTY: I'm in favor of participating
21 with opposition. Is that -- is participating with the
22 concept that we are -- I'm sorry, David, I --

23 MR. TRUELOVE: That's fine. No, I think
24 participating would be to pretty much offer your
25 concerns but not oppose, but I think oppose, you cross

1 a line and say we do not agree, we don't want this --

2 MR. DOUGHERTY: So oppose would also be you
3 would --

4 MR. TRUELOVE: Yes, I think -- yeah, it's
5 even more necessary under these circumstances --

6 MR. DOUGHERTY: So oppose is actually --

7 MR. TRUELOVE: That's the strongest --

8 MR. DOUGHERTY: That's the stronger. Thank
9 you.

10 MS. GERING: So what's your position?

11 MR. DOUGHERTY: Oppose.

12 MS. GERING: Oppose.

13 MR. MEYER: Oppose.

14 MS. FEDER: Oppose.

15 MS. GERING: All right. Thank you. For the
16 record, we're opposing the Applicant.

17 MR. LYONS: Thank you.

18 MS. GERING: Next we have a motion to hire a
19 part-time bookkeeper at the rate of \$22 an hour.

20 MR. GRAY: Excuse me. I think there was
21 another ZHB application.

22 MS. GERING: Oh, I'm sorry. 76 North Main
23 Street. Sorry there, guys. I got a little too eager
24 here.

25 MR. VANLUVANEE: John VanLuvanee again. I

1 represent the owners of 76 North Main Street. This is
2 a, from a standpoint of a Zoning Hearing Board
3 application, a very unusual application. It arises
4 only because of the fact that my client is proposing to
5 move the existing historic building, non-contributing
6 historic building, in a historic district back from the
7 road, convert a seven-unit, non-conforming apartment
8 building into a single family residence which conforms
9 and provide off-street parking in conformity with your
10 ordinance, in conjunction with which your ordinance
11 would require him that he raise the building 18 inches
12 to comply with your floodplain regulations, which are
13 also part of your zoning ordinance, but because of your
14 definition of height of a structure, in order to
15 continue to use the third floor of the building, they
16 have to ask for a variance. If they didn't want to
17 occupy the third floor, then they would not need a
18 variance because of the way you defined item ability.

19 So the building looks the same as it does
20 now, no change. It will be a safer building. It will
21 be a conforming use, and it will be conforming with
22 respect to your off-street parking regulations.

23 So in order to conform in three different
24 respects, we need this variance.

25 MR. DOUGHERTY: May I just say, you mentioned

1 that it's a boarding house. Those are apartments.

2 MR. VANLUVANEE: Boarding house.

3 MR. DOUGHERTY: Well, I think that a boarding
4 house is a very different thing than apartment
5 buildings.

6 MR. VANLUVANEE: It's still a non-conforming
7 use.

8 MR. MAISEL: I just wanted to bring up one
9 point.

10 MR. MEYER: I can't hear you.

11 MR. MAISEL: I'm sorry. There was an
12 application made in front of HARB on this property, and
13 I'm not -- just full clarity, this -- the moving of the
14 house, raising of the house and moving of the house was
15 rejected; is that true?

16 MR. VANLUVANEE: No. There's been no action
17 taken. We've revised the plans on several different
18 occasions. Most recently, we asked to go back to HARB.
19 HARB said, no, you have to go through zoning first
20 before we'll act on your application. We asked if we
21 were able to proceed in parallel courses, both to HARB
22 and with the zoning. We were told we have to ask for
23 the variance first.

24 MR. MAISEL: I think you're actually you're
25 correct, but I wanted to add they were fairly strongly

1 opposed to that property being moved, you know,
2 backwards and raised, I mean, just for full disclosure.

3 MR. VANLUVANEE: I understand that, but from
4 the standpoint of zoning, that's irrelevant.

5 MR. TRUELOVE: Just for -- your points are
6 well taken, but the issue is, the Applicant is taking
7 the risk here, if they go to zoning, if they get the
8 variance, they still have to go through the HARB
9 process as well.

10 MR. VANLUVANEE: The zoning issue is a narrow
11 issue.

12 MR. DOUGHERTY: And the zoning issue, picking
13 the building up, moving it towards the river, is that
14 what they --

15 MR. VANLUVANEE: No. Here's the issue,
16 assume I bought that building and wanted to make it
17 conforming with floodplain regulations for the safety
18 of my family.

19 MR. DOUGHERTY: You wouldn't have to do that
20 though.

21 MR. VANLUVANEE: Well, no, I don't have to,
22 but there's no reason why you shouldn't allow somebody
23 to comply with the floodplain regulation. In order to
24 do that, the building goes up 18 inches. That's it.
25 And it's the same building. Now, if my client elected

1 to do exactly what they're proposing here and agreed to
2 restrict the third floor from occupancy, then no
3 variance is required, but from the standpoint of what I
4 would consider to be zoning considerations, there's no
5 change. It looks the same. Whether they restrict the
6 occupancy or don't, it's the same building and yet in
7 one circumstance, what we're doing is in compliance
8 with your ordinance if they restricted the occupancy.
9 My view, that's not really a zoning issue to begin
10 with.

11 If you want to see what it looks like, I can
12 show you what it looks like.

13 MS. GERING: No. We're familiar with it.
14 We're familiar with the property.

15 MR. VANLUVANEE: And in the application, we
16 actually attached the before and after to show you what
17 it looks like.

18 MR. DOUGHERTY: I think this is one in my
19 estimation that is so substantial and so significant to
20 the Borough and to North Main that it should be
21 something that we really don't deny, but I think it's
22 something that we should perhaps participate in at the
23 Zoning Hearing Board, rather than just be neutral on,
24 and that way our representation can be physically there
25 and basically correct things that may be getting said

1 that aren't exactly accurate or maybe you're
2 misstating. That's my take on it. I don't know.

3 MS. MCHUGH: I agree.

4 MS. GERING: Yeah. All right. So --

5 MR. TRUELOVE: We just want to make sure that
6 there are at least four of them that will agree on it.

7 MS. GERING: All right. So the motion is to
8 participate. Ken, yes?

9 MR. MAISEL: Yes.

10 MS. GERING: Tina?

11 MS. RETTIG: Yes.

12 MS. GERING: Laurie?

13 MS. MCHUGH: Yes.

14 MR. DOUGHERTY: Yes.

15 MS. GERING: Yes.

16 MR. MEYER: Yes.

17 MS. GERING: All right. So, yes, we will
18 participate in the application.

19 MR. VANLUVANEE: All right. Fine.

20 MS. GERING: Good luck there.

21 MR. DOUGHERTY: Just one nuance. I'm sorry.
22 Ken, you voted. You're fairly close to that location.
23 I don't know. Does that -- it might behoove us to have
24 you recuse.

25 MR. TRUELOVE: If he's within the --

1 MR. MAISEL: I'm not within the identified,
2 but I'll recuse.

3 MR. DOUGHERTY: I just was double checking --

4 MR. TRUELOVE: Yeah, when I saw the list, I
5 didn't --

6 MR. DOUGHERTY: Thank you.

7 MS. GERING: Okay. Thank you.

8 All right. Next is consideration to hire a
9 part-time bookkeeper at the rate of \$22 an hour. Can I
10 have a motion?

11 MS. MCHUGH: I'll make that motion.

12 MS. GERING: Can I have second?

13 MR. MEYER: Second.

14 MS. GERING: Discussion from Council? Any
15 questions from the public?

16 All in favor?

17 BOARD MEMBERS: Aye.

18 MS. GERING: Thank you. Next is
19 consideration -- to consider returning security for the
20 Overlook at Aquetong Creek in the amount of \$16,986.53.
21 Can I have a motion for approval?

22 MS. MCHUGH: I make that motion.

23 MR. MEYER: I'll second.

24 MS. GERING: Any questions from Council?

25 All in favor?

1 BOARD MEMBERS: Aye.

2 MS. GERING: Next is consideration to
3 appoint Jane Pedinoff to the Parks and Rec Board. Can
4 I have a motion for approval?

5 MS. FEDER: I make that motion.

6 MS. McHUGH: I'll second it.

7 MS. GERING: Thank you. Any questions? All
8 in favor?

9 BOARD MEMBERS: Aye.

10 MS. GERING: Next is an application for the
11 New Hope Arts and Crafts Festival to be held September
12 26th, 27th? Thank you.

13 Can I have a motion for approval?

14 MS. RETTIG: I'll make that motion.

15 MS. GERING: Can I have a second?

16 MR. MEYER: Second.

17 MS. GERING: Thank you.

18 MR. MEYER: By the way, it's the 25th and
19 26th.

20 MS. GERING: Thank you. Questions from
21 Council? Any comments from the public?

22 All in favor?

23 BOARD MEMBERS: Aye.

24 MS. FEDER: I have to recuse myself.

25 MS. GERING: Arts and Crafts?

1 MS. FEDER: I'm the judge lady.

2 MS. GERING: All right. Thank you.

3 All right. Next is an application for Girls
4 on the Run 5K special event. Can I have a motion for
5 approval?

6 MR. MEYER: I move.

7 MS. MCHUGH: Second.

8 MS. GERING: Any questions from Council? Any
9 comments from the public?

10 All in favor?

11 BOARD MEMBERS: Aye.

12 MS. GERING: Thank you. Next is to consider
13 appointing Bond Counsel to refinance of 2016 General
14 Obligation Bond. Can I have a motion for approval?

15 MR. DOUGHERTY: I'll make that motion.

16 MS. GERING: Can I have a second?

17 MR. MEYER: I'll second.

18 MS. GERING: Any discussion from Council?
19 Any comments from the public?

20 All in favor?

21 BOARD MEMBERS: Aye.

22 MS. GERING: Thank you. Next is the approval
23 of the minutes for June 7th and then June -- I'm sorry.
24 June 7th workshop and June 15th Council meeting. Can I
25 have a motion for approval?

1 MS. MCHUGH: I'll make that motion.

2 MS. GERING: Can I have a second?

3 MR. MEYER: Second.

4 MS. GERING: All in favor?

5 BOARD MEMBERS: Aye.

6 MS. GERING: Approval of accounts payable for
7 June in the amount of \$358,676.97 and payable for
8 June 18th, June 25th, July 2nd, and July 16th, in the
9 amount of \$64,943.55, \$4,373.28, \$69,228.01, and
10 \$67,938.83.

11 MS. MCHUGH: I'll make that motion.

12 MS. GERING: Thank you. Second?

13 MR. MEYER: Second.

14 MS. GERING: Any questions?

15 All in favor?

16 BOARD MEMBERS: Aye.

17 MS. GERING: Thank you. All right. Park and
18 Rec, do you have a report?

19 MS. FEDER: Yes. Did you want the
20 solicitor's report or doesn't it matter?

21 MS. GERING: Sorry. Do we have a solicitor's
22 report? Yes, we do.

23 MR. TRUELOVE: We do, yeah. I can do it
24 now or --

25 MS. FEDER: No. It's okay.

1 MS. GERING: Thank you.

2 MR. TRUELOVE: Okay. Actually two items,
3 first, hopefully I circulated the memo to some of you
4 about this, Mr. Gray, at the end of the last
5 legislative session at the state level, an act was
6 amended, such an act was amended regarding posting of
7 agendas and how agendas are to be handled. Some places
8 you'll find, when I say places, boroughs, townships,
9 school boards, any public entity, authorities,
10 sometimes items are added to the agenda at the public
11 meeting and a vote is taken. Well, apparently some
12 people have taken umbrage with that practice, and,
13 therefore, it's been amended that the agenda must be
14 publicly posted on the internet website no later than
15 24 hours in advance of the time the public meeting
16 convenes, and it must contain every matter that may be
17 subject to deliberation or official action, and there
18 are limited circumstances under which the agenda can be
19 actually amended at the meeting; for example, if it has
20 what's called a de minimus effect or somehow you can
21 demonstrate that there's an emergency that can be
22 averted by the vote and that the record has to be
23 fairly well established to do so.

24 So, again, the way the business has been
25 handled here in the Borough, in fact, I think that's

1 why the workshop practice is so helpful, if you have
2 issues before you, place them on your agenda when we
3 have an agenda here, I don't know that in our time
4 here, it's been very rare, if at all, that we've ever
5 actually added agenda items at the meeting itself. I
6 can't remember that.

7 So it will have very little impact on the
8 Borough here, but just to give everybody a heads-up
9 that you may hear a lot of consternation by some of
10 your colleagues in other municipalities.

11 The other issue actually is the medical
12 marijuana ordinance. What happened is the same
13 legislative session modified the medical marijuana
14 ordinance, so that even though we had a version teed up
15 for consideration by Council before, we looked at the
16 new legislation. We believe that some of the
17 information contained in the medical marijuana
18 ordinance amendments requires us to amend the
19 ordinance. That's going to be submitted for
20 advertisement. I won't go through all the different
21 issues, but they're what we call we believe substantive
22 changes that are enough that require that it be amended
23 in its current form before it goes out for
24 advertisement.

25 There's a provision there that allows for

1 curb side delivery. Now, we've done some research. We
2 believe that the curb side delivery may be mandated if
3 you have a medical marijuana ordinance. Now, how that
4 happens, we're not sure, but that is one of the
5 amendments that may be required under the medical
6 marijuana provision. It doesn't say exactly how you do
7 it or when you do it. Those regulations are yet to be
8 promulgated, but that could be one of the provisions
9 that is included down the road as part of this.

10 So we would ask for your -- so the request
11 would be to approve for advertisement the modified
12 medical marijuana ordinance as presented in the most
13 recent version to the administration.

14 MS. GERING: Thank you.

15 MR. MEYER: If I may, will this revised
16 version not have to go back since our zoning ordinances
17 have to go to our Planning Commission and the County
18 Planning Commission, do we need to go through that loop
19 again or are these technical amendments that don't
20 require that kind of action?

21 MR. TRUELOVE: To be safe, we think they do
22 have to go back to the Planning Commission.

23 MR. MEYER: We do?

24 MR. TRUELOVE: Yes. It may be beneficial
25 because especially the Bucks County Planning Commission

1 level, they're going to be receiving these from other
2 places as well.

3 MR. MEYER: Additional question, if I may,
4 this provision for curb side delivery assumes that
5 there's someplace for a car to sit somewhere near where
6 the facility is. What happens in the situation, you
7 know, we got a two-lane street going down the middle of
8 town, if this particular dispensary is on Main Street,
9 curb side delivery ties up the whole town.

10 MR. TRUELOVE: Well, and that's why I said
11 the regulation is yet to be created that will govern
12 that at the state level. That will include the
13 Department of Health regulations. So I think -- I
14 guess my recommendation is to wait and see, but I would
15 suspect a lot what you're talking about, Mr. Myers, are
16 some of the issues have to be considered by the
17 different --

18 MR. MEYER: I mean, we can't be the only
19 borough --

20 MR. TRUELOVE: Oh, no, no, not at all. I'll
21 give you an example. I'm sure the City of
22 Philadelphia, you have some of the older streets in
23 Center City or Old City or someplace like that, they're
24 going to be dealing with that. There have to be some
25 ways of addressing those issues.

1 So my point is, let's wait and see what
2 happens, and then I'm sure there's going to be a lot of
3 discussion about it.

4 MR. MEYER: So you're recommending that we go
5 ahead with this now and make the modification later
6 depending on what happens?

7 MR. TRUELOVE: Yeah, because the modification
8 is subject to the regulations. Right now, you allow
9 curb side delivery subject to these regulations because
10 that's what the state department says.

11 MS. GERING: Any questions from Council?
12 Anyone from the public?

13 All right. Do --

14 MR. TRUELOVE: You need a motion to approve
15 advertisement of the medical marijuana ordinance as
16 presented.

17 MS. GERING: All right. Can we have a motion
18 to approve the marijuana ordinance as presented?

19 MR. DOUGHERTY: To advertise.

20 MS. GERING: To advertise.

21 MS. RETTIG: I'll make that motion.

22 MR. MEYER: Is it for advertising or --

23 MR. TRUELOVE: Well, it's both actually
24 because if the advertisement -- that time frame starts
25 that process.

1 MR. MEYER: Thank you.

2 MS. GERING: All right.

3 MR. MEYER: Second.

4 MS. RETTIG: I made the motion.

5 MS. GERING: All right. All in favor?

6 BOARD MEMBERS: Aye.

7 MS. MCHUGH: I'm recusing myself.

8 MS. GERING: All right. Thank you.

9 MR. TRUELOVE: For the record, Ms. Rettig
10 recused herself?

11 MS. MCHUGH: I did.

12 MR. TRUELOVE: I'm sorry. Ms. McHugh did.
13 All right.

14 MS. GERING: All right. Do you have a report
15 since I jumped --

16 MR. GRAY: No, I don't, not at this time.

17 MS. GERING: All right. We're going to go
18 back to board committees. Park and Rec?

19 MS. FEDER: Sorry, everybody. Yeah, just
20 that the summer planters are done. The committee
21 worked really hard to get the big ones by the bridge
22 and a big thank you to the facility for watering the
23 hanging baskets.

24 In the interim, the story telling event
25 planned for the fall has been pushed to the spring and

1 we're planning for the winter festival.

2 MS. GERING: Thank you. All right. Shade
3 Tree?

4 MS. MCHUGH: Nothing to report.

5 MS. GERING: Finance committee?

6 MR. DOUGHERTY: Due to vacations of basically
7 the whole finance committee, the month of July, we were
8 unable to have a finance committee meeting; however, we
9 do want to share the -- I want to share a sort of a
10 what we had said we would do is provide an update with
11 the second quarter development of the performance of
12 actual against our budget, and I'm very happy to say
13 this has not been -- hasn't been discussed at the
14 finance committee. We will give you a more detailed
15 presentation in the August meeting, either the work
16 session or the Council session, depending on our
17 president trying to fit the time, but I will say that
18 all of the positive things that we had recognized in
19 the first quarter update have continued. Our budget is
20 basically performing better than expectations at this
21 point as to revenue and our expenses are at or below in
22 the aggregate for this point in the year. We will
23 provide as part -- I'm glad to give a just so that
24 everybody will have as permitted, as we permit it to,
25 will be glad to provide the P and L report and give

1 Pete and our manager and actually include it up on the
2 website, P and L for June 30 for everyone who would
3 like to peruse it, and the numbers are very good.
4 We're in good shape is what I would like to say, but
5 you'll have a more detailed explanation of anything
6 that's a variance in August, either the work session or
7 the Council session.

8 That's it. Thank you.

9 MS. GERING: Thank you. HARB, do you have a
10 report?

11 MR. MAISEL: Louise and I have been working
12 with HARB. We're still trying to get -- it seems like
13 it's a pain-staking process, but we're working on
14 streamlining it, and we hope to get back to Council
15 with some recommendations soon.

16 MS. GERING: Thank you. Planning Commission,
17 Mr. Meyer?

18 MR. MEYER: Planning Commission hasn't met in
19 a while partially because we haven't been getting
20 revised ordinances that we were supposed to be getting
21 from Bucks County Planning Commission; however, we are
22 now in discussion with Bucks County Planning
23 Commission, trying to make sure that we start getting
24 some of the materials that we need and some of the
25 drafted ordinances that we desperately need to control

1 varieties of development within the Borough, and, in
2 fact, our next meeting is tomorrow morning at
3 9 o'clock. It's a Zoom call with the staff of the
4 Bucks County Planning Commission.

5 MS. GERING: Thank you. I'm a liaison to
6 zoning. I have no report.

7 We're next at public comment.

8 Ms. Delevich, come on up again.

9 MS. DELEVICH: I think it would be helpful to
10 people in the audience to better understand --

11 MS. GERING: Is it me? I'm having trouble
12 hearing tonight.

13 MS. DELEVICH: I was having trouble hearing
14 back there.

15 MS. GERING: I think it's our microphones.

16 MS. DELEVICH: I think it would be helpful to
17 people in the audience if under the Council President's
18 report, for most of us to recall where 21-23 West Ferry
19 Street, 22 South Main or 10 West Randolph Street, for
20 certificate of appropriateness and the Zoning Hearing
21 Board application, I think it would be beneficial for
22 us in the audience to have these pictures of these
23 establishments projected on the TVs. I mean, frankly,
24 maybe you're all looking at a picture. I know some of
25 them came with pictures, but it's really hard for us to

1 sit here and understand where these buildings are. So
2 if they could be required to bring something to project
3 onto the TVs, that would be very helpful.

4 MR. MEYER: As an alternative, I'm just
5 thinking out loud quickly, in terms of how to handle
6 that, if we have those kinds of applications coming
7 just quickly, would it be helpful to, for example, have
8 the -- I don't know. Pete, is this impossible?
9 Borough staff just will map, put a bunch of dots on it?

10 MR. GRAY: Yeah, we could definitely do that.
11 We could have something that in future meetings to
12 present and have available for the public.

13 MS. GERING: Could the picture of the
14 building that they're referring to be projected?

15 MR. GRAY: We can do that, absolutely.

16 MS. DELEVICH: That would be appreciated.

17 MS. GERING: All right.

18 MS. DELEVICH: Thank you.

19 MS. GERING: Thank you so much.

20 Any other public comments?

21 Yes, come on up, Mr. Clapper.

22 MR. CLAPPER: Good evening. My name is Bill
23 Clapper. First, thanks, Mr. Dougherty, you stole my
24 thunder. Look forward to the financial report at
25 either of the workshop meeting or the end of August

1 meeting. I'll be anxious to see that as well many of
2 the other people of our group.

3 I have a question. Has the auditor's report
4 been finalized yet for 2020?

5 MR. GRAY: The report is still being worked
6 on with our finance administration and with the
7 auditors. They're in the middle of the finalizing the
8 reports.

9 MR. CLAPPER: When do we anticipate that that
10 that might be public?

11 MR. GRAY: I hope within the next month.

12 MR. CLAPPER: Okay. The auditor's report for
13 2020?

14 MR. GRAY: For 2020, yes.

15 MR. CLAPPER: Okay. Thank you. My final
16 question is, any status report on the parking garage
17 public meeting?

18 MS. GERING: Actually, yes, there is. It's
19 going to be at the end of September.

20 MR. MEYER: More specifically, it will be
21 September 22nd.

22 MR. CLAPPER: Thank you, Peter.
23 September 22nd.

24 MS. GERING: All I know is it's a Wednesday.

25 MR. CLAPPER: Will that be here in this

1 Borough Hall?

2 MS. GERING: If we're not shut down because
3 of Covid, yes, it will be here.

4 MR. CLAPPER: I hope we can accommodate all
5 the people. Thank you very much.

6 MS. GERING: You're very welcome.

7 Any other public comments?

8 Any announcements?

9 Oh, I'm sorry. Sorry. I didn't see your
10 hand back there.

11 MR. HIGGINS: That's okay. Good evening. My
12 name is Mark Higgins.

13 MS. GERING: I'm sorry. Your address, Mark?

14 MR. HIGGINS: Mark Higgins. I have a
15 property at 49 West Ferry Street.

16 MS. MCHUGH: Can you take your mask off,
17 please?

18 MR. HIGGINS: Sure. I've been a resident in
19 the community for about 40 years, and I've been
20 involved with a lot of volunteer organizations
21 throughout those years. Currently, I have an idea that
22 I'd like to present to Borough Council. If I could
23 approach with my proposal, would that be all right?

24 MS. GERING: Go ahead.

25 MR. HIGGINS: The proposal I believe is

1 fairly straight forward. The second page indicates
2 what I am proposing to do as a volunteer project for
3 the community.

4 I've enjoyed the opportunity to live and work
5 in this community, as I said, for over 40 years, and
6 over the years, I've had the great privilege to serve
7 on some of these boards.

8 What we would like to do is to welcome the
9 visitors as well as remind the residents of how
10 interesting and forward-thinking and open-minded that
11 New Hope is. June being the LGBTQ month, I'm really
12 not worried about meeting a June deadline, but that
13 awareness made me think of how we can show our
14 open-mindedness to the communities that come into this
15 area and at no cost to the Borough, except for the
16 opportunity for the street department to put up some
17 orange cones or the police to keep a safe avenue for
18 traffic.

19 I'd like to paint the crossroads a rainbow
20 color. We could -- we have four different
21 illustrations on the second page showing variations of
22 how we can do that to either incorporate the current
23 crossing signals, one of which would just be to paint
24 completely over it and just have a rainbow. Other ones
25 that would incorporate either by laying the rainbow

1 over it or on either side of it.

2 The folks that would help me would also be
3 volunteers. I would take care of the paint. I've
4 talked with the company that makes paint that's highly
5 reflective that they use on the roads, and they said
6 that they could tint that paint any color that they
7 want. So I can get the same type of reflective,
8 fast-drying paint and utilize that for this project.

9 MS. GERING: Thank you, Mr. Higgins.

10 MS. MCHUGH: This is fabulous. I love this
11 idea. We've been talking about this forever.

12 MR. HIGGINS: What we need is some
13 volunteers. You can come out and help us.

14 MS. MCHUGH: I'll definitely come out and
15 help you. How long does the paint last? How often
16 would we have to redo it?

17 MR. HIGGINS: That's hard to say, but in the
18 middle of our busy town right there at that
19 intersection, I would think that they would probably
20 give it about five years. If I'm around in five years,
21 I'll come back out and do it again. I apologize for
22 my --

23 MS. GERING: Can I make a recommendation,
24 Laurie? Pete, can you take this and discuss it among
25 the stuff at public works because this isn't something

1 that we can make a decision tonight?

2 MR. HIGGINS: No, I didn't anticipate it.

3 MS. GERING: That's okay. I know this was
4 proposed by New Hope Celebrates. They had reached out
5 to this. So maybe, Pete, you guys can work -- and,
6 Mr. Higgins, if you can get our Borough manager's
7 information and then continue with that and then we can
8 have a discussion.

9 MR. GRAY: Certainly.

10 MS. GERING: Thank you.

11 MS. MCHUGH: Thank you for proposing it,
12 taking the time.

13 MS. GERING: Any other public comments or
14 announcements?

15 MR. DOUGHERTY: Just to tell you, the New
16 Hope Historical Society on September 23rd is going to
17 be having a fundraiser at the River House. It's -- the
18 River House is being -- just doing a fantastic
19 contribution to the Historical Society. So I just
20 wanted to alert you to keep an eye out. The open
21 invitation is going out in the next couple of days.
22 It's September 23rd, and it's all of the money, all of
23 the money, that's the ticket price, a hundred percent
24 of the ticket actually goes to the Historical Society,
25 which is just amazing that the River House organization

1 is basically funding the entire operation and helping
2 us with that. So the Historical Society is hoping this
3 is going to be a big, very good thing for it. So keep
4 an eye out. It should be coming out in the next couple
5 of days. Thank you.

6 MS. GERING: Any other announcements?

7 All right. Can I have a motion to adjourn?

8 MR. MEYER: So moved.

9 MS. RETTIG: Second.

10 MS. GERING: Thank you, everybody. Have a
11 good evening.

12 (Whereupon, the proceedings were concluded at
13 this time.)

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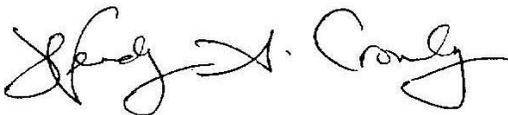
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CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately, to the best of my ability, in the notes taken by me at the meeting in the above matter; and that the foregoing is a true and correct transcript of the same.

DATE: August 5, 2021

A handwritten signature in black ink, appearing to read "Wendy A. Crowley". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

WENDY A. CROWLEY
Official Court Reporter