

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, February 18, 2020 at 7:01 pm** in the Community Room Room, Village of Mount Kisco Public Library, 100 Main Street, Mount Kisco, New York

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

Members Absent: George Hoyt

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

Chairman Boxer stated okay, let's start. Okay, meeting 2020, we have one item on the agenda, does anybody want to, can we first approve the minutes? Does anybody have any changes to the minutes?

Mr. Spector stated not from me, no. First of all, what date was it?

The Secretary stated December 17<sup>th</sup>, I don't believe you were for that meeting.

Mr. Spector stated I think that was one of the few meetings I missed.

Chairman Boxer stated yes, you were the member absent.

Mr. Spector stated I was absent, so I can't do it.

Chairman Boxer stated okay, anybody else, any changes, guys? Any motion to accept?

**Mr. Alfano stated I'll make a motion to accept.**

**Chairman Boxer seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Mr. Spector stated I'll abstain, I guess, I wasn't there.

Chairman Boxer stated yeah, I never vote on it when I'm not here.

Mr. Weise stated this is a fast turn around...

Chairman Boxer stated no, we're pretty good. Okay, we have one thing on the agenda. And...

Whitney Singleton stated Chairman, sorry, hello all of you, Happy New Year.

Chairman Boxer stated you want to say anything?

Whitney Singleton stated I wonder if we can adjourn for advice of counsel for five minutes, not even five minutes.

Chairman Boxer stated sure, we can do that.

Whitney Singleton stated we can either all leave the room or have you leave the room.

Mr. Albano stated I'm leaving.

Whitney Singleton stated thanks.

The Board entered into Executive Session at 7:03 pm.

The Board returned from Executive Session at 7:13 pm.

**1. Max Gordon Architects  
14 (16) Main Street  
Mount Kisco, NY 10549  
(SBL) 69.81-1-3**

**ZBA# 20-1  
Area**

Mr. Anthony Albano of Stonefield Engineering was present.

Mr. Albano stated good evening, Anthony Albano with Stonefield Engineering on behalf of Chase Bank appearing before you tonight. So the project in front of you is for lighting upgrades associated with some ATM upgrades, associated in the front vestibule of the Chase Bank located at 16 East Main Street. So one of the driving factors of this application is New York State has an ATM safety Lighting Act, where we have certain light levels that we have to maintain on our site to provide a safe, adequate light level for the patrons of the bank. So in order to meet those requirements, we are proposing to install...

Mr. Weise stated if you could bring that up a little bit closer, I can't read that.

Mr. Albano stated we're proposing an addition four fixtures, we are proposing a lantern style LED fixture that will mount to the wall for them, along the frontage of the buildings. Now once again, this is to meet a New York State ATM lighting requirement which can be summarized as out to 60 feet, you need 2 foot candles measured at 5 feet high, out to 50 feet. Out to 60 feet, its measured at 5 feet high pointed at a light and then you need for 30 feet measured at ground level be at least 2 foot candles. So what we're proposing these four fixtures that meet those requirements. Now we tried as best as possible to minimize the overlap and spillage across the property line but due to the fact that the building is close to the property line, there is that spillage which was pointed out in the review letter and from the denial. So we are seeking a variance of approximately 9 ½ foot candles for a total of about 10.1 at the property line to meeting these requirements. Once again, its just solely associated with the front ATM for these upgrades because that's where these upgrades are concentrated to. So we did our best to try to minimize with a 30 kelvin temperature light which is on the cooler side, sorry, on the warmer side more of that yellowish LED color. So it is a little bit more in line with what you want with the Downtown Area. Also, with this fixture being along Main Street, it is a busier area where that lighting won't be a distraction for cars and safely light up the sidewalks for pedestrians. So to us, it's not a detrimental factor to approve this variance as part of this project.

Mr. Weise stated and where would the streetlamp be on that...?

Mr. Albano stated streetlamps, there is one right here. There's actually two along the property, we don't include those into our light levels because the bank doesn't have control of them. So if one of them went out, the bank would be liable for having the dark spots associated with that. So in our analysis we don't include it in our light levels.

Mr. Weise stated and you have one ATM that's going to be built?

Mr. Albano stated yeah, there's, I believe there's one existing today, I know that...

Mr. Spector stated inside.

Mr. Albano stated yeah, inside...

Mr. Spector stated okay.

Mr. Albano stated and what I believe we're doing is modification to that, I'm not 100% positive they've settled on going with the two or just a remodel of the first. But because they are doing upgrades, it triggers the ATM Safety Act for us to make a good faith effort to bring this site into compliance.

Whitney Singleton stated and why are you proposing in the front of the building instead of the existing location?

Mr. Albano stated because we're not touching the side one as part of this application.

Mr. Alfano stated no, isn't there one inside, the right side of the bank when you walk in the front door.

Mr. Albano stated no, there is one on the side over here.

Mr. Alfano stated in the front.

Mr. Albano stated there is one in the front here.

Mr. Miley stated two total.

Mr. Alfano stated there's two, that's what I thought.

Mr. Albano stated and the changes are part of that front ATM.

Mr. Alfano stated move it outside?

Mr. Albano stated it's still supposed to be inside that vestibule, we're just doing upgrades.

Mr. Weise stated so that little grey box is not an ATM?

Mr. Albano stated this one?

Mr. Weise stated yeah.

Mr. Albano stated that's the existing one that is there today, above the safety deposit box.

Mr. Weise stated that is the existing light over this...

Mr. Albano stated which were including in as part of this upgrade, it helps bring us into compliance with the overall frontage.

Mr. Weise stated would you get rid of that light?

Mr. Albano stated we would maintain it, that would help us with some of the light levels. If the Board wanted us to remove that one, we would just have to look at our light levels again and might add an additional fixture or two in addition to what we've proposed.

Mr. Spector stated so that ATM that's in the vestibule, I've never realized that there was one available 24/7 in the front. I know the one on the side because that's the one that I use.

Mr. Albano stated it's new, when they remodeled the bank, they installed a second one.

Mr. Spector stated oh they did, they installed that. That's good to know, I never realized it was there.

Whitney Singleton stated so to be clear though, you could simply not have that as a 24/7 ATM machine and you wouldn't need relief from this Board.

Mr. Spector stated because you already have another one that is 24/7.

Mr. Albano stated so the issue is with the ATM there, even with it not being operational 24 hours, there might be expectations that that one would be operational, so you would have a patron going up to that front entrance to try to access it, not realizing it's not operational.

Chairman Boxer stated how about a sign?

Mr. Weise stated you could have ATM hours on that one.

Mr. Albano stated yeah but as Chase's operation, they feel that 24 hour ATM is what is suitable for here and that's what the scoping of these projects. It's an operational factor that they deem is necessary for this bank's operation.

Chairman Boxer stated do they have any statistics on how many people use their ATM and what hours?

Mr. Albano stated its not provided for me, I know Chase is constantly reviewing all of their statistics and making changes throughout their banking network, so there's, it's constantly going ATM's throughout their sites, when they find that there's that demand that's needed during all hours and with the digital age that we're living in today, people are doing transactions all the time. So it's not something that would be out of ordinary for two people at a nonstandard time to do banking.

Mr. Spector stated that's true but they do have a 24/7 ATM in existence already which is right adjacent to parking. That's maybe the reason I've never noticed that was there because it's natural to use the existing one and not the one in the front.

Chairman Boxer stated the one in the front would be used, I don't know, because there's no parking for it.

Mr. Albano stated I will saw operational, we have seen people using both ATM's at the same time, parking the side, one walking to the side and one walking into the front.

Mr. Alfano stated when it's open.

Mr. Spector stated I guess it backs up on the side, sometimes.

Mr. Alfano stated is the new ATM open 24/7?

Mr. Albano stated it is open, it is constantly open.

Mr. Alfano stated it's open 24/7, the one with the [inaudible].

Mr. Albano stated yes, that's the information that I've been told is that it is operational.

Mr. Alfano stated okay, I didn't think that was the case.

Chairman Boxer stated can we request the statistics from Chase on the usage? Is that allowed?

Mr. Alfano stated I think it allowed, they may not give it to us.

Whitney Singleton stated I think the bigger question is, what requirements your Board has, if any, to meet a requirement, a desire to have multiple 24 hour 7 ATM's within a single site.

Chairman Boxer stated right.

Mr. Spector stated well when they did their modifications, if they added that vestibule at some point? Because they didn't come before the Planning Board for that, did they?

Whitney Singleton stated I don't bank here, I didn't know that there was one.

Mr. Miley stated no, they have a building permit.

Mr. Spector stated they do?

Mr. Miley stated they do.

Mr. Spector stated okay.

Mr. Weise stated I think that's a very good question, you know, can they demonstrate a need for this ATM, another 24/7 and that you need the lighting changed for it. I think that makes sense.

Mr. Spector stated I think the other question is, can we as, is that a relevant even question for us because it already exists, it's there, it was approved with a building permit, so it exists.

Mr. Miley stated there was no proposed lighting changes initial, they did an interior remodel.

Mr. Spector stated which included a 24 hour, 24/7 ATM access from Main Street.

Mr. Miley stated they have original approval for a 24 hour...

Mr. Spector stated so yeah, I don't know if we can even go back.

Whitney Singleton stated well you could argue that they didn't come in for a site plan change. Yet, they knew that they were going to have to come before the Planning Board and Zoning Board for a site plan change to open it up 24 hours, that's on them, not on you.

Mr. Spector stated well when they applied for a permit, did it specify 24/7?

Mr. Miley stated no.

Mr. Spector stated it just said ATM.

Mr. Miley stated correct. And there was no proposed lighting changes.

Mr. Spector stated right and the law in effect at the time that they did that.

Mr. Miley stated I don't know that.

Mr. Spector stated I would assume...

Mr. Alfano stated it was what, six months ago?

Mr. Albano stated I would assume that was in effect.

Chairman Boxer stated now before we go back, just let me go back a bit. I'm not, I don't know the different between lumens and candle foot whatever, does what you propose meet or exceed the State law?

Mr. Albano stated we tried with this design, we tried to get as close as possible with it. So with our light levels which are summarized in the table, some of the ones will be a little but higher but that's because it's just the points on this five by five grid here, when you go to a one by one grid where there's a lot more numbers, that levels will go a lot closer to that minimum, so we meet the minimum through this entire area but we don't necessarily show the lowest levels on this diagram.

Mr. Miley stated can I ask you a question?

Whitney Singleton stated I think what he's saying, that's not the question.

Chairman Boxer stated yeah, go ahead.

Whitney Singleton stated the question is to what extent are you exceeding the minimum requirements of the ATM Safety Act? In other words is there going to be 25 lumens where 5 are required?

Chairman Boxer stated yes.

Mr. Albano stated there will be increase above, just because once again for that overlap, we need to get that entire area, so because we need to get that entire area where the light fixtures do overlap, there will be higher light levels. So just roughly looking at it, by, right by the existing lights there will be approximately about a 30 foot candle coverage just because it's at the junction of three lights. But then as you get further out, it gets closer and closer to the light levels that are required by the State.

Mr. Miley stated Chairman, do you mind if I ask the applicant a question? This is going back some months because our Planner was involved with this lighting. So they contacted Jan and Jan recommended a certain type of lighting, I'm not sure if you guys took that into consideration but...

Mr. Albano stated yeah.

Mr. Miley stated I'm not sure what the end result was with the Planner.

Mr. Albano stated yeah, originally we did have a similar fixture to the existing one in the front all along the frontage and we would only need an additional two with that one. But reducing the warm temperature color and the overall wattage of the fixtures, it did require the additional two to three fixtures that are shown on the plan as of right now?

Mr. Miley stated why?

Mr. Albano stated because the light levels dropped, that the production of the light levels that were previously proposed with the switch to the lantern style got lower so because they got lower we had to add additional lights to compensate for that overall spread.

Chairman Boxer stated but do you need that much light?

Mr. Albano stated in order to light up the entire area, we do.

Chairman Boxer stated how about more lights at a lower level?

Mr. Albano stated adding more lights, it's we were run into an issue actually with physical wall space, there's windows that we have to avoid, there's the columns that stick out that will have some blockage. So in the design here, we have that all taken into account, so the only other option would be to put additional poles out in the grass which is an option we explored that just tend to bring those light levels at the property line even higher because you have the light fixture physically closer to that property line.

Chairman Boxer stated I don't understand why you need to exceed the requirements in the law.

Mr. Albano stated because that's a minimum that we have to maintain. So with that two foot candle level, we have to get throughout this entire area. So in order to get two at the corner with the overlap of the lights, there will be bright spots where that existing light fixture is. So, if we didn't have this fixture, we wouldn't be compliant here, if we didn't have this fixture we wouldn't be compliant by the steps and so on and so forth. Each one helps with a separate area along the right of way. They all overlap and help each other to meet the overall...

Chairman Boxer stated can we get, do you know exactly what the Planner proposed or can get that from him?

Mr. Miley stated yeah, I have it, I didn't bring it with me because I didn't think it was going to be relevant tonight but I have some of the stuff that he proposed.

Mr. Spector stated I'd like to just get back to this because I'm just curious about how this all sort of evolved. So they came in for building permits...

Mr. Miley stated they sat with myself and the Planner, they proposed their renovation, didn't meet the requirement to go to Planning for whatever reason, I don't have notes in front of me. But some of the things that did pop up were lighting that they had to meeting the lighting code, so that's my understanding...

Mr. Spector stated okay.

Mr. Miley stated that Jan and the, I'm not sure if it was your firm or somebody from your firm...

Mr. Albano stated it would be with project Expeditors, I believe it's Temika Latilla...

Mr. Miley stated yeah, that's sounds familiar.

Mr. Spector stated and at that time they were told they have to come to the ZBA for approval?

Mr. Miley stated well he proposed lighting that would be compliant and they said exactly what he's indicating tonight that it didn't meeting the State requirement and you know, this is our lighting code...

Mr. Spector stated so it complies with our Code but not the State Code.

Mr. Miley stated right.

Mr. Alfano stated what's driving the 9.5 foot candle variances.

Mr. Albano stated it's the overall light level at the property line. So for residential, I'm sorry, for commercial properties, the maximum is a half foot candle. So our greatest was 10.1 at the property line...

Mr. Alfano stated for which one these?

Mr. Albano stated I believe it was the five foot...

Mr. Miley stated to the right corner. Go up to the horizontal plane, up into the right corner, somewhere up in there.

Mr. Albano stated so it's right in this area.

Mr. Alfano stated got it.

Mr. Miley stated as the sidewalk starts to get closer.

Mr. Spector stated what is the actual impact of this whole concept of hotter versus cooler? If they're putting out the same amount the light, how does it actually appear differently?

Mr. Albano stated so there is a little bit of a difference in the amount of foot candles produced which is the intensity of the light. The difference between the kelvins from the 30 up to 50, that's the range, 40 is standard...

Mr. Alfano stated standard light bulb in your house? Like older light bulbs around 2500K, the whiter the higher the temperature, it looks more white.

Mr. Albano stated so 30 is more yellow, but 50 is almost white...

Mr. Spector stated so its an appearance different, one is maybe a little easier on the eyes.

Mr. Alfano stated yes, white light tends to be more harsh.

Mr. Weise stated like these.

Mr. Alfano stated yeah.

Mr. Spector stated blinding lights.

Mr. Alfano stated the light get bluer as you go up in temperature.

Mr. Spector stated but still meets the, so the lumens is what counts, the color doesn't.

Mr. Albano stated correct, the color is more of a visual thing, it's not really a light production item.

Mr. Miley stated Chairman, I just noticed something on here. Just a question for you sir. It says in New York State lighting requirements is minimum 5 foot candles at face of ATM, and then saying proposing 4.87, why not propose 5 then if that's the minimum?

Mr. Albano stated once again, it's one of those things that trying to hit all of them combined, leads to certain areas that will be hotter and higher in temperature, sorry in foot candles than the requirement. So because we have once again, the 8.7 is right at the door...

Mr. Miley stated right.

Mr. Albano stated but because we also hit the two foot candles out by the property line, that overlap of the two fixtures results in that 9., sorry the 8.7.

Mr. Miley stated so at the one foot at the property line, at 6 foot. You're going to have essentially the street lit up at about 6 or 7 I would guess.

Mr. Alfano stated let's assume it drops off from there, right? It's only going to get, but even into the street it's going to be right, maybe 8, 7?

Mr. Miley stated I'm no lighting engineer, I'm just going based on...

Mr. Spector stated just as an impact, the ATM is there already...

Mr. Albano stated correct.

Mr. Spector stated if this Board does not approve and they can't put the lighting up, does that mean they have to shut the ATM down, I'm assuming, I don't know. What is that...?

Mr. Miley stated at night probably.

Chairman Boxer stated right because they won't comply with the safety law.

Mr. Spector stated at least at night.

Mr. Alfano stated but there's still one existing 24/7 ATM on the side.

Mr. Spector stated which is compliant.

Mr. Miley stated is it lighting compliant on the other side?

Mr. Spector stated grandfathered?

Mr. Albano stated we did do, I believe we did do a lighting study as part of a separate application. That one was compliant with all the lights that were out there. That's why you'll see on that side there are more light fixtures than along the front and the side.

Mr. Miley stated right.

Mr. Weise stated so do we know how the decisions were made to, you have the ATM first before the lighting and now that you have the ATM you're requesting more lighting, that's kind of...

Mr. Spector stated chicken before the...

Mr. Albano stated unfortunately I can't, I don't have any information, we were brought on as part of, when the applications were going through and so I don't know exactly where Chase is ideology came...

Mr. Spector stated now I think it's kind of relevant to say, like how much night use does that ATM actually get compared to the other one? Because you've got two ATM's now that are going to be 24/7, one is extremely convenient because there's parking right outside of it which is the reason why I always use it when I do...

Mr. Miley stated me too.

Mr. Spector stated and then you have another one there that frankly based on its actual usage may not even be necessary 24/7.

Whitney Singleton stated and theoretically, what if they wanted one on the other side of the building, there's a place to put on over there too.

Mr. Weise stated they may be wanting this ATM for marketing for the brand.

Mr. Albano stated it wouldn't surprise me, we don't personally get the information of why they want ATM's that often. I know a lot of time it is due to usage, they want that higher level but...

Mr. Weise stated because I don't know why else you'd need two separate locations, usually they're next to each other.

Mr. Alfano stated the thinking was that they closed down the other bank which had one. And they said why don't we just put in the new bank.

Mr. Albano stated I will say with the ATM vestibules...

Mr. Alfano stated that's probably a lot of it.

Mr. Albano stated with ATM vestibules, it is having separate ones does provide a little bit of a safer aspect because you're not banking right next to somebody if we were put a second ATM in the existing vestibule, if there was room. There's a lot of conflict between the two people banking, you can possibly have somebody pretending they're using the ATM...

Mr. Weise stated every bank has that...

Mr. Spector stated you need a card to get into it.

Mr. Alfano stated in Grand Central Station there's 5 next to each other.

Chairman Boxer stated Citibank in Mount Kisco has three next to each other.

Mr. Weise stated so does Bank of America, I mean they all have a bunch next to each other.

Chairman Boxer stated they all have shields.

Mr. Spector stated you need to have an ATM card to get into the vestibule.

Mr. Weise stated you can make judgement call on the person that's next to you.

Mr. Miley stated yeah, during nonbanking hours, yeah.

Whitney Singleton stated can I ask whether this is, whether you know whether the application is self-initiated or it came as a result of contact through the State Department of Banking or Financial Services?

Mr. Albano stated that I'm not 100% positive on.

Whitney Singleton stated so it's more likely since we don't see it in our package that this is something that your choosing to do as opposed to being required to do.

Mr. Albano stated typically when Chase Bank does do upgrades, they have lighting upgrades associated with it for the ATM's, so...

Mr. Spector stated it's a liability question too for them.

Mr. Albano stated exactly.

Whitney Singleton stated but that wasn't presented when you brought in the ATM.

Mr. Miley stated I don't recall the lighting coming up, you can still put two ATM's inside, it doesn't mean it could operate you know, under our current code at night, I mean it is what it is because banking is banking. It doesn't matter if it's electronic banking or you have a teller, it's just banking. The only thing that's coming into question now is the lighting because of after hours. And I don't recall that coming up, I could be wrong but I do recall Jan speaking with, on a pretty regular basis and we spoke to Temika several times about the lighting and Jan has been consistent saying that it doesn't comply with Code.

Mr. Spector stated I think the difficulty for us is that you know, we're looking at this on a piece of paper and we have no way how it's going to appear of drivers, walkers, or anybody else in Town.

Mr. Miley stated yeah.

Mr. Weise stated and the bank, they created this problem without consultation with us before, they put in the ATM and now they're asking for the lighting.

Mr. Miley stated and they can still have the ATM, just a matter of whether they operate or not operate at night.

Mr. Alfano stated I'd be interested to know what the foot candle values are with just the existing light.

Mr. Albano stated I actually have an exhibit of that.

Mr. Spector stated I mean it should have come in with a complete application initially when they came in...

Mr. Miley stated they may have, you know, I don't have the information they have, I know there was lighting proposed, I just don't recall. Then it would be their choice, you can still have an ATM, like I said you can have 5 ATM's in there...

Mr. Spector stated yeah, the hours of operation is their choice.

Mr. Miley stated exactly.

Mr. Albano stated so we did do light readings are part of the application when we came in, this helps up...

Mr. Alfano stated a baseline...

Mr. Albano stated helps give us a baseline of where need to add the lights. So all these red areas were areas where it was noncompliant and then same thing...

Whitney Singleton stated those are at your different levels?

Mr. Alfano stated this is existing lighting.

Mr. Albano stated so these are all measured at the different light levels.

Mr. Miley stated so you're saying the side is not compliant and it's compliant today?

Mr. Albano stated on the side here?

Mr. Miley stated it wasn't compliant but then the application doesn't include any additional lighting, so how did that lighting get there.

Mr. Albano stated these actually aren't part, sorry, when we did the original one, we weren't sure where the ATM was going. So we did think at that point and I have it labeled on here, right here, we thought the ATM was going in the night deposit box. So that's why we show it on the side because if you're in within a certain distance of the corner, you have to do a light around, so that part in this application because the

vestibule on the inside, that would trigger that. So these areas, you're right, wouldn't be counted in but there would be still be areas up front that would apply.

Mr. Alfano stated they're all like .6, .4.

Mr. Albano stated and that also accounts for the existing street light lighting as well.

Whitney Singleton stated so you're counting it for some purposes but not for others? I just want to be clear.

Mr. Albano stated to do the existing to get that baseline of where the dark areas are today. So if we can't physically go out there and shield the existing streetlights without turning them off, so they are accounted in the existing ones.

Whitney Singleton stated so what you're doing is your calculations for proposed lighting are going to be based upon assuming that all streetlights are out?

Mr. Albano stated correct, we don't take into account for that because the bank doesn't have control of those light levels.

Mr. Alfano stated so for the baseline, the streetlights were excluded.

Mr. Albano stated for the existing, they were included. Because we go out with a physical light meter...

Mr. Alfano stated right.

Mr. Albano stated so having it out when we take the light reading, we can't physically turn off the light...

Mr. Alfano stated no, I know but it's not an apples to apples comparison, that's the problem. With the new one because you said the new one you're excluded those streetlights, correct?

Mr. Albano stated true, that would increase the areas of noncompliance in our [inaudible].

Mr. Alfano stated yeah but I'm just concerned you're comparing apples to apples.

Mr. Weise stated is this a streetlight?

Mr. Albano stated exactly, those are the existing streetlamps right in there.

Mr. Miley stated I have a stupid question, maybe. Does the State allow you to calculate street lighting even though you have no control over?

Whitney Singleton stated that's a good question.

Mr. Albano stated I've never run into a situation where we've included into it, it's something that we can add to our light levels but we've only, when we have had it, we include it up and above.

Mr. Miley stated so if the street level lighting is allowed to be calculated, then it will push the foot candle closer to the building, thereby reducing it, no?

Mr. Albano stated yes but once again the bank would take the stance from that they can't physically change the fixture of the light...

Mr. Miley stated why?

Mr. Albano stated in the street because they don't own...

Mr. Miley stated no, no, no, not in the street, like if the state, it says the State just indicates how many foot candle and if the street light produces x amount of foot candles, would they allow that to be part of the calculation so you can reduce the foot candle of the fixture you're proposing.

Mr. Albano stated I understand where you're coming from and I wouldn't suspect that they would not allow that. The issue is from the bank standpoint is that if they include the streetlight into it, for meeting the requirements and the streetlight goes out, the bank doesn't have the right to change that street fixture, so then the site can be noncompliant for a certain amount of period that the bank can't control.

Whitney Singleton stated the question is what does the law require and what does Chase prefer?

Mr. Miley stated yeah.

Chairman Boxer stated right.

Mr. Miley stated because if the law allows the lighting, you know how much less they can propose? And if the light happens to go out that one day, lock the bank that night or lock the ATM vestibule.

Mr. Alfano stated does the law assume that it's light from anywhere?

Whitney Singleton stated well that's, I have a note to myself, can an applicant or the ZBA count the street lighting in determining foot candles. I mean, that's something we'll have to get an answer to.

Chairman Boxer stated right.

Mr. Miley stated I thought this was going to be an easy night.

Chairman Boxer stated we like you so much, you can come back. The other thing is we, can you do, can they do some kind of setup so we can see what the actual light looks like at night. I mean, it's nice to talk about candle lights and all that stuff, none of us except Ralph at the end, knows what the hell you're talking about. So we would like to put up some lights so we can see what it does and then that way you can also see how it interacts with the street lights and if it turns out that your lights and the street lights make it super bright, then your lights can be lower.

Mr. Albano stated understandable. That's something that we can look into, we typically don't do that because it is hard to visualize lighting in a nonspecific site. Because if we brought a light in here, we'd have to turn off all the other lights, to get that same effect of being dark around it, so...

Chairman Boxer stated no, we just want you. We would go at night, you'd put up the light and we'll go at nighttime when it's dark out and see what it does.

Mr. Albano stated actually putting a...

Mr. Spector stated a temporary setup, maybe even...

Mr. Albano stated I mean we can look into that, we've never done that before, I'm sure that's an option we can possibly do. I'll reach out to the Chase team to see if that's...

Chairman Boxer stated okay.

Mr. Weise stated but the street lamps, it looks like the lumens around them, except for right next to them, it falls off really quickly.

Mr. Albano stated those light fixtures are...

Mr. Weise stated it's like just underneath it, is .8.

Mr. Alfano stated there's only one light fixture in the front of the bank, right?

Mr. Albano stated there is one over here too...

Mr. Alfano stated oh, there is, okay.

Mr. Albano stated on both sides. It might not have shown up on our survey because we weren't accounting for it, so we didn't show it on...

Mr. Alfano stated even though it's attached to the bank?

Mr. Albano stated it's not attached to the bank.

Mr. Alfano stated it's another one, okay.

Mr. Weise stated there's four lamp posts there.

Mr. Albano stated we're proposing four and then there's the two, the two streets, one here and one here.

Mr. Alfano stated two street lights, got it.

Mr. Weise stated and there's two on the other side, is that right?

Mr. Albano stated yes, you're right, there's some on the other side too. Along the parking areas.

Whitney Singleton stated do you want to propose date? Do you think that that would be possible to schedule now?

Mr. Albano stated it would be hard for us to schedule now, I'll have to reach to the design, the construction team and see if they have any of the fixtures available, sometimes they don't have it on hand, so we would have to see. It might also be something that we'll have to reach out to the actual light manufacturer to see if they can come in possibly here and do a presentation, I know Chase has done that before on a different site. So that's something that we can see that architectural air lighting which is the manufacturer of this one, we'll see and reach out to them.

Mr. Weise stated and is this what the lamp will look like?

Mr. Albano stated the cut sheet is the proposed one.

Mr. Weise stated okay, so that's not a, it's not, what's it called, one directional...

Mr. Alfano stated a spot, it's not a spot, it's more of a lamp.

Mr. Albano stated it's lantern style with the, the lights are actually in the top so there's not... So ours have a top but, instead of the lot coming up through the top, it shines down.

Mr. Alfano stated why two different models?

Mr. Albano stated they're different throws, one is a type four which throws out straight, the others are type three that go left and right to try to maintain and keep it on site. The one that's the four that throws out further is this one because need to get to that edge a little bit quicker.

Mr. Alfano stated I got you, it's just the way the light is focused.

Mr. Albano stated this one goes like this and these go like this, more. These will throw out front but not as much as the other one.

Mr. Alfano stated got it.

Chairman Boxer stated I think we need to, not approve it right now until we get the answer to some of our questions and also let them know we really want to see what the heck it's going to look like.

Mr. Albano stated okay.

Mr. Spector stated yeah.

Chairman Boxer stated and also, in your presentation kind of, I've never seen one so short other than when someone goes pro bono because they don't know what they're doing but it's very skimpy your presentation, as far as...

Whitney Singleton stated no yours personally, the submission of the five factors.

Chairman Boxer stated the other one, yeah.

Mr. Albano stated okay.

Mr. Miley stated Chairman, I can forward to the Board the lighting recommendation from the Planner, to just kind of give you an idea what he was looking at.

Chairman Boxer stated okay, that would be good. So we can compare it, do a side by side with that and what they're proposing. So I think you can, if you can get some answers back to us about whether or not they can setup a time for us to look before the next meeting, you can come back a the next meeting. If not, we're going to really have to wait until they decide what they want to do and if they decide they're not

going to allow us, they're not going to set it up, I don't know if necessarily that we're going to approve just because you give us numbers and...

Mr. Albano stated we can, we'll reach out, when is the next meeting date?

The Secretary stated March 17<sup>th</sup>.

Whitney Singleton stated third Tuesday.

Chairman Boxer stated St. Patrick's Day, come on!

Mr. Miley stated I'll be at one of these bars, sorry.

*Laughter*

Chairman Boxer stated we'll hold the meeting at one of the bars.

Mr. Albano stated it might be a little bit tight to try to get it by then.

Chairman Boxer stated okay, then come a month after that.

Mr. Albano stated we'll work with the Building Inspector to get all the information and tie back...

The Secretary stated after that it will be April 21<sup>st</sup>.

Mr. Albano stated April 21<sup>st</sup>.

Chairman Boxer stated also, if, do they want to put someone, I guess they don't use it at night, can we somehow figure out, they're not going to be use, how much of a backup they actually get on the side one. Is someone...

Whitney Singleton stated I'm going to evaluate whether or not that's an appropriate...

Chairman Boxer stated okay.

Whitney Singleton stated whether that's an appropriate inquiry on your part.

Chairman Board stated okay, just let us know...

Whitney Singleton stated whether or not they're entitled to have, I mean, I wasn't really joking or being facetious but they could put one on the South Moger side as well. How many ATM locations are they allowed to have?

Chairman Boxer stated right.

Whitney Singleton stated just because you know, they want it.

Mr. Alfano stated what would also be good to know, it's a little vague in here. So in the law there are distances away from the ATM, it would be good to know the distances on this map.

Mr. Albano stated they would go past the property line so we...

Mr. Alfano stated I understand but just mark that, so it's clear.

Mr. Albano stated absolutely.

Whitney Singleton stated so from my perspective, I have three issues that I'm going to look into, whether or not the Zoning Board has to entertain an application to allow lighting to exceed its levels for the ATM Safety Act when there is already a compliant ATM within the building. Can we examine or question the need for a second ATM by inquiring as to the usage of the two different sites. Three, whether the applicant or the ZBA can count street lighting in determining minimum lighting levels.

Chairman Boxer stated okay.

Whitney Singleton stated unless there's other issues you want me to look into, that's what I'll look into.

Chairman Boxer stated okay, and if you could please ask them, tell them we would like to see a live demonstration, leave it up for, if you're going to do that, we'll go by now to see what the lighting looks like to the naked eye and then they put it up and we can see, compare them.

Mr. Albano stated sorry to interrupt. The one issue I can possible see with that, to get the fixture up, they would have to add, run some conduit and some other items on it, so I don't know if they would be able to do that on a temporary basis.

Mr. Miley stated a temporary pole or an extension cord.

Whitney Singleton stated you can do it on batteries for all we care.

Mr. Albano stated I'll reach out and see what we can do.

Mr. Miley stated you don't have to permanently mount it, we just kind of want to get the feel of the location, approximate location, proposed located.

Mr. Spector stated see what a bulb that bright looks like.

Mr. Alfano stated like a light in here or a demo in here is going to look different than the front of the building.

Me. Weise stated exactly.

Mr. Albano stated understandable.

Mr. Alfano stated its all where the light actually is...

Chairman Boxer stated and if they want to meet us after we look at the site, after we've looked at it and talk to us, I don't...

Whitney Singleton stated wouldn't you want to have somebody there potentially with a light meter to show you the readings.

Chairman Boxer stated true but do we want the enemy or somebody on our side... I guess a meter is a meter...

Whitney Singleton stated can I tell a brief story, I know I shouldn't weigh in on this, I just want to tell a brief story about somebody I knew that did a lot of engineering work for New York City and they did engineering work to determine the seismic activity associated with buildings when they were doing subway work and they had the meter that worked and they had the meter with the needle that never moved, depending on what they wanted, so I guess it's possible.

Mr. Miley stated plumbers do it all the time with the air pressure gages, I always drain them to make sure they're working.

Whitney Singleton stated and the last thing that the Chairman previously mentioned in our discussions, is it possible to show without them having to have a, you know, two separate tables side by side, to what extent your measurements at the different heights and locations exceed the State requirements, the minimum State requirements.

Chairman Boxer stated yeah.

Whitney Singleton stated so back numbers, red numbers type of thing...

Chairman Boxer stated right, that'd be good.

Mr. Weise stated that'd be great. Your proposed and what the minimum State is, love to see that.

Chairman Boxer stated how does the Board feel that if they can, if we can get a setup even though its after the submission time, we'd let them come to the next meeting as long as we see. Any thoughts on that?

Mr. Weise stated so an approval pending the ability to see it?

Chairman Boxer stated no, no, I'm saying that there's a cut off, if they would have to come back by a certain date for submission but we've done it, can we extend the submission date for them, assuming they.

If they want to get to the next one, as long as they get everything that we need by then, you know, extend it by a week or something.

Whitney Singleton stated your Board can do what you wish to, particular in light of the massive public turn of this meeting...

Chairman Boxer stated we don't get turn outs unless it's a neighborhood.

Whitney Singleton stated no, I understand that but in light of that, if you wanted to minimize the submission date, you could. I guess it really depends on when they have their...

Chairman Boxer stated yeah, we'll work with them, if they can work with us, we can work with them as far as timelines.

Mr. Miley stated just not the day before, we still have to review it.

Mr. Albano stated once again, we'll try to get it in as soon as possible. If we don't, if we know we're not going to get it, we'll reach out to the Board and the Building Inspector to let everybody know.

Mr. Miley stated you can submit PDF's to me first, I can shoot it to the Planner and take a look at it together.

Mr. Albano stated yes, absolutely.

Mr. Miley stated and make comments if any are needed.

Chairman Boxer stated.

Mr. Miley stated prior to even the full submission coming in with three sets of drawings and wasting more paper and we can just shoot it as a PDF and make recommended changes if there are any needed.

Mr. Albano stated absolutely.

Chairman Boxer stated any other questions? Anybody want to go home?

Whitney Singleton stated so we're currently adjourning to the March meeting...

The Secretary stated March 17<sup>th</sup>.

Chairman Boxer stated right.

Whitney Singleton stated March 19<sup>th</sup> and in the event they're not able to get this stuff done, we'll adjourn to April.

Chairman Boxer stated right. Okay...

Whitney Singleton stated thanks.

Mr. Albano stated hopefully we get everything ready for the next meeting so we can get this accomplished. Thank you very much.

Chairman Boxer stated you're welcome.

Mr. Weise stated so we have a demonstration before this...

Whitney Singleton stated whenever they can.

Chairman Boxer stated whenever they can and then we can decide if the demonstration is too close to the meeting, we can tell them you have to wait until the next meeting, we need everybody...

Whitney Singleton stated that's what I was kind of wondering, did you want to pick a particular date that they might be able to do it versus them telling you a date that maybe all of you can't attend.

Chairman Boxer stated I think we need at least, they need to give us at least a week before the meeting.

Mr. Miley stated we can send out an e-mail with everyone attached and figure it out.

Whitney Singleton stated what date would Board members generally be available, instead of the third Tuesday of next month, on the second Tuesday. We'll be in a meeting...

Mr. Miley stated there's Planning there, yeah.

Whitney Singleton stated or do you want a Thursday or a Wednesday, do you want to give them a day that might work?

Chairman Boxer stated when is the submission ate requirement for the next meeting?

The Secretary stated for March?

Mr. Miley stated he indicated that he has to check with Chase, they might not even willing to do it.

The Secretary stated it's a week from today.

Whitney Singleton stated well that's another question.

Chairman Boxer stated a week from today which is the 25<sup>th</sup> and the meeting is the 17<sup>th</sup>. So the submission date is three weeks before the meeting.

The Secretary stated always, 21 days.

Chairman Boxer stated so we can discuss whether we want to make the submission date, allow them to come in two weeks before the meeting instead of three weeks...

Whitney Singleton stated I think, did you indicate... Are you Jeff?

Mr. Albano stated no, I'm Anthony, I work directly with Jeff.

Whitney Singleton stated Anthony, you don't think that you would be able to do a presentation two weeks from tonight at the bank?

Mr. Albano stated probably not. Once again we would have to contact the construction guys and the lighting manufacturer to see if we can have a demo.

Whitney Singleton stated we're just trying to get a little better idea of what logistically works, if you can't do it two weeks...

Mr. Albano stated if the April 17<sup>th</sup> one works best with everybody, we would have no issue going to then.. In the meantime, that would give us enough time to work and get everything in.

Whitney Singleton stated so if that's the case, then they can potentially do it one month from today, your Board's already going to be here, you could meet them at or before or after your meeting...

Mr. Spector stated you know, I just thought of something that, we change the clocks back in early March, so it's going to be light at 7 o'clock...

Whitney Singleton stated you're cagey aren't you...

Mr. Albano stated we don't think that far ahead, we're good, not that good.

Whitney Singleton stated we can do it at whatever time.

Mr. Spector stated you'll have to set it for later on in the evening, maybe even after a meeting instead.

The Secretary stated if you're going to push it, April 21<sup>st</sup>.

Whitney Singleton stated it's like trying to herd cats though, once we leave the room.

Mr. Albano stated it was March 17<sup>th</sup>. So then the plan would be to get it up for March 17<sup>th</sup>, so you guys can go from the meeting out to Chase Bank branch.

Mr. Spector stated depending on how many matters we have on the agenda, if we have anything else...

The Secretary stated I won't know until next week.

Whitney Singleton stated okay, you'll let them know. It would just be easier to coordinate on a night that they're already here.

*Side discussion*

Mr. Albano stated thank you very much.

Mr. Spector stated we can change the meeting time, make it later, if there's no other applications.

Chairman Boxer stated it has to be dark outside, come on. What are you afraid of the dark?

The Secretary stated yes.

Whitney Singleton stated are we done?

Chairman Boxer stated motion?

Mr. Spector stated so moved to adjourn.

Chairman Boxer stated second?

Mr. Weise seconded the motion.

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