Excerpt from Planning & Zoning Commission April 28, 2020 Meeting (via Zoom conference)

Commission Members in Attendance: John H. Goodwin, Chairman, Jean Grzelecki, Secretary, Daniel Radman, Kent Turner, Krista Neilson, Phil Williams, John Flynn

J. Goodwin: .. directions on how to do it from the state, so let’s try to remember when you’re speaking, give your name before you go ahead and speak so let’s start with a roll call and, Goodwin, I am here, Jean Grzelecki

J. Grzelecki: Here

J. Goodwin: Did we get Jack on yet?

J. Grzelecki: No, he’s not on yet.

J. Goodwin: Jack’s, no. Dan Radman, you still there?

D. Radman: I'm here.

J. Goodwin: Ok, Kent Turner?

K. Turner: Here.

J. Goodwin: Ok. Dick Ward. Do we have Dick?

J. Grzelecki: He’s not here.

J. Goodwin: Ok, he’s a no. Krista Neilson?

K. Neilson: Here.

J. Goodwin: ok, Claire Tiscornia is not joining us tonight. Phil Williams.
P. Williams: I’m here.

J. Goodwin: Ok perfect. Bill you are seated for an open position on the Commission and Krista you are seated for Bill Redman who is technically still a member of the Commission until tomorrow or the day after and that is all I have on the announcement side, so let’s get going with the public hearing. Item number one, 635 Frogtown Road upon application of Stephen A. Finn, Wofsey Rosen et al, authorized agents for New Canaan Country School owners, with special permit modification approval of section 8.2.B.6.d to amend condition number 4, the Commission’s June 26, 2018 special permit and site plan approvals to build a new athletic facility for property located, two acres zoned at 635 Frogtown Road, Mr. Finn?

Mr. Finn: Thank you Mr. Chairman, for the record it’s Steve Finn. With me here tonight are Aaron Cooper who is the head of school for New Canaan Country School, Stephanie Zeigler, who is vice president of the board of trustees and Randy Salvatore, who is president of board of trustees. I’m going to start off with some brief comments then I’m going to call on Aaron to give you a little bit of an introduction and then I’m going to resume the presentation which I don’t think it’s going to be long. New Canaan Country School was founded in 1916 and has been an integral part of New Canaan since, for over 200 years. I’m sorry over 100 years. It provides an excellent alternative to our public schools for children from preschool to through the ninth grade. In addition, New Canaan Country School provides other benefits to the community for example, by allowing its athletic fields and gymnasium to be used by town wide baseball and basketball leagues and providing use of its facilities during the summer for the Horizons Program. As many of you may know, Horizons is a program for kindergarten through 12 students for low-income families providing academic, artistic and athletic opportunities. Horizons is now a national program but interestingly enough it was started in 1964 by George Stephen at the New Canaan Country School who was the headmaster at that time. For a little bit more detail on the New Canaan Country school and I am going to ask Aaron Cooper, head of the school, to address you right now. Aaron?

A. Cooper: Thank you and thank you Steve. Hello everybody. As Steve said, my name is Aaron Cooper. I’m the head of New Canaan Country School. This is my second year here, not quite two full years in and I’m really honored to be
the head of such a school with such a rich history not only in educating children but also being a part of the fabric of this town and being good neighbors is really an important component of that to us. As Steve said, I’m going to speak a little bit about the school program as it impacts the specifics of this project so we’re, as Steve mentioned, we’re a three-year old through ninth grade school. Programmatically what that means is it’s an elementary and middle school and our athletic program sort of follows along with that so from an athletic standpoint our games are only on weekday afternoons so never in the evenings or the weekends and our practices end, they’re part of our school day and end at 4:00 everyday and that’s often the final use of the athletic facilities. On the game days once or twice a week, those would go to between the hour of 5 or 6 o’clock or so, so but for some occasional special events we don’t use those facilities past that time. As Steve mentioned, we do, after that time have a partnership with New Canaan baseball for some of our fields and New Canaan basketball for our gymnasium and those are long-standing partnerships that, that are, are ones that we provide essentially gratis to those organizations in partnership with our town and that is what results in some later afternoon and early evening use of that facility. I will also say as head of school, I live adjacent to the campus as well and I can understand certainly some of the content in the letters that were sent from some of our other neighbors that the construction lights have been left on inadvertently past the time that we would expect them to and they’re quite bright so we know that’s obtrusive but we also know the permanent situation will be quite different. The permanent lights are very different from the construction lights and the thick translucent barriers, sheeting have just dissolved and even now I think only on three of the four elevations and those significantly dim the light and that’s sort of the overview. Now I’ll turn back to Steve. Thank you.

S. Finn: Thank you very much Aaron. So, before you tonight is an application to modify one condition of approval of the previously approved special permit to build a new athletic facility to replace and old and obsolete gymnasium that was over 45 years old. The application to build a new athletic facility was originally approved on June 26, 2018 and the approval contains 16 conditions. As many of you may recall that were on the Commission at that time, that application to build a new athletic facility was strongly opposed by a neighbor who owned a home which was located by far the closest of any neighbor to the New Canaan Country School and very close, relatively close to where the new athletic facility was going to be built. The address of that neighbor’s property
is 579 Frogtown Road, which immediately abuts the New Canaan Country School property to the east and south. 579 Frogtown Road is over 8 acres but the residence is not centrally located on that site but it’s located in the northwest section of that property relatively close to the New Canaan Country School and the location of the new athletic facility. At the time of the original application, 579 Frogtown Road was owned by Miss Moore. She retained both an attorney and landscape architect to assist her in opposing the original application. Despite the strong opposition, the Commission approved that application on June 26, 2018. As mentioned, the approval contained a number of conditions. A couple of the conditions, or a few of the conditions were intended to ameliorate Miss Moore’s or the neighbors’ concerns about light emanating from the new building. By the placement of these conditions, Miss Moore, through counsel, took an appeal of the approval to the Connecticut Superior Court. A settlement was reached fairly early on in the appeal process resolving the appeal and which provided, the terms of that settlement, provided that New Canaan Country School would purchase 579 Frogtown Road. As required under Connecticut law, that settlement agreement was approved by both this Commission and Judge Berger of the Superior Court and on June 10, 2019, New Canaan Country School took title to 579 Frogtown Road, also known as the Moore property. One of the original conditions of approval, condition number four, which is the one we seek to modify tonight with our pending application provided as follows and I’m going to read this into the record: “The applicant shall install blackout shades on the windows for the gymnasium portion of the building. The shade shall be mechanically operated with automatic controls that include an electric eye to detect the times of year when the sun has set and shall be activated within ten minutes of sunset to prevent light from projecting from the gymnasium windows. All non-safety related interior lighting shall be turned off nightly by 9:00 p.m.” Now in preparing for tonight’s hearing I realized that the condition I quoted in this special permit statement that’s attached to the application form was based on the original approvals. At some later point the conditions were modified with the approval of this Commission and the language of condition number four was changed to the version I just read to you and that condition, that version of the condition is the one that’s attached to, as an exhibit to the special permit application. As I said, the one I just read to you is the accurate version, the active condition that we seek to modify. New Canaan Country School respectfully submits that the blackout shades were not really necessary even when New Canaan Country School was not the owner of 579 Frogtown Road because the building was and is basically required to go dark
at 9:00 p.m. Certainly, now that the New Canaan Country School owns that property and the condition was intended to protect, protect 579 Frogtown Road, the blackout shades should no longer be required. Now, we know that a few neighbors have recently sent emails to Lynn about the lights and as I read all of the emails they only concern the lights at night. By the way, notice of this application was sent by mail to all of the neighbors which are about 44 in number. Now with all respect, we think the complaints about the lighting are misplaced for a number of reasons. First of all, the lighting as Aaron had mentioned just a few minutes ago, the lighting described in the emails is construction lighting. This is no way representative of the permanent lighting which will be installed in this building. Construction lighting as I understand it is meant to be very very bright and illuminate all areas of the building in order to assist the workers in getting into the nooks and crannies of the building and making sure they are building the building correctly. In addition, the construction lights do not have any shades or real directional control. In contrast the permanent lighting to be installed in the new athletic facility will be significantly less bright, will have solid shades on top which will direct the light downward. Also, during construction, the upper part of the outside walls of the building were left open until recently so on those occasions when construction crew left the construction lights on at night, there was nothing to reduce this very strong illumination coming from the construction lights. When the building is completed these openings will be covered with extech polycarbonate material which is not transparent, it's translucent. Extech is a thermal break translucent wall system that consists of a two-inch-thick panel. They are not technically windows and are not transparent and one can argue, don’t require blackout shades even under condition number four. We did submit as an exhibits to a letter I emailed to Lynn on April 24th pictures of the extech material and if any members of the Commission would like those brought up on the screen in case you don’t have copies handy please let me know and I’ll ask Lynn to call them up on the screen. The extech will significantly reduce the lighting coming from the building. The lighting diagram which was also submitted with my letter to Lynn dated April 24, 2020 shows how quickly the light dissipates from the building. In other words, the lighting diagram shows that light from the building ceases illuminating areas outside the building a very short distance from the building. So, for example on the south side of the building, the light basically stops illuminating things outside the building about 50 feet south of the building. 50 feet. And to the east where the Moore property was, is, in which was turned over to New Canaan Country School, the light goes down to zero.
The light illuminating, the fact of the light goes down to zero at the property line between the New Canaan Country School and the Moore property. Now, I’m no claiming that someone standing out on Frogtown Road is not going to be able to see this light, but the point is that since the light illumination aspect of this light is dissipating so quickly, the impact or the ability to see this light from distances away, while certainly it’s going to be seen, but it’s going to be very very muted and at very low levels. I think that’s the purpose of the lighting diagram that I gave you. So, we think the neighbors were looking at the construction lights that were not impaired by any materials at all and thinking that’s the way it’s going to look when the building is finished as I just described to you, that is not accurate. And understandably, they may not have known this. The neighbors also seem to assume that the landscaping that exists on the site now will be what is in place when the building is completed. It appears at the time they submitted their emails they were unaware of the elaborate landscaping plan. Now I see that some of the neighbors are on and perhaps they’ll correct me that they did know about the elaborate landscaping plan, but that landscaping plan is part of the approval and the landscaping will not be placed until the building is almost complete. The landscape plan calls for a robust buffer to be planted south and east of the building. Some of the trees called for in the planting plan are 24 to 26 feet in height. I think it’s also important to note that the houses of the neighbors who have written emails are located three to four times away from the building then the former Moore house is located and we submitted an exhibit, Lynn can you pull up the site distance diagram.

Lynn: Yep

S. Finn: Yes, can everyone still hear me?

We can.

S. Finn: Thank you. So, the diagram that you are looking at now shows an outline of the new athletic facility towards the top a little bit left of center. Thank you, thanks Lynn. As you can see, and this was done by, by McChord Engineering for us, as you can see, the Moore house is 234 feet from the nearest corner but neighbors at, to the south, one is located, their nearest location is 930 feet away from the closest point of the athletic center and the other neighbor is 820 feet away. So that’s quite a long distance and as I said, we’re not saying they may not be able to see some light emanating from this
building up until 9:00 p.m. but we’re not talking about immediately adjacent neighbors who don’t have a significant buffer not only by way of distance but also by way of screening. Thank you, Lynn. Again, I think this is crucial, the lights will be turned off at 9 p.m. except on rare occasion where with prior approval of the town planner for special events where New Canaan Country School could use it for its own events, not New Canaan basketball. By comparison, the Winter Club which is also on Frogtown Road throws off much more light which is on until at least 10 p.m. The light from the Winter Club dwarfs, I think, any other light in the neighborhood. Now as Aaron mentioned, the Country School wants to be the best neighbor possible and this includes not only the handful of neighbors who sent emails in on this application, it also includes, more importantly, the entire New Canaan community as a whole. As Aaron indicated the new athletic facility is only used for New Canaan Country activities until about 5:30/6:00 p.m. at night. Of course, there is some cleaning that has to take place afterwards which requires the lights to be on but essentially the Country School’s use of this facility is going to end by 6:30/7:00. Thereafter it is used by an outside community organization. So here are a couple of last thoughts for the Commission and as always, I thank you for your attention. The cost of the blackout shades is over $200,000 and given the times in which we are currently in, that is an extensive installation. I know the Commission does not typically look at financial consequences when it comes, but when it comes to the ability of a private school to provide a benefit to the New Canaan community as a whole, I think the Commission should take into consideration a cost benefit analysis. What benefit is going to be attained or achieved by requiring these blackout shades given what we consider to be a very low light levels that will be present up until 9:00 p.m. in order to accommodate a New Canaan community organization. We think that, that, gets us well past the goal line in supporting our request for modifications of this condition. So, for those reasons we don’t think, we think our request is more than reasonable. Again, putting aside the cost benefit analysis, what we have here in support of our application is the 9:00 p.m. shutdown, the nature of the permanent lights that will be installed, the installation of the translucent, not transparent extech wall system, the substantial landscaping plan, and the distance the neighbors are from this building. So, that concludes my remarks. There are members of our team here and certainly, I’m available to answer any questions. I do want to thank you for your attention.

J. Goodwin: Thank you Mr. Finn. Commissioners, questions for the applicant?
J. Flynn: John I do interrupt for a moment, this is Jack, I’ve been on the line here since Steve began his presentation. My visual doesn’t work and if you can include me, I’ll just stay on and listen.

J. Goodwin: Mr. Finn are you comfortable, Mr. Flynn, I mean Mr. Flynn was not able to see the map you showed but it was in the prior materials.

J. Flynn: I can see everything.

J. Goodwin: Oh you can, then you’re good to go Jack. You’re seated.

J. Flynn: You just can’t see me. Thank you.

S. Finn: I’m fine. I’m fine. I’m not sure you’re still asking, I’m fine with Mr. Flynn participating.

J. Goodwin: Ok. Questions for the applicant?

J. Flynn: I have a question. Those two neighbors you pointed out on your diagram. What are the names of those two neighbors? It’s Jack Flynn.

S. Finn: They are, bear with me, one is Mr. Liebau and one is Mr. Bozella, I hope I’m pronouncing their names correctly.

J. Flynn: Thank you.

S. Finn: I do want to point out to the Commission that we did receive three other emails. One was from a Miss Sneirson who lives significantly to the north of the school on Wing Road and then earlier today Lynn forwarded an email to me from, bare with me here,

J. Goodwin: Lynn, do you have that name handy?

Lynn: I’m going to get it for you right now.

J. Goodwin: Excuse me. Mr. Finn, the email was forwarded to the Commissioners.
S. Finn: Right. Now I'm sorry, I must have misplaced that last email. We also received an email from, and I'm not going to pronounce his name correctly, but Mr. Kasturirangan, 359 Frogtown Road. He actually sent an email to me directly. Other emails were sent to Lynn and then they were forwarded to me and I did have an exchange with Mr. Kasturirangan and I responded to his questions in an email and I have a copy of that and he wrote me back on April 22nd saying: “Thanks Mr. Finn for your prompt reply and if it's just a modification that does not impact me/us. I am living at my house and glad this facility is beyond our site” is what he said. And then ..

J. Goodwin: We have that one as well.

S. Finn: Right. My only other comment is that the comments by Miss Sneirson, Miss Sneirson’s letter was very very brief. And the letter, the email that was received today all focused in on light and that’s the only think I took from those letters was light.

Lynn: The letter today came from Simon Bradley and it was sent to me at 9:19 this morning and then it was forwarded on and it was posted on our website this morning as well.

J. Goodwin: Right. Commissioners, additional questions for Mr. Finn and anybody for the applicant?

D. Redman: This is Dan Redman, can I talk?

J. Goodwin: Go ahead.

D. Redman: Ok. So, a couple of questions. First, Mr. Flynn, Mr. Finn, sorry, I think you are absolutely correct, the Commission really isn't concerned about the cost implications of the component, specifically because this is something that would have budgeted into your project costs two years ago before any of the current situations would have been impacting your project. Secondly, the lights that are in the gymnasium, this is going to be gymnasium, so I would imagine those are fairly bright in order to, knowing the type of lighting that is in put into anything from a YMCA gymnasium to the high school gymnasium, it’s going to be fairly bright lighting. I agree that the polycarbonate is going to diffuse it a little bit but what, the height of the polycarbonate that the ribbing, at the clear story of the building, do you know, what height the lights are
relative to the bottom of that polycarbonate, meaning, do the lights hang below the sill of the polycarbonate windows or are they above it?

S. Finn: I think Mr. Radman, Stephanie Zeigler can correct me if I’m wrong, I think they are going to hang about half way down the polycarbonate wall, does that make sense?

D. Radman: Yea, it does.

S. Finn: Stephanie, is that correct?

S. Zeigler: Yes

D. Radman: Ok, so there will still be some light bleed from those through the polycarbonate and I do have correct you, in I’m speaking for myself, I do probably speak for a few others on the Commission, in consideration only for the adjacent neighbor would not, is not really the way this original application was approved. It was inconsideration of all of the neighbors and the implication the building would have on all the surrounding neighbors. It’s a very tall building, it’s four stories tall, it’s very large, and I remember talking about this specifically the clear story being a beacon of light. I think that’s in the minutes somewhere. So, we were very concerned about the lighting from that. That being said, you’re right, you’re being limited to 9:00 as the time off for the lighting, I’m just wondering if there’s a way you could, what I’ll call future proof for the provision of shades if this becomes a problem in the future when everything is completed and your normal cycle of activity is in place, and your turned off at 9:00 at night and no one is affected by it, then all the better, but if it is, then you’ll be future proofed with wiring and then you could put the shades in later because there is a substantial amount of wiring involved.

S. Finn: Should I respond Mr. Goodwin?

J. Goodwin: Please do.

S. Finn: So, look, I don’t get involved with budgeting. I do know that sometimes, and you know much more about this than I do, I know that costs of construction sometimes meet their budgets and sometimes they don’t and I don’t know what the story is in regard to this project, I know that a $200,000
expense as expressed to me my client is very significant to where things are at this time.

D. Radman: I understand that. I understand. I’m just saying even during the original application and approval that the cost of a components as one of the conditions of approval is not necessarily a consideration of this Commission.

S. Finn: Ok, ok, but at the time we applied, blackout shades were not on anybody’s radar, so if they costed this out at the time of the application, we never planned to put the blackout shades in, I know that. I’m fairly confident of that. They designed this building and we submitted an application and that budget at that time, I’d be shocked again, I’d ask Randy or Stephanie to comment on that. I don’t think, Stephanie ..

K. Turner: Mr. Finn, I’m sorry. It’s Kent Turner. I have to jump in here. You’re line item as far as construction is contingent for items like this that may come up, unforeseen conditions. This is typical in every construction project. I don’t agree with you for one moment that shades were not anticipated. True, yes, however unforeseen conditions are part of any construction estimate and would you please clarify. I think I heard you say $200,000 and then you said $400,000. What is your understanding of the cost of these shades?

S. Finn: Mr. Turner, if I said $400,000, I misspoke. I’ve been told it’s $200,000.

K. Turner: And who developed the cost estimate for that?

S. Finn: I received that directly from my client. I don’t know the contractor or the lighting firm that came up with that estimate.

R. Salvatore: This is Ray Salvatore. I’m sorry, something is wrong with my video. Can you hear me?

J. Goodwin: Mr. Salvatore, we can hear you.

R. Salvatore: Thank you and thank you all for your time on this. If I can give you a little more of a background on this. Clearly, when we submitted, as Steve just said, we never intended to do blackout shades. As we went through the process, the process and I agree, it’s always about the community and the
neighborhood, primarily what a lot of the conditions were about were about the Moores because we were all trying to work together and resolve and try to come to a compromise. As you know, we met with Moores on a number of occasions and continued to negotiate on excessive, extensive let me say and perhaps excessive landscaping throughout, with 26 foot trees, that’s not typical for any type of building and we did it all with the intention that we could of satisfied them. In the end, we didn’t and we were, obviously we were granted the approval with all of those conditions in there. Subsequent to that, we went back after the appeal and tried to find a way to make it happen and we had negotiations, as you all know, with the Moores, it resolved in a positive way, but at the time, we had every expectation and maybe unfounded, but some of those conditions that we didn’t really think were typical of an application like this to have blackout shades on structures in this type of a thing, these are not windows, these are in a facility that we only use, really until, we close, the lights will be closed before 6:00 in every event. Our facilities aren’t even used, our students finish about 4:30 so a condition that we have 9:00 was all because as Steve said, because of charitable works that we do for the community to have them there and now we’re really faced with a situation where, and where economics shouldn’t matter, unfortunately they do and this world is turned upside down right now for everyone here and $200,000 is meaningful to us now if it’s something we personally don’t believe is a condition that would have been granted if we had owned that house initially. And maybe as an alternative, so Mr. Radman, you’re suggesting, I think maybe we’d be more than happy to go ahead and do the wiring and see how it comes out. If it’s a problem, we want to do it, we don’t believe it’s going to be problem. The other alternative is perhaps you can give us an option something we as a board could look at is that we do that as one thing and if not, and maybe decide if we were going to close this building at 6:00 then clearly we wouldn’t be having this discussion I wouldn’t think about blackout shades because nine or ten months of the year, you never even see light at that point, so perhaps we modify the condition to a 6:00 timeframe and don’t do the blackout shades if that can be our option because at some point we still have to serve our constituents and it’s a tough sell for us to tell parents that their tuitions are going to be dictated or their campaign contributions are used to benefit other people. So, maybe there are options that we as a board can deliberate. I just throw that out as a possibility if that would be something that you’d be inclined to do in terms of this.
S. Finn: Thank you Randy. I have one other quick comment and that is, as the original approval and condition number four provided that “the applicant shall install blackout shades for all windows visible from the 579 Frogtown property including any windows which light can be projected or reflected”, now that was changed in connection with the settlement to the language I just read you, but it does show when this Commission issued its original approval, the concerns were about the Moore property. Now my recollection is and I believe Mr. Liebau did write letters back then expressing concerns about traffic and light but it’s not as if he was around for the original modifications, he did not take an appeal and at that time, we didn’t know what was material, the exact material, I didn’t know at the time we would be installing translucent material at the upper part of the building as part of transparent windows and maybe, to me that is a significant difference. It really starts to obviate the need for these blackout shades, especially given how far away these neighbors really are.

J. Goodwin: Any additional questions for the applicant Mr. Kriz?

J. Kriz: Yes, John Kriz speaking. I’m looking at the various pictures that Mr. Liebau submitted to the Commission. They appear to be photographs from his house, inside his house out toward the gymnasium which is an obstruction and I’m looking at the lights and they are very visible and I’m generally sensitive to institutional uses in residential areas. I think people want to have quiet enjoyment of their property and light infiltration can affect that quiet enjoyment. With the lights I’m looking at here, even if they were in half it would still be quite noticeable from my sense and so I’m cautious about the light infiltration even with the conditions that the applicant is suggesting regarding the translucent materials and so forth and so it still seems quite bright to me.

S. Finn: Can I respond Mr. Goodwin?

J. Goodwin: Sure

S. Finn: My understanding from talking to my client who spoke to the construction man, and we’re not sure, but perhaps Mr. Liebau can comment on this, but those photographs were taken of the construction lights where the openings were open. There was no material placed. It’s not like that light was going through the translucent material, so it’s not a fair comparison to look at
those photographs and then try to extrapolate, well, even if the permanent lighting is less bright, it still may have an impact. You’d have to see the permanent lighting through the translucent material which I don’t believe was in place when the photographs were taken. It looks to me like it was just an opening. Granted, it’s hard to tell, based on the photographs, but it looks to me, there is nothing, it was open to the air. I think it’s a significant point. Thank you.

Lynn: Mr. Chairman, Mr. Turner has his hand raised.

J. Goodwin: Mr. Turner?

K. Turner: Yes, if I could just maybe talk a little bit about light and what it does, as a source. Regardless if it’s clear glass or if it’s a poly-carbon material, light is measured illumines, it will emanate from the surface, from the source, those light fixtures. Granted it will be diffused but you’re still going to see a tremendous amount of lighting coming from those poly-carbon panels. Think of it as a flashlight. The top six, eight feet of that building are going to be illuminated around the entire perimeter. It will be seen by, not the five neighbors, regardless of the distance, that came out to complain about the lighting. You cannot diffuse it. It is visible in the nighttime and in the wintertime after 6:00. The sun is down. So, you can’t use the argument that light is not going to be perceived because it’s a poly-carbon panel. It is translucent. It emits light. There is no scientific foundation here as to far as how many foot candles a translucent panel will project versus a clear light or no windows during the construction but I’m sure that we are more than welcome to entertain some foot candy studies that are founded on science and engineering and that it can be measured from the properties, the five properties that have complained. And it really doesn’t matter if it is ten feet or 600 feet, at night in a dark sky, you will see it.

D. Radman: Yea, I think, this is Dan Radman. I think you are absolutely right Ken. You know there is a difference between measurable light and perceived light and in this particular condition, we’re talking about the perceived light of the clear story of the building and how visible it is from basically 360° any neighbor that is going to have eyeshot of that building. I’m just very cautious of this, you know the years of going through the back and forth with Grace Farms and all of the issues we had there with the light bleed from the building itself and the blackout curtains and the motorized apparatus used there to
satisfy the neighbors and the ongoing and ongoing for years to get that resolved and I just don’t want to repeat that here.

K. Tuner: Agreed. May I ask Attorney Flynn a question or maybe Randy - What was the original construction budget?

R. Salvatore: It was about ten million dollars.

K. Turner: Ten million dollars. So, $200,000 of $10,000,000 is less than 1% of your construction cost. Did you consider other things in your construction program that you might reduce as far as quality to save money to pay for something as important as shades are?

R. Salvatore: We’ve considered every single thing to come up with this budget. Our initial budgets were about $20,000,000 for this project so we’ve taken every liberty understanding that this is all about the students and creating an atmosphere for them and not building something that’s overbuilt. So that I can tell you. I guess the distinction here is we disagree about whether this is something that is needed, I think. And you know, the other thing I think is important is to look at is, were, first, those photos, I don’t think were taken with anything on the building and that being said, let’s compare this to the Winter Club which is something that is very noxious type of a thing that people are used to. This is something that’s in the back and we are, our building is only open, like we said, with the condition is 9:00. I think we can agree to an earlier condition or at least have the option to not do the shades then because ... so I’ll repeat that so $200,000 is $200,000 so we don’t look at it saying what percentage it is we look what’s the value and what’s the landscaping for instance that we are spending about $200,000 on the increased landscaping that we did. We’re not coming back to the Commission to try and get any modification on that because that we see benefit to the community, to the neighborhood and everyone around so this is really the only modification we’ve come back with after settling with the Moores considering so many other things that we had agreed to in terms of reduced building height, in terms of positioning the building, all those different things, we never came back to the Commission for those. This is one thing that we don’t see it, but that’s why we’re here quite honestly.

[D. Radman drives away – haha]
S. Finn: If I may add a couple more things, I’ve been by the building twice in the last week and I’ve been surprised at how low it actually sits from the southern exposure and there already is some buffer there. There might have been some trees removed to construct but I think we’re also missing out that the landscape buffer here is going to be robust. It’s going to mitigate this light to some extent. Now granted, the height of the building may be higher than some of the trees but again, it’s being shut off at 9:00 p.m., the building sits relatively low and I still maintain that the purpose of the original condition as it was originally formulated was to protect 579 Frogtown Road, which is only 234 feet away and that we’re really going way overboard and to the extent that someone thought I was trying to argue that light won’t be seen from these other houses, no, I understand, just like you can see the light at the top of St. Mark’s just about from any high point in New Canaan. You may see some of this light up until 9:00 p.m. and I’m not trying to argue that you won’t. I’m just saying that it’s going to be relatively muted and for a relatively short period of time into the night. By 9:00 it’s going to be done. Thank you.

J. Goodwin: Commissioners, any other questions for the applicant? Ok, let’s hear from the public. Would anyone from the public like to address this application?

Lynn: I’ll unmute them one by one, so you’ve got Jack Liebau first.

J. Goodwin: Ok, Mr. Liebau?

J. Liebau: Go ahead first, ok, I think it’s the retired community ..

J. Goodwin: Mr. Liebau, Ms. Liebau, kindly state your name and addresses please.

J. Liebau: Jack and Carol Liebau, 568 Frogtown Road, thank you very much for your attention.

C. Liebau: Yes, and we’re grateful to be given the opportunity to be heard before the committee and at the outset, we’d like to request, how sorry we are to have to appear because our children had attended New Canaan Country School since 2011 and we applaud the leadership of Randy Salvatore as chairman of the board of trustees of Country School and Aaron Cooper’s leadership as its head of school and everything Stephanie Zeigler has done to
get this building built and we want the school to be able to use it for the children of New Canaan Country School, for Horizon School, I mean and for Horizon and for the community for many years to come. We want them to be able to use it for athletic events in the evening, for dances, for whatever use the school and the community might find helpful, useful and reasonable and that’s why we’re concerned if these shades are not put on we are all going to come to a situation where it turns out to be a problem. I’d like to call the Commissioner’s attention to number four in the condition and the fact that in the minutes of June 26th where it says the “applicant shall install blackout shades for all windows visible from the 579 Frogtown Road property and including any window from which light can be projected or reflected.” It seems to be that if Mr. Finn were correct and that were intended to govern only the former property that belonged to Mrs. Moore, it could have just ended with “from the 579 Frogtown Road property.” There would have been no need for the clause talking about ‘and including any window from which light can be projected or reflected.” Now we all understand, I run a small non-profit, and we understand the exigencies that are being visited on everyone because of costs and we don’t want New Canaan Country School to have to incur unneeded costs but hopefully this is why the school has been able to or will be able to obtain stimulus money and the fact is that this light is clearly visible as our pictures show. If any Commission member is in doubt, any of them are most cordially welcome in our home to see this light and our concern is if the shade or some provision for these shades are not installed and the building is completed and it does turn out to be a problem or in the future the school does need to, or the community needs to use this building, it is an annoyance. It does disturb our quiet use and enjoyment of our property and there will be no meaningful regress because as Mr. Flynn conceded there is real no shading that is going to be sufficient just based on shrubbery and trees. The Bradleys, as they pointed out, their house which was not included in counsel’s diagram also can see it from their house which is closer I think to Mrs., to the gym than our house is and they also see this light very clearly. So, for all these reasons, with regret, because we love New Canaan Country School and we don’t want to have it incur any unneeded expense, but we are concerned that if this arrangement is not needed now, we will have to continue to come back and we don’t want to have to do this. We want the school to be able to use the gym, we want to be good neighbors and to let the school go forward without having to appear before you again and again and again and that’s why we ask you to just let the special permit go forward in the original form in which it was approved. Thank you for hearing me.
J. Liebau: Thank you.

J. Goodwin: Lynn, who else from the public please.

Lynn: I have Mr. Bozzella.

J. Goodwin: Mr. Bozzella?

J. Bozzella: Hi members of the Commission. Joe Bozzella here, 584 Frogtown Road, directly across from, basically the boundary between the Moore property and the Country School. There are just two points. I don’t want to go through and rebut Mr. Finn’s presentation point by point although I’m happy to do that by letter if the Commission is interested, but two points I think are critical here. One is we keep using the Winter Club which is a big source of light pollution in this area, I hear from Mr. Salvatore and Mr. Finn, using that as a reason to add additional light pollution to the area and I just can’t think of another type of pollution where you would point to a greater pollutant and say because we’re less of a pollutant than that, that’s it’s ok. That’s my first issue and the second is that the initial landscaping that isn’t mentioned here is crucial to the whole thing. However, there is no way that, even after years of maturation of that landscaping, that it will reach high enough to block out the light from this top floor when really the only way to prevent the light emanating from this top floor are these blackout screens. And those are really the two biggest points I wanted to make.

J. Goodwin: Thank you sir. Lynn, anyone else from the public?

Lynn: Possibly two. Jennifer Holme, do you want to say something?

J. Goodwin: Let’s keep moving.

Lynn: Mr. Moynihan, do you want to say anything?

J. Goodwin: He’s not at his screen.

Lynn: No he’s not. Oh wait.

Mr. Moynihan: I was just watching.
Lynn: Oh ok.

J. Goodwin: Anyone else from the public?

Lynn: There is not. Just Channel 79 and Grace? advertiser and Stephanie Radman, I'm guessing is Dan’s wife, so yes, there is nobody else.

J. Goodwin: Ok, I heard a couple things. A couple of ideas, perhaps for the Commissioners and then the applicant and I'm not convinced these are good ideas but you know what I try to do is throw out potential solutions. One is we continue this and we have the applicant potentially bring forth a lighting expert to assess the need. Commissioners, is that a viable option? Ok.

D. Radman: having gone through this on other commercial projects, the lighting expert, I mean they’ll give you an opinion but they they’re not going to come up with any quantitative measure of lighting at those distances from that light source as you can see from the lighting map that was submitted by the applicant, you can get to zero foot candles within 30 to 50 feet of the perimeter of the building and that’s just the nature of a light meter again, it’s not measurable light, it’s perceivable light so that’s what we’re worried about.

J. Goodwin: So you don't think that that can get us to a solution then Dan?

D. Radman: No I don’t.


J. Kriz: Excuse me. John Kriz speaking. I have a question for Attorney Finn. To what extent can the school install these translucent screens sooner than later and then turn some light on as they would be on if the gym were operational so that we can see live and in person exactly what the light infiltration will be on the properties without shades and then make a decision then and if you defer the application, something along those lines.

S. Finn: Well I think I need to defer to Stephanie and Randy a bit on this because I’m not sure when the lights, the permanent lights are going to be installed Mr. Kriz and that is an important element of your suggestion. I don’t
know when that’s likely to happen, so maybe Randy or Stephanie can answer that question.

S. Zeigler: Stephanie Zeigler speaking. Right now the extech panels have been installed on that south side. That was the picture from the Liebaus so you are able to see that. Again, the lighting is very different given the construction lighting that casts in every direction versus the downward lighting that will come in the future. Those lights may not be installed until early June, late May. I don’t have an exact date yet but it will be within the next couple of months.

J. Goodwin: Ok, then my next question for the applicant is, Mr. Salvatore, you mentioned turning the lights off at 6:00 p.m. Is this a condition you would potentially accept?

R. Salvatore: What I was suggesting is if this Commission is inclined to deny the request, then perhaps there is an alternate that we could accept in that, if we agree to that we would have to go back to our board to verify that that’s something, because right now we haven’t in the past used it past that time period so I’d just want to look into the future to make sure because these decisions will go long beyond my time here but quite honestly, it would not hurt us at all as a school community to do that but we would want to understand the consequence it would have to the community so I would have to, so what I’m suggesting is perhaps that’s an alternate way of dealing with this, give us the option that if we were going to turn them off and we agreed to that condition then we don’t have to go ahead with the blackout shades and then we could go back and decide and then come back to you with that.

J. Goodwin: Ok, and then back to Mr. Radman with a question which I’ll let it flip to the applicant. Mr. Radman, you mentioned future proofing, which I assume means putting in mechanisms to install the shades and then being able to make a determination. Did I, explain to me what you mean by future proofing.

D. Radman: Ya, that’s basically what I meant. There’s obviously the real estate for the shades that has to be allocated and detailed into the construction of the window heads where the shade would live but there’s also a substantial amount of electrical wiring and control wiring that would have to be installed along the perimeter in order to make that kind of a system
work and as you can imagine to open up ceilings and fish wire through at a later date is quite difficult, more difficult then just installing the shade. So, my suggestion was to future proof it for the possibility of shades and see what the final product of the lighting solution of the polycarbonate install and time agreed, you know the time lights off, would be and how that would impact the neighborhood. And if it proves to be a problem in the future and if we have to somehow enforce putting the shades in, the physical shades in at a later date, that would present its own problems you know. I’m sure the arguments back from the applicant will be, well we can’t do it now because it’s a fund-raising issue, you know it will take us a year or two to put that together you know. There are all types of downsides to deferring that kind of work.

J. Goodwin: Ok. Mr. Turner?

K. Turner: Dan, I appreciate what you’re saying as far as future proofing and planning ahead. Unfortunately, the cost to future proof the space would be 60/70% of the normal cost. I’m not sure that the applicant, you know, if they are aware of that potential cost would be willing to fork that out or pay for that up front and taking the chance that they may not be required, so I’m not sure, to me, it just seems like an argument of how we do it in the future.

J. Goodwin: Ok. I'll flip it back to the applicant, Mrs. Zeigler.

S. Zeigler: Thank you. We will be able to accommodate that condition, for putting in and future proofing and putting in all the wiring, from my understanding it is the customization of the shape of the shades that is causing the actual excessive cost. So, I do believe we are able to accommodate the wiring and future proof the building.

J. Goodwin: ok. Anyone else from the applicant. Any other information? Yes sir?

A. Cooper: This is Aaron Cooper again. I just wanted to reflect back on the question of the earlier timing that you were discussing with Mr. Salvatore and I think the important component is that it certainly would have to be a discussion of the board of trustees but at this point from a programmatic standpoint there is no use beyond that 6:00 time by the school, it's actually by New Canaan basketball and the town that is that later time and it's part of the
S. Finn: So, I'm certainly heard from some of the Commissioners and if we were meeting by a town hall, I'd ask for a brief recess so I could speak with my clients to see how they are reacting to these various options which I can't do, so I am going to ask them through this Zoom meeting whether they would prefer that we keep the hearing open so that we can get together and discuss reactions to some of the things that have been suggested and we get back to you, you know, in advance of the next meeting. I don't know if you..

J. Goodwin: Mr. Finn, that was..

S. Finn: I'm sorry?

J. Goodwin: Sorry to interrupt. That was going to be my question for you. Should we continue?

S. Finn: Randy, Stephanie and Aaron, we've heard from a couple of the Commissioners some of their views. None of them strike me as great, but, there’s certainly, if you think it’s worthwhile to try and discuss it, and then get back to the Commission by keeping the public hearing open. Alternatively, perhaps, I know the Commission has a little more business to do tonight, perhaps the four of us can get on a phone call and check back in later on. It wouldn't take too long Mr. Goodwin because I know you have a certain agenda. But I don’t have the opportunity to talk to my clients other than through this Zoom meeting right now.

J. Goodwin: Mr. Finn, these are exceptional circumstances. We probably have about another ½ an hour of a meeting to go unless we get into a bigger discussion. I’m not sure. But given the exceptional circumstances, I can suspend the hearing and resume it a little later in the evening or we can continue it. Whichever you would like to do.
S. Finn: So, Stephanie, Aaron, and Randy, would you prefer to talk off-line and then report back or would you prefer to keep the hearing open and get back to the Commission with our responses at the next meeting?

R. Salvatore: Steve, I defer to you.

S. Finn: Ok. I think we could benefit from not rushing to come back with a response right now. I think we are better off keeping the hearing open tonight and reporting back before the next meeting.

J. Goodwin: Ok. Mr. Finn, as you well know, you can also avail yourself to having additional discussions with the planner.

S. Finn: Thank you. Thank you.

J. Goodwin: Thank you all, this hearing is continued.