

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, February 16, 2021 at 7:15 pm** via Zoom Teleconference

Members Present: Chairman Harold Boxer
George Hoyt
Jacqueline Broth
Arthur Weise
Wayne Spector
Ralph Alfano

Staff Present: Whitney Singleton, Board Counsel
Peter J. Miley, Building Inspector

Chairman Boxer stated okay, welcome to the February 16, 2021 meeting of the Zoning Board of Appeals. The first case is Chestnut Markets, who represents them?

1. Chestnut Markets, Inc **ZBA# 21-1**
192 N. Bedford Road **Area (Signage)**
Mount Kisco, NY 10549
(SBL 69.58-4-2)

Mr. Michael Bonforte was present to represent the application.

Chairman Boxer stated Mr. Bonforte, we called your case, do you want to start?

Mr. Bonforte stated sorry, I can't hear you, I'm supposed to hear you.

Chairman Boxer stated I'm not muted.

Mr. Miley stated Michael, can you hear me, Peter Miley? Michael, can you hear me?

Mr. Alfano stated it's on Michael's end, I can hear you Peter and Harold.

Chairman Boxer stated its something on his end.

Mr. Miley stated okay.

Chairman Boxer stated why don't we skip him for now and go to the next one.

Mr. Miley stated okay.

2. Robert D. Kimsal **ZBA# 21-2**
132 Forest Drive **Area**
Mount Kisco, NY 10549
(SBL 80.23-3-6)

Mr. Robert Kimsal was present.

Chairman Boxer stated Robert Kimsal, 132 Forest Drive.

Mr. Kimsal stated here.

Chairman Boxer stated okay, we're going through this like gangbusters. Sarah Burger...

The Secretary stated no, no, Bob Kimsal's here.

Chairman Boxer stated what?

The Secretary stated Bob Kimsal's here.

Chairman Boxer stated okay, we'll go back to him.

Mr. Miley stated Bob, you're up.

Mr. Kimsal stated I thought you heard me, yeah. I'm not sure what I'm supposed to do.

Mr. Miley stated make your presentation.

Mr. Kimsal stated okay, materials were distributed. We have a driveway repair and we have a single lane driveway. We had a contractor come out, and he, we asked him if he could expand the driveway a little bit to the side so that we could park two cars in the driveway. Our driveway is sloped, the house is probably 20 to 30 feet above the road level. So, it's much better to park near the house and we've been doing that but when we're parking, got on the dirt and dirt getting washed down. So, we asked him if he could add a paved area to the side. He told me he that I didn't need a permit that he does work in the neighborhood all the time. I said I'm going to check with the Town I checked, they said, if I was doing anything other than just replacing what was there, I needed a permit. So I applied for permit, and I received a denial on several points. I don't totally understand the code violations. I think I understand two of them to be that the driveway is too close to the property line. I believe there needs to be a 10 foot setback, and that I need to back out on to Forest Drive that the driveway is, requires that. The other explanation I got from the Town was something to the effect that the driveway can only be between the road and the garage. And I didn't see that in the zoning restrictions. I saw something that said you can't park between the roadway and the building unless it's on a driveway. So, I'm not sure about that one. But basically 95% of the homes in our neighborhood have driveways that are on the side of their property, probably within 10 feet of the property line. And I believe also similar percentage require that the car back into the road. I don't know if that requirement applies to commercial property or to major roads and not residential roads, I really don't know but making the appeal that I think the modification I'm making to the driveway that exists is minor. It's consistent with other homes in the neighborhood. It will not have any detrimental effect on the neighborhood. I believe there was a drawing and the materials that were distributed that showed the driveway and where the new area would be. And if anybody has questions or if that if they have, if you see that drawing it was, I don't know if it was in the packet, it was like a miscellaneous piece of paper that wasn't related to my situation and then there was the drawing after that page.

Mr. Hoyt stated yeah, it's in my packet.

Mr. Weise stated it's here. I can't make out part of it though. Oh, okay basketball court with brick pavers, okay.

Mr. Spector stated does that have any...

Mr. Kimsal stated it's in the backyard.

Mr. Spector stated it has nothing to do with this, does it, the basketball court?

Mr. Kimsal stated no, it's just when I applied for the permit you have to designate how much of the total property is hardscape.

Mr. Spector stated I'm going to by saying that I would like to see the look, the actual location of the neighboring house vis-à-vis, the additional and what's on the other side, I guess on a lot marked 85 you know the positioning of the driveway vis-à-vis, the improvements on that property which you can't see from this drawing, and also some photographs would have been helpful as well. Since this is an already as built, I assume.

Mr. Kimsal stated yes.

Mr. Spector stated I don't know how anybody else feels about that. It just would have been helpful.

Mr. Weise stated yeah, I agree with that. I think this map of the neighborhood I can't even tell what this is. This is very hard to read.

Mr. Spector stated it's like a tax map maybe.

Mr. Kimsal stated that was to designate what homes were within 300 feet that was required to be submitted. I did ask if I should submit any. You know, again this is the first time I'm going through this I didn't know what would be helpful and so I apologize for that. I can tell you that the house to the south is on a curve, and the, there's a fair amount of grass and the house is actually facing like, it's the facing like 45 degree, 45 degree angle.

Whitney Singleton stated Chairman, if you'd like me to share my screen I can give you both street views and aerial views.

Mr. Alfano stated alright, I was looking at the street view on Google.

Mr. Kimsal stated yeah, the property on the other side of 85, that driveway is right along the lot line with 85, if you can look at the...

Mr. Miley stated I think the left of your property is 140, correct? Bob? Where the driveway...

Mr. Kimsal stated you mean 140 feet?

Mr. Hoyt stated I think that's right.

Mr. Miley stated no, 140 Forest, I think that's the address.

Mr. Hoyt stated looks like it. I agree.

Mr. Miley stated so that would be the one that's move affected. Whitney, are you able to pull it up or should I ask Michelle to...?

Whitney Singleton stated yeah, I just wanted the chairman to make sure that that's something he wanted.

Mr. Miley stated oh.

Chairman Boxer stated yeah, I think we all want to see it.

Whitney Singleton stated okay. Are you seeing it?

Mr. Kimsal stated yeah, that's my house.

Mr. Spector stated and this is before the improvement was done?

Mr. Kimsal stated the improvement...

Mr. Spector stated right, I can see that.

The Secretary stated it isn't done.

Whitney Singleton stated if you want to see the aerial...

Mr. Kimsal stated that's the side of the house, yeah.

Mr. Hoyt stated can you drive up the street, Whitney? Just drive up to see 140 [Forest].

Whitney Singleton stated there's the aerial.

Mr. Kimsal stated yeah, you can see the house is positioned at an angle, there's a turn in the road. So you see...

Whitney Singleton stated so you want go up here?

Mr. Hoyt stated yeah and then just turn.

Chairman Boxer stated how close is it to houses, do you know?

Mr. Kimsal stated the back end, make an angle a little bit. Not sure how close the houses are. Our house is only, the side of our garage is only I think, nine feet from the property line.

Chairman Boxer stated right, that's why you're...

Mr. Spector stated it looks like you're a bit downhill from your neighbor's, well.

Mr. Hoyt stated yeah.

Mr. Kimsal stated yeah, the street goes downhill...

Mr. Spector stated did you remove any of those trees when you did the paving?

Mr. Kimsal stated there's no trees, there were some forsythias.

Mr. Spector stated I'm talking about the trees between the properties that show on the picture that I'm looking at right now. The larger trees

Mr. Weise stated Bob?

Mr. Kimsal stated they're all there.

Mr. Weise stated okay.

Mr. Miley stated Bob, that's how it looks like today. You didn't paved it yet, that, it's only [inaudible].

Mr. Kimsal stated correct.

Mr. Spector stated oh, I'm sorry. I thought this was a, this was an as built situation. It's not there yet.

Mr. Alfano stated no, this image is from 2013.

Mr. Spector stated okay, I got it.

Mr. Alfano stated okay.

Mr. Kimsal stated its basically the same.

Mr. Hoyt stated where will the drainage go from this new proposed addition, is it going to drain down into the street?

Mr. Kimsal stated yeah, it's basically the same. I mean, it does that now. I mean it carries the dirt and stones that are there down the driveway when it rains. And it's going to basically do the same thing, it's not going to change, not really going to change the land structure, the pitch or drainage of anything.

Mr. Spector stated this is very helpful to see it, thank you.

Mr. Hoyt stated have you received any feedback from your neighbors?

Mr. Kimsal stated just support. Well, both of the neighbors on either side are fine with it, they said. I didn't line them up to come to this meeting. They said if I need, if they needed, if I needed their help, they'd be happy to speak on my behalf. But if it made sense to ask them to come to this meeting, but there were no, I think, I don't think there were any complaints submitted based on the posting.

Mr. Miley stated we didn't receive any letters in opposition.

Mr. Weise stated and the stone walk is that existing or is that proposed?

Mr. Kimsal stated the stone...

Mr. Miley stated I think that says stone walls that are existing.

Mr. Weise stated oh, I'm sorry.

Mr. Kimsal stated yeah, again, the property you can see that it, you can see that it grades down, there's two retaining walls. The front yard is basically three sections between the house and the road.

Mr. Weise stated and what about it says there's a stone patio in the back in stone something.

Mr. Kimsal stated it's a stone patio, there's a stone patio and a deck off the back of the house.

Mr. Weise stated okay, so, my question is this stone walk leading up to the patio, is that currently there or is that a new addition?

Mr. Kimsal stated oh, from the front of the house to the back of the house?

Mr. Weise stated yes.

Mr. Kimsal stated that's there. That's blue stone.

Mr. Weise stated okay.

Mr. Kimsal stated 18 inch wide blue stone.

Mr. Weise stated so, this is showing that you will basically just the pavement will cover the front of that.

Mr. Kimsal stated correct.

Mr. Weise stated okay.

Mr. Kimsal stated yeah, actually the walkway doesn't, the walkway it ends at the top of the garage. I don't know where, I don't know why that's drawn that way. It wasn't like that when we moved in.

Mr. Miley stated and Chairman, we received a development coverage. It wasn't included in the package but as part of the permit application, he did submit a development coverage worksheet. So including all improvements, including the basketball court shed, stone patios, walkways, he does not exceed the development coverage, including the proposed driveway parking area.

Chairman Boxer stated okay, the parking area, the new areas are going to be large enough to turn around the car so it can go out facing the front.

Mr. Miley stated he's seeking a variance for that, Chairman.

Chairman Boxer stated okay, so he can't do that, all right.

Mr. Hoyt stated Peter or Whitney, do you mind? I mean, this seems reasonable to me, but do you mind walking through the variances that are required here, as there are some confusion on the applicant's part.

Mr. Miley stated in the denial letter, there are four sections of the code referenced. The first one is basically not a variance requirement. However, just letting the Board know that this is a non-compliant structure, when I say non-compliant, meaning that the home does not meet today's side yard setback requirements, you don't need a variance. He's not enlarging the home. But this is just to let the Board know that it's closer than it should be. And if he were to build a new structure, it needs to be 10 feet away from the property line. That does not apply to the driveway other than 110-20 H, which is one of the variances that allows for a parking area to be within the front and/or side yard setback. In this case, it will be in both. The proposed driveway also is within this front street line. It's located within the front wall, a principal structure and the street line and that's not permitted without a variance. And the last one, there's three variances, the last one is what we've just spoken about backing out onto the Forest Drive from the driveway. No, there's no turnaround or hammerhead that's located on the property to allow it to turn around before it egresses from the property. So, those are the three variances.

Mr. Hoyt stated so you're saying that there should be a Hammerhead or there shouldn't be, I'm confused by the last one.

Mr. Miley stated any newly proposed driveway, any new structure would include an area where a car would not have to back out onto the street. You'd have to back, you'd have to be able to turn around on site.

Mr. Weise stated is that for this neighborhood?

Mr. Miley stated that's for all neighborhoods. That's a code that was created. I'm just shooting from hip, probably in 1987. So there's a lot of non-conforming, or non-compliant rather homes throughout the, Mount Kisco.

Mr. Spector stated right, tell me about it. I've become an expert in backing up. Thank you.

Mr. Weise stated we only a handful of homes past us on our cul-de-sac but yes, I always back up into the...

Mr. Spector stated thank you for rear cameras.

Mr. Hoyt stated yeah. So Peter, in order to, if he wanted to do that, which I know he's not submitting a proposal to that variance as well for more right, because that hammerhead, that turnaround would be between the house in the front street, right? Isn't it that another variance that would be required had he been trying to comply with that turning requirement?

Mr. Miley stated I don't know. He was close on development coverage, so it may make exceed development coverage if he adds any additional impervious.

Mr. Hoyt stated but I thought you said there was a, I thought the second waiver was related to the fact that the driveway was between the street and the house, front of the house now.

Mr. Miley stated correct, he's seeking a variance for that, so that would be included. And it wouldn't create another variance only if it exceeds the development coverage allowance.

Mr. Hoyt stated but aren't most driveways in the front. I'm confused by that. Aren't most driveways between the front of the house and the street?

Mr. Miley stated yes, if it goes to a garage or within a driveway that's permitted. So, you have this multiple codes with regard to driveway. The driveway, it could be 20 feet, the driveway opening as far as a curb cut could be up to 18 feet if it serves a two car garage. Parking area is what this is, so he's creating a separate parking area. So, as long as it leads to a garage, it could be located in front, you could even park in the front yard so long as it leads to a garage. This is if you're looking at it to the left of the garage, thereby creating a separate parking area, not just, if he extended his garage to be a two car garage, he wouldn't need a variance for the driveway, but he may need a setback variance to the house.

Mr. Hoyt stated got it, thank you.

Mr. Hoyt stated you're welcome.

Mr. Alfano stated and that was the third one?

Mr. Miley stated the third one was backing out to the public street.

Mr. Alfano stated oh, I mean number three on the letter, yeah but I know what you're saying.

Mr. Spector stated so, there's no actual dimensional variance that we're looking that were, it's not a foot described. It's just basically it's an all, it's just to allow the driveway to exist in its location. And I guess there is no, there is a setback. So it is, there's a setback issue as well, so that would be dimensional, right?

Mr. Miley stated well not a dimensional setback. No, it's, exactly what you said first to allow parking in the side yard, front yard setback.

Mr. Spector stated okay.

Mr. Miley stated the building, the setback goes to the building line.

Mr. Spector stated got it.

Mr. Miley stated and there's no buffer requirement at zoning district.

Mr. Spector stated okay.

Mr. Spector stated I mean, I would start by, I'll start the conversation by saying I don't see anything objectionable at this point. I mean, I don't know if anybody else feels the same way, but based on the pictures, which, thank you very much for showing those, it seems to me like it's reasonable.

Chairman Boxer stated right, I agree with that.

Mr. Weise stated I would agree with that, too.

Mr. Hoyt stated I agree.

Chairman Boxer stated Ralph?

Mr. Alfano stated yeah, I think it's reasonable. I agree. It's, I mean, it's already used for parking. And I think it's helpful that by being paved, that actually reduces runoff of dirt and rocks, and so, that's certainly helping.

Chairman Boxer stated great. Jackie, did you agree?

Ms. Broth stated I do.

Chairman Boxer stated Whitney, do you have something drawn up this?

Whitney Singleton stated yeah I shared it with your Board confidentially. I sent you a draft resolution. I don't know if you guys have a receipt of that. Obviously, any conditions or approval or the basis of your decision should be outlined in, you know, or confirmed by you in paragraphs 10 and 11 of the resolution.

Mr. Spector stated that's if we were to add any conditions to the approval you're saying?

Whitney Singleton stated yeah, the only one that I thought of since the presentation of the application, I mean the standard provisions that your Board usually includes, you just might want to put a provision in there that I've drafted something that says nothing herein shall be construed to permit any disturbance to any adjoining landowners' property.

Mr. Spector stated reasonable.

Chairman Boxer stated okay.

Whitney Singleton stated so since this is exempt from SQERA as a type two action, all your Board would need to do is to close public hearing. I presume that nobody wishes to speak at the public hearing other than the applicant.

Mr. Miley stated hands up? I'll confirm anything on Facebook, no requests to speak on this application.

Whitney Singleton stated so your Board would need to close the public hearing and somebody would need to make a motion to vote on a resolution and to come up with the determination, you know, analyze the five factors that are set forth in paragraph 10 of the resolution.

Chairman Boxer stated okay.

Mr. Spector stated I mean, to motion to close the public hearing, I'll make it if anybody, if we have to do that.

Mr. Hoyt seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay. One of these days I'll get a copy of the five factors.

Mr. Hoyt stated Whitney has some in his...

Whitney Singleton stated would you like me to share my screen? I can share that if you want.

Chairman Boxer stated sure.

Whitney Singleton stated that's up to you. Okay.

Mr. Miley stated Whitney, is that the same submission the applicant made because he submitted his principal points as part of the application.

Whitney Singleton stated they're referenced in here.

Mr. Miley stated okay, thank you.

Whitney Singleton stated this would be the basis, this would be the enlarged, so. These are the determinations that the Board needs to make.

Chairman Boxer stated alright, for some reason I got muted. Do we have a motion that somebody wants to make?

Mr. Weise stated I'll make a motion to proceed with the application.

Chairman Boxer stated okay, let's go through the five factors.

Whitney Singleton stated was that to approve or to, I didn't hear what was said...

Mr. Weise stated to approve, yes, to approve the application.

Mr. Spector stated I'll seconded.

Mr. Weise stated its S-E.

Whitney Singleton stated oh, I'm sorry.

Mr. Miley stated and Mr. Spector was second. O-R.

Whitney Singleton stated oh, I'm sorry.

Mr. Spector stated no, it's okay. For accuracy.

Chairman Boxer stated okay, we have a motion and a second? Take a vote, all in favor?

The motion carried by a vote of 5 to 0.

Chairman Boxer asked for any opposed. No response.

Chairman Boxer stated oh and what we forgot to do is close the public hearing.

Whitney Singleton stated no, you didn't.

Mr. Spector stated we did close it.

Mr. Weise stated we did, we did. We did close it.

Chairman Boxer stated I didn't it happened, I was muted, okay. Okay, all right. So, Mr. Kimsal, you have your, you'll be getting your permit as we approved the variances.

Mr. Kimsal stated thank you.

Mr. Hoyt stated okay, good luck.

Mr. Miley stated you're all set, Bob.

Mr. Kimsal stated thank you very much.

Mr. Miley stated you're welcome.

The Secretary stated they need to go back to Mike Bonforte.

Mr. Miley stated Chairman, do you want to go back to Mr. Bonforte, he's able to speak clearly now.

Chairman Boxer stated sure, that's fine, that's Chestnut Market?

**Chestnut Markets, Inc
192 N. Bedford Road
Mount Kisco, NY 10549
(SBL 69.58-4-2)**

**ZBA# 21-1
Area (Signage)**

Mr. Miley stated yes, correct.

Chairman Boxer stated okay.

Mr. Bonforte stated can you hear me okay now?

Chairman Boxer stated yep, can you hear us?

Mr. Bonforte stated yes, very well. Thanks. And apologies to the Board and staff for not having that volume, working early. It was all my fault. It's Michael Bonforte, I'm representing Chestnut Petroleum

Distributors tonight. Before you, it's a signage variance. And would you like me to just go into my request? Is that the next step?

Chairman Boxer stated no, why do the signs have to be so big? And you can't say that Mobil wants it because that doesn't count. Seriously.

Mr. Bonforte stated I didn't put that in my application.

Chairman Boxer stated I know but can these be made smaller, because from what I can tell, they are as big as or slightly bigger than the canopy.

Mr. Bonforte stated well, are we talking about the same, do you see the pictures at the end of the application?

Chairman Boxer stated yes.

Mr. Bonforte stated there's two signs, they're both the same size, 25 square feet. And the code is 16 square feet. So, I'm asking for a variance of nine square feet on both sides. One face one is westward toward the Mount Kisco Commons, I call it the mini mall. And the other one faces south, North Bedford Road, facing toward Mavis Tire. If there's any sort of leeway, the actual lettering of the sign on the canopy is only 11. And then, the, actually I calculated 25 with the specifications, Peter from Mobil Corporation. So, the canopy was designed and built, of course, by some by some vendor for Mobil, and they installed these fairly common, this is a fairly typically, at about 100 Mobil stations in the New York, New Jersey, Connecticut area, and again, I'm not going back to that as an excuse. But this is the history. They, the company runs about 200 gas stations that have been Chestnut Petroleum in the New York, New Jersey Connecticut area, and about 100 or so, those are Mobil's and this was a system wide upgrade. So, just going back to my size element, the lettering itself per the specs that I provided is actually only 11.3 square feet, so the rest of that signage is sort of a white background. That makes it...

Chairman Boxer stated is it backlit?

Mr. Alfano stated Peter Miley, what, sorry Harold, go ahead.

Chairman Boxer stated is the sign back lit?

Mr. Bonforte stated it's non-illuminated, but it is translucent. It is set back into that hillside there, so there's no reflection to the neighborhoods, the residential, which are noted in Knowlton and Valley View [Terrace]. I actually put in my write up 45 feet, it's a little more like 40 feet, so meaning the height of the signage, that canopy is 40 feet below the ground level above homes on Knowlton Avenue, I should say Valley View [Terrace], Knowlton is even higher up. So, that to me was a benefit for this request. The other the other element was it's in a commercial neighborhood to Mount Kisco Commons across the street westward, Mavis tires just south of it, and Burger King is just north. So, there's no residential impact from and again, a non-illuminated sign, and the environment in general, to me, it fits with the character of that particular zone, which is zoned CL commercial district. If I had any other leg to stand on the Mobil across town, across the street from the Dunkin Donuts, and the A&S Deli, has the same signage. Now theirs was done differently. The application included that signage, what I believe happened here is the following. The applicant came before the Planning Board, oh, and by the way, the Chairman, and others, I should say, full disclosure, I am, I've been a member of the Mount Kisco Planning Board for several years, apologies for not adding that upfront. The applicant Chestnut, before it was a Chestnut Petroleum operated location came before the Planning Board in January of 2018, Chestnut Petroleum, arranged an operating ground up lease, or ground space lease in August of 2019. And after the canopy was being erected, hence we're before because it was erected, and we're responsible at this point in time. But it is over by nine square feet. So, you know, again, I come before you that it's it to me, I'm trying to establish that it is not a detriment or negative aspect of the neighborhood or the commercial district, even though it was self-created. And the fact that the other Mobil sign in Town is the same size and shape and canopy. I don't think too much bearing because that's in a completely different location in Town. But that was the nature of the self-created hardship. It was a companywide; I'd say design and structure and when it was erected, it wasn't looked at before it was erected by this particular applicant, I should say, property owner before we became the operators, so.

Mr. Weise stated Michael, just a quick point of clarification. The other Mobil does not have a billboard, a lighted billboard that shows the prices of gasoline. So it is, it's a different look and feel, that lighted billboard is, you know, is large, very prominent. And I think that it's a combination of the Billboard and the signage, which may be a problem.

Mr. Bonforte stated I will say the Mobil across Town just received the same size billboard, the one that's out of the corner of the property. And also was just as, well, I should say, re-installed on this property. It just, they changed that lighted part with the pricing to include the word Chestnut Markets. And maybe there's some upgraded LED lighting in it. But they did that at both Mobil stations, so this one that I'm representing and Harold Hors mobile across Town. He's the owner of that mobile

Mr. Spector stated when you went before the planning, when, this matter, when this property was before the Planning Board, was it a Mobil station at that point, or was it going to be a Mobil station, what was it?

Mr. Bonforte stated yes, it was a Mobil station at that point in time, and it's...

Mr. Spector stated and was there signage, was that a signed design approved at that time?

Mr. Bonforte stated for the renovation of the station?

Mr. Spector stated yes.

Mr. Bonforte stated I believe it was approved within and had the code for the signage of 16 square feet. But when the apparatus or structure arrived, it wasn't to code, and either wasn't to code and it either wasn't checked or it wasn't, you know, the construction manager on site, it wasn't us at Chestnut, so we're sitting here now, coming before you, and ask for the variance.

Chairman Boxer stated did you go before the Architectural Review Board?

Mr. Bonforte stated I have not personally, no. I would have to check with the owner. Again, we took over, the company took over in August of 2019, meaning Chestnut, and is the, you know, to ground up lease for full operation, leasehold improvements, etcetera of the station.

Chairman Boxer stated Peter, do you know if they went before the ARB?

Mr. Miley stated no, Chairman, I didn't want to interrupt. That's the next step...

Chairman Boxer stated if we say yes.

Mr. Miley stated if they get the variance, they'll have to go before ARB. If they don't get the variance, then they'll have to resubmit with a, you know, new signage size proposed.

Mr. Spector stated do they also have to go for, do they also have to revise the site plan approval?

Mr. Miley stated no, not for the signage.

Mr. Spector stated okay.

Mr. Miley stated they have to approve canopy that had that meets the zoning requirements for setbacks. This was, those signs were installed after the canopy installation. Hence, the reason would be before you today.

Mr. Bonforte stated well, Peter, can I just clarify because Mr. Weise asked this question.

Mr. Miley stated sure.

Mr. Bonforte stated there's, looks like there's an illuminated sign that's on a pedestal. You know, and then it looks like it rotates, but it doesn't. Both of the Mobil stations in Town were just upgraded. And I don't believe the size has changed. But I will check that we're talking about...

Mr. Miley stated your Board issued a variance already for this. Your Board issued a variance for the same sign on 680 Main Street for Mobile, Chairman.

Chairman Boxer stated the standalone sign.

Mr. Miley stated for the Mobil sign, the same sign that you're viewing today or similar, same size, though.

Chairman Boxer stated the one on the canopy?

Mr. Miley stated correct.

Chairman Boxer stated okay.

Mr. Spector stated that's the one we denied the added sort of like wing structure for the pumps, I guess.

Mr. Miley stated exactly, yes, you had, there was concession made by the applicant to take away that synergy stuff that they proposed on the gas pumps, the dispensers, but the caps that was approved.

Mr. Hoyt stated so, if I could have, if I could just clarify because, if this were to code, the actual letters Mobil would be what 40/30% smaller? What would be the, it'd be nice if we had some sort of representation, what a code would look like. But what would it look like if it were...

Mr. Miley stated it would shrink symmetrically and 16 square foot is the allowable. So, I can't tell you exactly what the letter sizes would be if they shrank this to 16 square feet. But it would reduce the size of the letters, yes.

Mr. Hoyt stated but we're talking about the Mobil sign. It doesn't look like it's got, I mean, I see that I have the handouts in front of me. It doesn't really that is it really 20, what is it 25 square feet each. It doesn't look, that doesn't look 25 square feet.

Mr. Bonforte stated well, when you see it as part of a 78 foot by 24 foot long rectangular canopy yeah, it looks small. But again, the dimensions in that last page, you know, there's outside dimensions and then the letter, the emblem are lettering dimensions. And Peter and I have been going off of the 20 you know, the outside, the white part of the Mobil emblem. You know, there if there was a concession to be asked for could it be on the lettering itself, which is a much smaller square footage.

Mr. Alfano stated Peter, what are we considering to be the dimensions of the sign, the lettering or the whole, the overall box?

Mr. Miley stated the overall, it's all in.

Mr. Bonforte stated yes, the 25 square feet.

Mr. Miley stated correct.

Mr. Weise stated I agree with George, it would be nice to see what it looks like within code.

Mr. Bonforte stated proportional specifications, right of that, correct?

Mr. Alfano stated right, you would expect everything to scale down with a smaller sign.

Mr. Bonforte stated so, the canopy wouldn't change, just the lettering correct?

Chairman Boxer stated hmm.

Mr. Hoyt stated yeah, I have to say, I'm you know, having driven by this, say many times, and we all live close to it, it's kind of tucked away. And I'm not all, it doesn't come out and punch me in the face, these Mobil signs. So, it would be nice to see it rendering per code, so I can get a sense of it. But, you know, I'm not personally speaking for myself, I'm not offended by the current signage. Again, it's this property is tucked away. And he has an argument in that letter, which resonates, which is, if you don't see it, you're going to be passed in about three seconds. So, in that area, in my view, doesn't suffer from the fact that these Mobil signs might be here. But again, I'd like to see it in a smaller view. And did you say Michael, that you would consider potentially making the letters smaller and just keeping the boxes in?

Mr. Bonforte stated well the lettering as it stands now is an integral part of the canopy. So if we had to change it, the only way I could see that happening is they'd have to do a, like a cover, like a shoe box cover over that portion of the white lettering of it, not, not the lettering, but you know, just to redo it, and it would stand out now, it would be like not superimposed but another dimension of the signage overall. As far as I know, the company hasn't experienced this with any of the over 100 installations. But I will tell you, obviously, it was done. It arrived on site, it was installed, even though it was part of the site, there must have been, I forget what Peter said, ARB approval. They must have gone through all the right steps for signage code. But then it was installed, as you see.

Mr. Spector stated I have a question and it's just a curiosity. I don't even know if we can answer this because obviously, I agree with George, you know, given the nature of the location, the commercial nature

of it, but I'm really not offended by this. And, you know, I do see some benefits to people who are traveling on a very busy and very developed road, you know, being able to know what's there, and especially for gas station, which is, you know, important for drivers. But as you move north on one on 117 obviously, the jurisdiction does change at some point. And I'm just curious how our sign regulations compared to Bedford which is, you know, I know the sign. I'm not sure where the delineation line is. I know there are gas stations further along the way. You know, I don't really see this as being really completely inconsistent with what's on the road and it doesn't strike me, I'm on that road quite frequently myself. So, that's just my opinion. But I am curious if there's, if we have more stringent regulations than other communities when it comes to sign especially on commercial in a commercial district like this.

Mr. Bonforte stated I can certainly look that up. That's not a problem. And come up with some photographic or photos of comparisons. Off hand also, living in town, I can't think of anything much smaller, much larger offhand.

Ms. Broth stated to George's point, since this is my neighborhood, I thought the funniest part about this was when I saw the pictures that's the first time, I actually noticed that the sign was even there and I drive by there four times a day.

Mr. Spector stated I think you saw it when you're driving by gas stations sort of expect signage that's the thing. I mean, I don't know if we noticed the size, we just expect there to be a sign.

Ms. Broth stated yeah, the one I noticed was actually today. The first one I noticed was the new sign on the edge of Knowlton Road that had the Chestnut Market sign in there as well as the Mobil sign. That was the first time I actually paid any attention to any of it that I had never noticed the Mobil on the overhead.

Mr. Weise stated Michael, do you know if the Bedford Mobil gas station, South Bedford Road? You know, deep into Bedford is has the same signage.

Mr. Bonforte stated the Mobil in Bedford Hills?

Mr. Weise stated no, not Bedford Hills.

Mr. Alfano stated the one on long Ridge?

Mr. Weise stated on South Bedford road if, you know, if you go past the high school...

Mr. Alfano stated isn't that a Shell station?

Mr. Weise stated I think it's a Mobil station. Let's see. Yeah. The address is 193 Pound Ridge Road.

Mr. Bonforte stated the Mobil that I know...

Mr. Weise stated I'm sorry. I'm sorry, that is a Shell station. I'm thinking of another one. Never mind.

Chairman Boxer stated okay.

Mr. Weise stated yeah, there is. Yeah, the one at the end of Pound Ridge Road in Bedford.

Mr. Bonforte stated there's another one, but it doesn't have a canopy.

Me. Weise stated it doesn't?

Mr. Bonforte stated the one that you when you turning right to go to Stamford on 104.

Mr. Weise stated yes, that's right.

Mr. Bonforte stated yeah, that's just that's a much older site and not owned or operated by this company.

Mr. Weise stated okay.

Mr. Bonforte stated again, they did over 100 of these the last year and a half to two years. But yes, I can point out, I can easily do like a, you know, schematic rendering. I wanted to make sure that the Board is not concerned with the pedestal signs that are on the corner that Ms. Broth just mentioned that one that that's that was there prior. But I don't believe that was there at the Mobil across town. That was a new

installation. I just don't recall I've been there. And that again, doesn't have a Chestnut Markets, it's just gas and repair. But it has the new canopy.

Mr. Hoyt stated and I'll note one more thing. I think in looking at the pictures and remembering myself driving by the Mobil site. I do think the current signage is proportional to the canopy. I mean, I think it would be nice to see it smaller but and again, it's proportionate, it doesn't feel you kind of know it when it's too big and out of proportion and this is not one of those instances, in my case.

Mr. Bonforte stated and if you look closely, because I thought this through is it is a canopy is like a unified piece, it's like plastic molded with layers. So, to change, it would be you know, it wouldn't be undoable, wouldn't be undoable, it would just have to require some customization. And I don't think that would be too easy either but it's not like we could just pop that section out. If you look at the coloring, the pictures. It's actually built, the canopy is sort of built-in layers. And then that part of the end is just, you know, a white section, but we kind of built it in layers going up to be six inches, you know, or three feet so.

Chairman Boxer stated Peter, anybody here to comment on this?

Mr. Miley stated nobody is in Village Hall, I'll check if there are any hands raised.

The Secretary stated no, no raised hands.

Mr. Miley stated no hands raised in the zoom.

The Secretary stated and nobody was called-in.

Mr. Miley stated and nobody has called-in, there was also a call-in number that was provided. Excuse me. On the zoom, on the agenda, excuse me.

Chairman Boxer stated at this point, I think we can close the public meeting. Somebody make a motion please.

Mr. Alfano introduced a motion to close the public hearing. Seconded by Mr. Weise.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, Peter, I saw that you have the outline...

Mr. Miley stated I do. It was sent, a draft was sent to your Board not sure if you received that came in a little bit late. But I'll go through a section of the code that pertains to this application. Section 89-10 for fuel service canopy signs which states that canopy signs will not exceed 16 square feet, proposed are two Mobil signs, each one is 25 square feet, therefore, a nine square foot variance will be needed for each of these signs. That's all they're requiring.

Chairman Boxer stated okay.

Mr. Weise stated and Peter that is specific to fueling stations?

Mr. Miley stated correct.

Mr. Weise stated and is that similar to other types of with retail locations, or is it bigger or smaller?

Mr. Miley stated well we have numerous sign districts throughout the Village each different their own way, your downtown, only allowed to have 12 inch lettering. So, it's hard to, I mean, there's so many sign districts in the Village of Mount Kisco, depending on the location, but specifically for fuel service canopy signs, this is the requirement.

Mr. Weise stated I'm trying to think of the Mavis right next to them. If it is of similar size.

Mr. Miley stated I couldn't guess off the top of my head.

Ms. Broth stated my impression is that it's much larger. But that's just an impression driving past it.

Mr. Bonforte stated I do know as a Board member, we approved along with an overall site plan, if you remember, Peter, the 5 Guys sign is much, much larger. Again, it's further distance away. But they wanted

that to be invisible as drivers drove by. So, that that building has, I guess two turrets, at the moment the 5 Guys got a sign that was like, I don't know, I forget five feet high and lettering.

Mr. Miley stated yeah, I mean, he goes throughout the Village.

Mr. Bonforte stated as an example...

Mr. Miley stated HomeGoods, I mean all we could, all day we could talk about sign variances.

Mr. Weise stated so, the argument is that because of the setback, a larger sign is required, people aren't going to even notice it. And that's got to be the reason for 5 Guys.

Mr. Miley stated that was accurate. Yeah, because it was set back and elevated. They needed a larger sign that was their application. I mean, I'm sure there was other reasons but I don't really want to comment on another application I don't have in front of me.

Mr. Weise stated yup, okay.

Chairman Boxer stated okay, Are you ready to take a vote? Do you want to talk about it first, or? I don't have any problem with the variance requested.

Mr. Weise stated I think that was a good discussion. My concern is that, it's not about this specifically, more generally signage. And it sounds like that's a whole different subject matter that could be a very lengthy discussion so.

Chairman Boxer stated and we approved HomeGoods to be larger because they're really at a view of anybody driving by. This is a similar in this situation where if the light is green, people just going to go whipping by it. They're not going to slow down.

Mr. Spector stated yeah, I agree.

Mr. Weise stated yeah, no, I think it's reasonable.

Mr. Spector stated I think it's an appropriate sign for the location. I'm okay with it.

Chairman Boxer stated okay, then, Peter, do you have another five factors in there or?

Mr. Miley stated I'll check to see this part of the application.

Chairman Boxer stated I didn't see any application.

Mr. Bonforte stated I wrote a narrative, the third, fourth and fifth paragraph, I believe, addressed the five points, the five factors.

Chairman Boxer stated and I think you've pretty much covered everything.

Mr. Miley stated yeah, I don't see part of the application. Michael, you want to go through those?

Mr. Bonforte stated sure, so, undesirable change produced character, the neighborhood. I think it's consistent with the commercial district, the CL zoning that the current properties then, neighboring business properties to the south, and to the north and to the west of Mount Kisco Commons mall, which I always still think of as Bizarre Mall or mini mall and whatever signage is there I'm not making any comments related to that signage. But just the overall nature of the commercial district in that immediate area, the fact that residential the residential neighborhoods are at least 40 feet above and the Mobil station tucked into that hill side, there's no illuminated signage, it is translucent, so there's a bit of, there's a reflection but I don't think and I'm going to say to the best of my knowledge doesn't reflect anywhere near any residential homes on Valley View Terrace or Knowlton Avenue. Those are just up and behind this property. The variances itself, I tried to make the point in my narrative that although the sign is 25 square feet, the lettering itself, the letters, letters are only 11 and 11.3 square feet. So, you know, within the 16 square feet. I don't see any negative effects, to again, the neighborhood, residential or business and nothing undesirable by granting the variances. I think that covers it.

Chairman Boxer stated yeah, the only other thing is whether it's self-created, which is but that's something that we can take into consideration, but isn't fatal to the application.

Mr. Bonforte stated right.

Mr. Miley stated that's accurate Chairman, and I did locate the principal points that were included in the application.

Chairman Boxer stated you want to read them out?

Mr. Miley stated Michael just went through them all. If you want me to read them again, I will.

Chairman Boxer stated no, I think we did. We just didn't number them. Okay, I have no problem. And I think someone can make a motion please to approve the various as requested.

Mr. Spector introduced a motion to approve the variances. Seconded by Mr. Alfano.

Mr. Miley stated who was the second? Repeat that?

Mr. Alfano stated Ralph.

Mr. Miley stated Ralph, thank you.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, the application is approved.

Mr. Bonforte stated thank you Board, thank you for your patience with me.

Chairman Boxer stated okay, now, we can get Whitney back on this. There you go. Okay. Let's see what we got left. Whitney, Sunrise and Homeland are not on for tonight. Correct?

Whitney Singleton stated correct, Sunrise was requested an adjournment and Homeland really couldn't achieve anything with your Board unless and until a determination of significance has been made by the lead agency, which is the Planning Board. And until that's done, your Board is essentially in a holding pattern.

Chairman Boxer stated and you mentioned the Lisa Abzun which has been withdrawn for now?

Whitney Singleton stated yeah, I'll let the Building Inspector comment on that.

Chairman Boxer stated okay, Peter?

Mr. Miley stated yeah, 85 West Hyatt, which is Ms. Abzun, is going to withdraw for reasons being that we worked out a solution myself and counsel with regard to determination of a two or three family home. In conclusion, we determined the home was a legal, non-conforming through family home and that was the initial application with the alternative seeking a variance. But we were able to remedy, they applied for a building permit and they will be seeking CO shortly.

**3. Sarah Berger
55 Washburn Road
Mount Kisco, NY 10549
(SBL) 69.56-4-4**

**ZBA# 15-9
Area**

Mr. Joe Palumbo, Ms. Ginger Smith and Ms. Sarah Berger were present.

Chairman Boxer stated okay, then the last one is Washburn.

Mr. Miley stated that's the last one, Chairman.

Chairman Boxer stated okay, did I hear that they reach an agreement on that?

Mr. Miley stated Chairman, I spoke to Mr. Palumbo, who is the representative for the applicant and I spoke to the neighbor was the Mr. Cindrigh, who is with us this evening as well. And Ms. Berger is also with us. I visited the site with Mr. Palumbo and his wife and we went over a number of things which seemed reasonable and with regard to what's currently in place, storm drainage, if you recall in the last meeting, we needed to go out and take a look at, you know, some of the over drain pop ups and some of the items that were already installed in the driveway, as well as looking at the stairs and making a determination whether

some additional drainage is needed because of the runoff from the hill. The flagstone that was installed in between the arborvitaes and the garage, that essentially sitting on the root system. And some of the plantings that needed to be replaced, as well as just one plant, excuse me, one pear tree that was missing. So, this is a variance. The condition as far as a side yard setback to the structure is not changing. The difference is the addition for the stairs that were added and the retaining wall.

Chairman Boxer stated okay, so, we have, I don't even have yet, the original application here. What are they looking for any variance?

Mr. Miley stated they receive the variance back in 2015 for the side yard setback. The question was whether the stairs were included and some other improvements which were not, and it didn't meet the criteria built into the resolution. So, they're looking for a re-approval with some additional items to be built into the resolution to address some of the concerns. One being the drainage, second, like I indicated earlier some flagstone was that was added they want to change the plan things that were originally proposed. Now, I believe they want to find something deciduous and doesn't get eaten by the deer. I'll let the applicant speak on this. Mr. Palumbo and I met on site. And, you know, I think there's an agreement between the neighbor and the owner to come to a conclusion with regard to what's going to be putting in place.

Chairman Boxer stated okay, Joe.

Mr. Palumbo stated good evening, I'm here with Ginger Smith, also.

Ms. Smith stated just talk about the plants and the stairs.

Mr. Palumbo stated, yeah, sorry. So, we've got some plants, and there was some change into the plants in the...

Ms. Smith stated island.

Mr. Palumbo stated island. Deer, the deer took them down all the time. So, Sarah, we're changing it from the [inaudible] to boxwoods. And we feel it's a better situation, and there's four pear trees, not five pear trees. And those are our main concerns to...

Ms. Smith stated and they'll be removing the pavers.

Mr. Palumbo stated yes, the pavers are being pulled out, even though just to make a point, the pavers were just sitting on gravel, but would take just took them up. It wasn't in cement or anything like that so, they've been taken up.

Ms. Smith stated they will be.

Mr. Palumbo stated they will be.

Chairman Boxer stated okay.

Mr. Miley stated and the one I just want to add Chairman before we move forward, any original variance it indicated that no drainage or runoff shall be discharged onto adjoining property. I think the concern was, you know, the drainage was being overwhelmed, and there's a pop-off valve or clean out in the middle of the property. I wasn't sure when I went on site, I was able to pull it up with my hand and see the water flowing. So, it's my understanding that, you know, I can't confirm Mr. Cindrich may be able to confirm that when it rains heavily this blow off or pop up/clean out is essentially blowing off and unfortunately, the water's running onto both properties and undermining the area. In addition, you know, we looked at the retaining wall and the stairs and we walked the site when Mr. Palumbo and his wife. And the water off the hill is creating sort of a valley or berm, it's collecting behind the stairs or behind the retaining wall and it appears that you know, at some point, they may need to add drainage so it doesn't fail.

Chairman Boxer stated are they're going to fix the drainage now for this?

Mr. Miley stated that's my understanding.

Mr. Palumbo stated yes, yes.

Chairman Boxer stated okay, Mr. Cindrich, are you okay with this?

Mr. Cindrlich stated yes, I think, can you hear me?

Chairman Boxer stated yes.

Mr. Cindrlich stated I think I'm here, well, I know I'm here to support Sarah Berger, in the application that the stairs can remain as they are, I don't want her to go through any expense to relocate the stairs, the variance that goes from what it was, it was like, I forget, it was 6.75 variance. So, it'll be added now to 9.75 variance. And the, I believe the encroachments plus or minus three, three and a half feet for the stairs. And the only thing that I would respectfully ask that the ZBA does is, not so much for me because I think the property owner Sarah Berger and myself have a great relationship. But you always want the documentation in place if property owners change. So, with the conditions of approval, there'd have to be wording that you change the wording in two, in number two and number three, to incorporate the stairs. And as far as the plantings, I'd like to work with Sarah to make sure that whatever plantings go in there the native plant that will not be devoured by the deer. So, that'll benefit both of our properties. And the only other issue is the drainage. And I have my thoughts on the drainage when I redid my driveway in conjunction with this project, I submitted elaborate professional engineer's diagram of the drainage that I put in drainage behind the wall, drainage under the driveway, leaders' attachments and everything. And I took into account the water that runs off the hill that used to be owned by the Swiss Benevolent Society. And now it's currently owned by the Village. And the problem with that is on even a water two inch, which is a substantial rainfall, the water comes off of that hill, because it's all stone and rock, the water comes off that hill, and on the north side of my property, the other side creates a river that runs through my property. And before I put the drainage and on my side of the driveway that's contiguous to Sarah's, the water was substantial. I didn't realize when I paved my driveway because, you know, there was water and the driveway sat in an unpaved condition for a couple of years while we were trying to work this out with Sarah and the Building Department. The water now that with they called galleys cisterns or dry wells, they're overwhelmed. And they they're not going to be able to support the water from the whatever footing drains exist, whatever, the roof leaders and gutters and compounded by the fact that the Village water running off the Village property. So, I spoke to my engineer concerning the drainage and I think I've come up with a solution and I believe that with Sarah's approval and obviously the building inspectors' approval, we can know, we can resolve the drainage issue.

Mr. Palumbo stated Mike, could you? Excuse me. Could you give a little bit more information of what you were thinking you're going to put Cultex on your property and take the water over to the Cultex to your property and get from Sarah's? Or you suppose proposing, can you hear me?

Mr. Cindrlich stated yes, no...

Mr. Palumbo stated are you proposing additional work on Sarah's property?

Mr. Cindrlich stated I'm going to propose eliminating the galleys and eliminating the dry wells completely. And right and the – as you're aware of the six inch pipe that I had your contractor install in the Village right away into the catch basin attached the, Sarah's leaders and gutters and any footing drains and any footing drains you want to put at the base of the wall behind the stairs. Just attach those that make them go into the catch basin that's in Sarah's driveway as it presently exists, or they can go directly into the catch basin that the Village installed because of the runoff problem.

Mr. Palumbo stated okay so...

Ms. Smith stated so, I'm not going to the dry wells underneath the median?

Mr. Cindrlich stated the dry wells, as I recall, they're about 40 gallon dry wells. And they cannot they are just inadequate to take the water that comes off of the hillside and the footing drains and the roof leaders. So, piping them all the way through, which will create a direct flow and then we wouldn't have any condition of infiltration or percolation through the driveways of undermining either driveway in the future.

Ms. Smith stated something to be done in the future.

Mr. Palumbo stated okay.

Chairman Boxer stated so, you want to make that a condition of our approval then, new plan?

Mr. Cindrlich stated yeah, like I said, the wording in there is no drainage to run off on either property. I think that that can stand and Sarah and I can work out that project together.

Chairman Boxer stated okay.

Mr. Cindrich stated if she agrees to it.

Chairman Boxer stated Whitney, have you written something up on this?

Whitney Singleton stated yeah, I've been taking some notes over here. Let me share my screen. What I'm trying to avoid is any potential conflict later on. What I've done is I basically set, I basically put in here that the description is that they are seeking to get confirmation of their prior side yard encroachment, the application proposes a modification of the resolution of approval, granting a side yard variance is set forth in the original 2015 approval. Specifically, the resolution prohibiting further encroachments such as newly proposed stairs and wall, is that correct?

Mr. Palumbo stated yes.

Whitney Singleton stated now, I heard Mike say something to the effect.

Ms. Berger stated wait, wait, wait. I have a question. You saying those stairs and the walls are already in. So, the way I understand that prohibited further encroachments. So, but the stairs and the walls are there.

Whitney Singleton stated right but they are still newly proposed for approval. Correct?

Ms. Berger stated no, they're built.

Mr. Palumbo stated they are built.

Ms. Berger stated it was built when the garage was built.

Whitney Singleton stated I understand but the original approvals, what is encroaching now that didn't encroach before?

Ms. Berger stated the stairs.

Whitney Singleton stated the stairs? Okay. So, you want me to take up the wall? I can take up the word wall. Either the stairs were not previously approved, or they were not previously approved in their current location, correct?

Mr. Miley stated that's accurate, Whitney.

Mr. Palumbo stated yes.

Ms. Berger stated there was existing stairs there.

Whitney Singleton stated but they weren't compliant with the resolution. That's what I'm saying.

Ms. Berger stated they were relocated with new addition.

Whitney Singleton stated okay, so, okay, so before you had a 5.5 foot variance, what I heard, your neighbor say was that 15 feet is required and now the setback instead being a 5.5 foot variance, it's now a 9.75 foot variance?

Mr. Miley stated that's accurate, Whitney.

Whitney Singleton stated okay, comments received at the meeting tonight from Michael, neighbor J. Michael Cindrich supporting the application with some specific comments on mitigation and documentation for future owners. Your submissions, the SEQRA, the basis for the decision. Now, the conditions of approval, which are really you know, are going to hopefully, be the issue here that resolves everything. The variance is solely for the plants presented, reviewed and considered by the Zoning Board, which now incorporate a staircase as reflected on the revised plans dated 9-28-20 prepared by...

Mr. Miley stated Joseph Palumbo.

Mr. Palumbo stated it's APA.

Whitney Singleton stated sorry.

Mr. Palumbo stated that's all right. Thanks.

Whitney Singleton stated Palumbo. Okay, and that date is correct?

Mr. Palumbo stated excuse me.

Ms. Smith stated yes, yes.

Mr. Palumbo stated yes.

Whitney Singleton stated okay, the approval will not constitute any authorization for any other further encroachments in the setbacks along including along the same plane. Nothing herein shall be construed to permit any disturbance to adjoining landowner's property, except to the extent that this resolution expressly supersedes the approval granted in 2015. The conditions contained in the prior resolution of approval shall be deemed controlling and incorporated herein, including plantings and stormwater. Correct? I believe that your plants show four pear trees instead of five but it's otherwise the same?

Ms. Berger stated yes.

Ms. Smith stated yes, four and everything else is the same.

Whitney Singleton stated with regard to and specifically addressing the issue of drainage, we can either dictate what needs to be done here, or I would suggest the following and I apologize for not vetting this in a fashion prior to the meeting, but I don't mean to put anyone on the spot. But the stormwater shall be resolved by the applicant and its neighbor and her neighbor to the satisfaction of the Mount Kisco Building Department.

Mr. Miley stated that will work Whitney.

Whitney Singleton stated stormwater drainage shall be addressed, actually, what is that, her neighbor, 63? Is that correct?

Mr. Cindrlich stated yes.

Ms. Berger stated 55 Washburn Road.

Whitney Singleton stated I'm sorry, I'll fix that. That's all I have right now, so somebody lead the motion. Anything else Board members?

Mr. Miley stated there was two other conditions Whitney, that they spoke about. One was to restore the side yard from flagstone to natural whether it be wood chips or grass, doesn't matter. I think the neighbors could work that as well.

Ms. Berger stated I thought that was to be gravel.

Mr. Miley stated excuse me?

Ms. Berger stated I thought that was to be gravel.

Mr. Palumbo stated gravel.

Mr. Miley stated gravel is considered development coverage. It was our understanding of either be grass or wood chips.

Whitney Singleton stated Peter?

Mr. Miley stated yeah?

Whitney Singleton stated okay, I mean, I know gravel, if a car can be parked, is deemed development coverage, is gravel deemed development coverage, if it's not designed for car?

Mr. Miley stated it is developed, it is considered coverage. I mean, I'm sure there's plenty of area which would allow for it. But I think, you know, this is something that the applicant and the neighbor are satisfied with.

Ms. Berger stated I would rather that was an area that could be walked through easily and not needed to be mowed.

Mr. Miley stated yeah, I thought it was already worked out that wood chips or grass would be there. Maybe the neighbor can. Mr. Cindrich, do you have any opinion on this?

Mr. Cindrich stated my only concern is that it'd be some type of ground cover that will allow the arborvitae trees to grow and mature. And, you know, there's limited space there, so, I would have no problem with putting down some type of wood chips with possibly a smaller, you know, 12 by 12, or smaller pathway there that would still allow for the trees and the root system, again to mature and grow. There's one other issue that the fifth tree is, I think one of the reasons it's not there is it would have to go on Village property so, and something should be in the resolution. If the Board wants that fifth tree, if planting of that tree was not approved by the Village, it wouldn't be necessary. Or they had, which would be an undue burden, all these other four trees would have to be relocated. So, for the fifth tree, if you look at the sketch that's provided with the application and the approval, the property line is about 14 feet in from the curb line and the fourth tree is only about a foot and a half to two feet from the property line and then the Village easement. So, the first tree would again have to go on Village property, and that would take the, I guess that would have to be donated to the village, I'm not sure.

Ms. Smith stated well, can it just be four pear trees?

Mr. Cindrich stated again, that'd be up to the ZBA.

Mr. Palumbo stated take this one off?

Ms. Smith stated no, there's not pear tree there, there's just arborvitae.

Mr. Cindrich stated I believe the resolution calls for five the original resolution calls for five trees.

Mr. Miley stated it does.

Ms. Smith stated I don't know how Sarah feels about this. But I would be concerned that a fifth pear tree at the end of the driveway would interfere with people's sightlines going into the driveway?

Ms. Berger stated for sure.

Ms. Smith stated so, if there's any way to have it so that we amend it to have the only four pear trees?

Mr. Weise stated is there a reason that there was five and not four originally, Peter?

Mr. Miley stated I would, this before my time I'm just looking at the original resolution indicate five pear trees. I went out to a site, the four seemed like they were placed symmetrically. And as Mr. Cindrich indicated to do the fifth, it would be in the Village right away, or they would have to kind of realign all the trees.

Mr. Weise stated so, it sounds like the best is to just keep it as it is?

Mr. Palumbo stated yeah.

Ms. Smith stated yeah.

Mr. Miley stated I think it's up to, it's up to your board if they want change the resolution to now say four instead of five.

Mr. Weise stated I don't have a problem with that. Anybody else have opinion on that?

Mr. Hoyt stated no.

Mr. Miley stated all of the other conditions that were the original approval, the arborvitae were installed. There are four pear trees and they did relocate the existing dogwood tree. Those were all, all those conditions were satisfied.

Mr. Weise stated I think we could revise it to four unless anyone objects.

Mr. Alfano stated no.

Mr. Hoyt stated no.

Mr. Miley stated Whitney, did you hear that?

Whitney Singleton stated yeah, I heard that the Board. Okay, I think if you look at plan number one, it says a very accessory for the plan presented, reviewed and considered by the Board which now incorporate the staircases reflected on the revised plans dated such and such prepared by Joseph M. Palumbo. Those plans also show four pear trees, not five. So, the question is, do you want me to further address this issue, or...

Ms. Berger stated just leave it as four.

Whitney Singleton stated I mean, that's really up to the Board, I mean. The past resolution had five. So, if the Board wants to modify that, please, you know, let me know.

Mr. Weise stated I think the answer is yes. I think we'll modify it to four.

Mr. Spector stated I would agree. If the fifth will have to be in the right of way, I don't think we have the ability or we have we should be doing that actually.

Mr. Miley stated it would require an agreement with the village not to maintain it.

Mr. Alfano stated I would eliminate it then.

Mr. Miley stated okay, and then the last thing was the change in plantings, Chairman, from not sure what was originally there, but they're proposing now boxwoods.

Ms. Smith stated originally, what was planted were 18 euonymus and they're being destroyed by the deer. So, it's very unsightly and very difficult to maintain. So, Sarah has proposed boxwoods to replace euonymus.

Mr. Weise stated sounds reasonable to me. We have half a dozen deer running through a neighborhood every night.

Ms. Smith stated it's very hard even then the deer resistant plants get eaten.

Ms. Berger stated they certainly enjoy that buffet.

Mr. Cindrich stated we've taken it upon ourselves to spray not only our property, but our neighbor's property. And we've been successful in some areas, but it's an arduous proposition to control the deer.

Whitney Singleton stated can somebody help me? I'm looking at the application where the boxwoods incorporated in your plants?

Ms. Smith stated they're not...

Whitney Singleton stated I saw a picture of boxwoods, but I didn't see anything in the plans.

Ms. Smith stated so, I'm looking at the original landscape drawings, which came with the variance. So, it would be on the island. Let's see, you just pass the island and it's sideways unfortunately.

Ms. Palumbo stated yeah, if you turn it. If you could turn it the other way we rotate it that island you see there's a pear trees...

Whitney Singleton stated right here?

Ms. Smith stated yeah, those are the euonymus plants that are being destroyed by the deer. So, she would place them as symmetrically like they are with boxwood. So, they're not going to be too high to interfere the sight line, they'll be, you know, evergreen shrub. There's lots of boxwoods in the neighborhood, so it's consistent.

Whitney Singleton stated we're talking about quantitative and qualitative feature which I need to incorporate into the plan. So, I now have a, which incorporates a staircase, and one less pear tree, four instead of five and inclusion of boxwoods. Is there a caliper? Is there a number? Is there?

Ms. Smith stated there are 18 euonymus, I don't know how boxwoods don't go as wide as euonymus do, so...

Whitney Singleton stated how about boxwoods from the street property line? Which would you rather...

Ms. Smith stated the median I guess, is the landscape median on the property line, between the two driveways...

Whitney Singleton stated what's your property address? 55?

Ms. Burger stated yes, 55.

Mr. Cindrich stated the boxwoods would have to go to the curb line or it'd be a maintenance problem for the Sarah to maintain, you know, a grassy area between the property line and the curb line. So, if she wants, if she wants to maintain the wood chip and soil configuration, it's there now. They should go up to the curb. And similar to what's in the drawing now.

Ms. Berger stated to the curb sounds good.

Chairman Boxer stated any other changes?

Mr. Cindrich stated Whitney, the only thing that you may want to consider is just putting a reference in for future generations that the, there's no issue with. I don't know how you do the wording, but there's no issue with the railings that are on the wall or any railings required by code on the staircase.

Whitney Singleton stated there's no issue? You mean, that they're permitted.

Mr. Cindrich stated yeah, they're permitted in the encroachment area.

Ms. Smith stated okay, because there is a railing there.

Mr. Palumbo stated yeah.

Ms. Smith stated for safety.

Mr. Cindrich stated Chairman, Boxer is the only member of the ZBA that that heard the original application. So, thank you for your service.

Chairman Boxer stated you're welcome. Okay. Let's close the public hearing. Is there anybody on for this?

Mr. Miley stated let me check the zoom to make sure nobody has their hands raised. Give me one minute please.

The Secretary stated there are no hands raised.

Mr. Miley stated okay, nobody's raising their hand to speak. Nobody's in Village Hall.

The Secretary stated no one has called in.

Mr. Miley stated there's a number to call in 1646-558-8656. It's a little delay so you may want to wait a minute or two before you close the public hearing. There's about a five second delay from the actual to the televised. Nobody?

The Secretary stated no one.

Mr. Miley stated Michelle indicates nobody is looking to speak on this application, Chairman.

Chairman Boxer stated okay, then we need a motion to close the public hearing?

Mr. Miley stated we do.

Mr. Weise introduced a motion to close public hearing. Chairman Boxer seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay and we can make it easy. We can approve the variances as noted in the...

Whitney Singleton stated I can change the basis for the decision to incorporate the condition that the rationale from 2015.

Chairman Boxer stated okay..

Whitney Singleton stated so, Chairman if somebody would like to make a motion, I'd be happy to...

Chairman Boxer stated okay, I will approve it as stated.

Mr. Spector stated I'll second.

Whitney Singleton stated who was the second? You guys are too quick. Who made the second?

Mr. Spector stated I did, Wayne.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer asked for anyone opposed? Hearing none.

Chairman Boxer stated okay, then it carries. Now, for the fun part.

Ms. Smith stated thank you.

Chairman Boxer stated you're welcome.

Ms. Berger stated thank you so much for your time and consideration.

Chairman Boxer stated you're welcome.

Mr. Cindrich stated Chairman Boxer, I'd just like to thank Peter Miley for his due diligence in helping resolve this in a clear and concise way.

Chairman Boxer stated thank you, Peter.

Mr. Miley stated thank you Mr. Cindrich. Thank you, Chairman.

Chairman Boxer stated okay, and we have a motion to adjourn?

Mr. Miley stated Chairman, I think you have two sets of minutes, that we didn't approve yet.

Chairman Boxer stated I haven't read them. Anybody? Did anybody read them?

Mr. Miley stated you have September 15, 2020 and October 8, 2020.

Chairman Boxer stated right.

Mr. Spector stated I read through them.

Chairman Boxer stated any changes that you needed?

Mr. Spector stated not that I saw.

Chairman Boxer stated okay.

Mr. Weise stated I didn't see anything either.

Chairman Boxer stated okay, then we can make a motion to approve them.

Mr. Hoyt stated I'll make a motion to approve the minutes.

Mr. Spector stated it's two sets sets of minutes right, we're doing that one motion?

Chairman Boxer stated right, two sets..

Mr. Spector stated I'll second.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, there you go, Peter. Now can we go home?

Mr. Miley stated all set, thank you, Chairman.

Chairman Boxer stated okay, you're welcome. And I have a motion to adjourn?

Mr. Weise introduced a motion to adjourn. Seconded by Mr. Hoyt.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, thank you all very much.

Mr. Miley stated have a goodnight everybody. Goodnight.

The meeting adjourned at 8:40 pm.