

Minutes of the Regular Meeting of the **Zoning Board of Appeals** of the Village/Town of Mount Kisco held on **Tuesday, January 18, 2022 at 7:00 pm** via Zoom Teleconference

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

Members Absent: Ralph Alfano

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

Harold Boxer: Start the meeting and just taking number two on the agenda first. So Mr. and Mrs. Comito if you'd like to go.

1. Thomas Comito Jr. & Erin Comito
60 Woodland Street
Mount Kisco, NY 10549
(SBL 80.49-1-9)

ZBA# 21-24
Area

Mr. & Mrs. Comito were present.

Erin Comito: Hi.

Tom Comito: How are you doing? I'm Tom.

Erin Comito: I'm Erin Comito.

Tom Comito: I'm Tom Comito. We live at 60 Woodland Street. Just a little background on us. I'm third generation, of the Comito's born and raised in Mount Kisco. My wife is from Bedford Village. She has moved here with me. We moved here about seven, eight years ago. Well, she moved here about seven, eight years ago.

Erin Comito: We moved together 14 years.

Tom Comito: Yeah. 14 years in this town. Basically, I'm a 21 year member of the [00:00:43] [indiscernible] Company. My wife works at Little Blessings Preschool, down the street from our house. You know, really, Mount Kisco, we're not just residents. We're kind of like members of the community. We love our neighbors. We love our neighborhood. We love our town. We bought the house six or seven years ago. It's a really small house. We bought what we can afford at the time. Family has grown, and we want the house to grow with it. As I so we've submitted application [00:01:13] [indiscernible] and there's two items that are out of that, that require a variance, one being a yard where we're five feet from the product line. That's an existing condition. And the other is we are adding a front porch portion, which is going to be one and a half feet, I think as soon as you can correct me if I'm wrong on that out of compliance with the front yard zoning requirement. So hopefully, we're filling the application of the town. We love the town. We love the village. We love our neighbors. We want to keep our children here. We want to raise our family, and this is what we need to do, to build our house.

Erin Comito: And then it's another little background of our family. We have a boy and a girl, and we currently have a two bedroom house. So as they grow, they won't be able to share a bedroom forever. So that's part of the reason why we're adding bedrooms you know.

Harold Boxer: Okay.

Erin Comito: We can grow in this house.

Harold Boxer: All right. Sounds good. Luigi.

Luigi Landi: Yes, sir. So, good evening, Chairman. Tom and Erin did a great job explaining the, our application. So mainly the two variances that we're looking to get tonight from the it's the only board, the side yard. This is an existing non-conforming one and a half story theme. And you know Tom and Erin, their desire to enlarge the house made more sense to build over the existing footprint. So, therefore, the need for the variances, for the side yard. The front yard is to create a front particle to make the entrance more, yeah more appealing, and better entrance. So it covered with the roof over it. So I'm thinking of that I can't even put a chair and enjoy kind of yard doors from the front particle. So that variance that we're

asking for, it's the required side, you have front yard is 25 feet. We're proposing 23.4, therefore 1.6 front yard requirement. The like I'm saying, currently, it's a one and a half story cape style. And the second floor, basically, we're proposing, let me do it four bedrooms and two bathrooms. Yeah. That's all I can say.

Harold Boxer: Any board members have questions?

Arthur Weise: I'm sorry. What was a second variance?

Mr. Miley: It's a one foot side yard setback.

Arthur Weise: Yeah. Okay.

Arthur Weise: I see okay. I see it. I'm sorry.

Mr. Miley: Yeah. Yeah. South.

Wayne Spector: Okay. Okay. Great. This thing is five eight inches. Is that what it says?

Mr. Miley: 5 foot.

Arthur Weise: I'm sorry. Right.

Wayne Spector: Okay.

George Hoyt: All right. Any questions?

Harold Boxer: Okay. Anybody else want to say anything? [00:04:46] [indiscernible] any comments.

Mr. Miley: We have five people here and see if anybody here is for the application. I know it's the [00:04:52] [indiscernible]. Nobody here. Let me check. Do you have any hands raised? Do we have anybody on? Nobody on Zoom, and just bear with me, Chairman. Let me check Facebook page, see if there are any comments as procedure requires.

Harold Boxer: Okay.

Mr. Miley: I don't have any comments, Chairman.

Harold Boxer: Okay. I feel that the requested variances are minimal. And I don't think nobody else has to comment on this.

George Hoyt: Well, the amount outline is five steps. Five factors as well. I agree, Harold. I think it's, I have no issues. No problem. It's showing me improving the variance.

Harold Boxer: Okay. Then I always get the order wrong. I'm going to close the public hearing.

Whitney Singleton: You're making a motion to close a public hearing, Harold?

Harold Boxer: I'll make the motion sure. Any seconds?

Jacque Broth: I'll second.

Harold Boxer: All in favor? The motion carried by a vote of 5 to 0.

Harold Boxer: Anyone opposed? Okay. As still as your letter describes it, five factors that have to be that you had, you describe them adequately. And the variances, as I said before, are minimal. And so if anybody wants to make a motion to approve, If not, I can do it.

Wayne Spector: I'll make the motion to approve the variances as requested in the application.

Whitney Singleton: Who is it? What does that mean? [00:07:28] [indiscernible]

Mr. Miley: Wayne Spector.

George Hoyt: I'll second, Whitney.

Harold Boxer: All in favor. Raise your hand. Okay. Anyone opposed? Don't oppose it yourself. Okay. That was quick and your variances granted.

Luigi Landi: Thank you.

Tom Comito: Thank you so much everyone, on the board.

Erin Comito: Thank you so much for your time. We appreciate it.

Tom Comito: Thank you, Luigi.

Luigi: Okay.

Male Speaker 4: Thank you.

Harold Boxer: Enjoy. I'm glad you're going to be able to stay here. Okay. Is it that same number?

Mr. Miley: Present Town Hall.

Harold Boxer: What?

Mr. Miley: Present. Yes. At Town Hall. They made the trip down to Town Hall. 87/89 Maple Avenue.

**2. Eugene Gilyard
87(89) Maple Avenue
Mount Kisco, NY 10549
(SBL 69.80-5-13)**

**ZBA# 21-23
Area**

Charlie Martabano: [00:08:13] [indiscernible] for the applicant. Can you hear me?

Harold Boxer: Yeah.

Charlie Martabano: Oh, okay. Fine. Okay. As indicated, this is an application where Eugene Gilyard who pertains to the property known as 87/89 Maple Avenue. I did submit a site plan with respect to the application. And the northern portion of the property is occupied by a pre-existing multifamily residence. The southern portion of the property is occupied by a two story concrete commercial building. Approximately 1920 square feet each level. This property was I'm sorry, presently zoning RT-6 but for many years, it was zone to allow the existence of commercial uses. Mr. Gilyard personally operated a beauty parlor at that location from until like 2017. And he operated it continuously for 38 years. Preceding his occupancy, there was a delicatessen. And probably most of you are familiar with, in the southern portion of that building. And this application and now because the zoning changed, these are both considered prior legal non-conforming uses. The application in accordance with the denial letter is to change or to allow the change from the prior use, which was the beauty parlor, which is a personal service use to the delicatessen use, which is a food retail use. And the rule is that the zoning board can authorize that exchange of uses provided that, and it's a little unusual way that the phrasing is in the Code because I think it was actually probably written you know, backwards is the best way to say it. The Code provision cited by the building inspector is 110-34 D and it says, said non-conforming use shall not be exchanged to another non-conforming use without approval of the Zoning Board of Appeals and then only to use which in the opinion of the Board of Appeals is of the same or of a less restrictive nature. Now my personal belief is that's a mistake in the Code that they meant to say of an equal or more restrictive nature, but it is what it is. Based upon the parking standards that are utilized by the Village, the food retail use has exactly the same parking parameters as the for a beauty parlor use. I think Mr. Gilyard is here. He can give you an idea of how busy his beauty parlor was for the 38 years that he conducted business there. My point being that, can everyone hear that? Okay. Okay. [00:10:51] [indiscernible].

Mr. Miley: Sorry, Charlie Martabano. We keep losing Internet. And it and it's whatever reason we have to log back on. So you just have to bear with us. Okay. I apologize.

Charlie Martabano: I thought Harold was repeating every word I said verbatim. I'm saying, wow, what a memory.

Mr. Miley: You know, it actually started playing the meeting as if we're.

Charlie Martabano: That explains a lot.

Mr. Miley: Yeah. So that's not the, that's not the meeting.

Patti Tipa: This is Facebook.

Mr. Miley: This is Facebook. Yeah. You have to go back to the To Zoom. To Zoom. So, yes, for now, I do escape [00:11:52] [indiscernible] Zoom. Yep.

Patti Tipa: This one.

Mr. Miley: Yep. [00:11:59] [indiscernible]. Okay. Are we still live in Facebook to share? Okay. Well, it says live, so we'll assume more live. Can I hear?

Harold Boxer: Are we fixed that.

Mr. Miley: The meeting's good. I can't find this on Facebook and it says live on Facebook. I say we proceed with the meeting and if anything, we'll post it as a recorded meeting later.

Harold Boxer: Okay.

Charlie Martabano: All right. So for the avoidance of doubt, I was describing the prior use of the property by Mr. Gilyard. To conduct his beauty parlor business. He had 6 chairs and it was a thriving business as confirmed by the fact that it was there for 38 consecutive years. So the application is one to, now he retired in 2017. I should mention also that he purchased the building in 1993. So at present that particular building has the deli use in it. The second floor of that building is not presently usable. It previously had I believe, a Methadone Clinic at one point in time. It had a room in house use etcetera, which have been discontinued. So the point is and again, I know that economic hardship isn't necessarily a factor to be considered when you're talking about just changing one non-conforming use to another, but if he does not get this approval, fully 70 percent of that building will be unutilized, and that would be a significant financial impact to a person who's retired. So we believe that by allowing the delicatessen to expand to this use. And again, remember, these are very small uses. That the total square footage of the floor is 1900 square feet, but that also has a stairway up to the above. We're talking about an expansion to approximately 750 square feet. So it's a very small expansion. And I should say expansions more of an exchange. So we're looking to get an authorization to allow that prior personal service use, the beauty parlor, to be utilized for the food retail use, which would be the delicatessen use. That delicatessen, I think most members of the board probably know, has become an integral part of that community. And it's a business that serves the community down there very well. That's generally an underserved population. So hopefully, we'd think that the board would deem it appropriate. To allow that prop, this delicatessen use to be exchanged for the personal service use, and that's the purpose of the application.

Arthur Weise: Can I ask you that the deli has been there since what, what year? Oh this is, okay. So, there's always been a deli there even when you had your salon.

Charlie Martabano: Oh, yeah. It has been, as I said in the application itself, when he started the Beauty Parlor business 38 years prior to 2017. So that's actually, you know 40 some odd years. The deli was already there. I think it's been there for many, many decades.

Wayne Spector: So did the deli and this beauty salon coexist at the same time?

Charlie Martabano: 1000. Yes. Correct. Exactly correct? They did for at least 38 years.

Arthur Weise: And so we're giving you a, a variance for something that has been there for a very long time.

Charlie Martabano: Right. We're asking for the authorization to so that basically exchange.

Wayne Spector: Delicatessen was a pre-existing non-conforming use.

Charlie Martabano: Again, I, I it is. Yes. Because at one time, it was legal to have it there. So yes. The delicatessen in prior legal non-conforming use? Yes.

Wayne Spector: And it was never discontinued or at least to during all these years.

Charlie Martabano: As far as I've been in this area probably for more than yours I like to count probably and I think it's always been there and I'm don't want to say exactly, but let's say I'm in excess of 65 years old. I don't want to go much further than that if it's okay.

Wayne Spector: I just need to understand. Are we approving the continued use of the deli or the expansion of the deli?

Charlie Martabano: No. No. No. No. The deli is in the southern portion. If you split the first floor into a southern portion and a northern portion. The deli has always been in the northern portion of the first floor.

Wayne Spector: Okay.

Charlie Martabano: I'm sorry. The southern portion, I just said it wrong. Southern portion of the first floor. And the beauty parlor use was there for at least 38 years in the northern portion of it. So now we want the deli to be able to also occupy the northern portion that was previously occupied by the beautiful parlor.

Arthur Weise: So basically want to expand the deli?

Charlie Martabano: Yeah. You, you again, expand or is it. It's to allow that to occupy the space previously, you know, utilized by the beauty parlor. I'm not saying it's expensive and non-conforming use. I'm saying that it's in essence an exchange from one to another. Correct?

Wayne Spector: Yeah. We're using, we're using expand in a different.

Charlie Martabano: Yeah. You're exactly right.

Wayne Spector: A different work out way. I mean, it's expanding a business but not a use.

Charlie Martabano: Thank you. That's exactly correct.

Wayne Spector: I mean, at least, that's the way I'm here.

Charlie Martabano: And I agree with you.

George Hoyt: Whitney, do, do you agree with that statement that this is a not a use variance, but a approval of.

Whitney Singleton: Well, you what, what, what you have at the site, it's, it's a little complicated, and I've had several conversations with the applicants counsel about this as well as with the building inspector. And, you know, ultimately, your board is going to determine what you deem to be the best for the community, but there's, but there's some procedural aspects that I have a problem with. And If it's okay with you, I'd just like to share my screen for a second. Charlie has explained everything entirely accurately. And if I can just share my screen very briefly here share. Let me see if I can, I don't know if you can how well you can see this. But here's a, here's a section in question. Charlie is citing this paragraph right here which states that no non-con, no non-conforming use shall be changed to another non-conforming use without the Zoning Board of Appeals. And then only to a use, which in your board's opinion, is of a same or less restrictive nature. So the question becomes under this paragraph whether or not the deli is less non-conforming than the, than the, than the hairdresser that Charlie has set forth in his memo, and I believe that Peter has confirmed this in his memo that there's no increase in parking requirements associated with the use and then it's simply transitioning one non-conforming use to another. The, the, the, the areas that I have concerns for are basically nothing to do with whether or not the applicant, the application is something that you'd like to see. It more, it has more to do with the presidential effect. Basically, what 110-34 A states is that when you have a non-conforming. I'm, I'm going to paraphrase what's on the screen. When you have a non-conforming commercial use, in a residential district. Any proposed new or increase in the size of site use. In other words, expanding the size of the deli, on any portion of such lot. Again, it speaks to the lot, not to the building, which new use or increasing the size of site use is not accompanied by the total elimination of the existing non-conforming use, shall deem to be an enlargement and an extension of a non-conforming use. So I'm trying to grapple with the interplay between that paragraph and paragraph D.

Charlie Martabano: All right. And, and what I would respond.

Whitney Singleton: What's, what's supposed to happen is that we're supposed to phase out non-conforming uses and bring uses and buildings into conformity. And while you may agree or disagree with, with, with the applicant that this is not, that this is a less intensive use or a more compliant use than the hair salon. I don't know how you get around this provision because what hasn't been discussed to date is these are not the only uses on the lot. There is a three family home on the same lot. And so if you have a existing residential use with a non-conforming commercial use, how do you reconcile paragraph A with paragraph D? I am not saying that.

Charlie Martabano: Paragraph A also is more specific to a non-conforming use in a residential district. Where, you know, the, like you say, the desire to eliminate the non-conforming commercial uses in residential districts might be stronger than the generalized process of, of, of addressing non-conforming uses in more in other districts. I mean, that's one, that's one way to look at it as well.

Whitney Singleton: Yeah.

Charlie Martabano: And, and I would, I would look at it if I can respond unless when they if you're finished?

Whitney Singleton: No. No. Go ahead, Charlie Martabano.

Charlie Martabano: Wait. All right. So the building inspect cited a provision of the Code that he felt needed to be addressed in order to have this. He did not cite subparagraph A. And I think these are independent provisions under which zoning board can grant relief. As a matter of fact, A talks about granting of variance. D doesn't even talk about the necessity to grant of variance. Says that it can be authorized. And when you were reading by the way, again, the language that I use is not that one is more intense or whatever. This says even a less restrictive nature. But I don't even need to argue that point of it. I don't believe subparagraph A, you know, actually applies in this particular instance. And again, it certainly wasn't cited by the building inspector. Also, with respect to subparagraph A, the, the point that you are raising, I'm not certain, you know, this, this is you had a commercial building is what you had, and it happened to have two subtenants. Okay. So I think that what you're trying to talk is speak about is an expansion. As if they were going to expand the commercial building, that's not what's going on. The existing commercial building we're not increasing the size, we're not enlarging the use. We're simply allowing or requesting that the zoning board authorize a substitute for the personal service use, for the food retail use, and again, they both have the same parking standards. Otherwise, you have a situation where this man is faced with the fact that he's got a building that is paying taxes on 70 percent of it, can't be used to generate income. I, I think that, that, that, that reading of that provision, again, was incited by the building inspector. I don't think it applies. Our request relief is under subparagraph D, and I think we comply with the requirements of it.

Mr. Miley: You mean by 70 percent? Because the deli is in operation, no one's questioning that the deli that exists there now can, can remain in operation, I don't believe. Is that said accurate?

Charlie Martabano: Right. But remember I mentioned if you take a look at the application, the second floor is not usable. There's a second, there's a full second floor of the building. Or the existing zoning because it did have, it, it did previously have non-conforming uses to the point that you raised when. They were discontinued the commercial uses now that can't be used, then you can't, then you can't have a residential use without a variance, a residential use above a commercial use to the zoning district. So if we don't authorize this, this man loses 70 percent of the value of that building.

Mr. Miley: When was the last, when, when did the beauty parlor shut down or when was last time in operation?

Charlie Martabano: [00:24:02] [indiscernible].

Mr. Miley: Yes, 2020. So then half of the, so then half of the commercial side of the building at one half has been in disused since, since that time.

Charlie Martabano: No. Actually, the, the deli and I, I think this is in there as well. The deli actually did occupy the portion of it, but did not get the necessary permits. I, I put that into the submission to be fixed.

Mr. Miley: Sorry.

Charlie Martabano: Go ahead, no problem.

Mr. Miley: What, what is the, is there any new equipment or anything that it would be going into the space that used to be the beauty parlor for the deli?

Charlie Martabano: [00:24:36] [indiscernible] right now for storage.

Mr. Miley: Storage. Okay. Right.

Whitney Singleton: Charlie Martabano, is it, is it just for storage or is it also for dining.

Charlie Martabano: They don't, to my knowledge, they don't intend to have dining. I but again, since this is a use, which has the same parking standard. I don't want to limit them necessarily to storage. But I do believe, as Mr. Gilliard stated, that presently, I think the use is basically for storage for the deli. But I wouldn't want to get an authorization to propose and fuse it for whatever reason where, where they could in terms of the deli. You just want to put soda cases are in there. I wouldn't want to prevent that.

Mr. Miley Yeah. No. I was I was just thinking if you're putting in, like, a bunch of fryers or something that can be thrown as smelly or something.

George Hoyt Spector: And, and Whitney? Whitney.

Whitney Singleton: Yeah.

George Hoyt Spector: It is can you read that first that paragraph A, can you read the existing nonconformity? Can could one read that to refer only to the beauty parlor? Because if you refer only to the beauty parlor, then A go, the issue with A goes way.

Whitney Singleton: Okay. [00:25:36] [indiscernible] Let, let me just read it out loud against for everyone's benefit. I don't know how well you can see it. Except upon the granting of a variance by the Zoning Board of Appeals. No building. Now this speaks to building. No building containing and non-conforming use shall be enlarged, altered, extended, reconstructed, or restored or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter nor shall any external evidence of such use to be increased by any means whatsoever. So what they have done is, they have altered the use within the building. And you could make the argument that they needed a variance to do so. But you could also make the argument that, that 110-34 D applies because as Charlie Martabano points out, it specifically speaks to where you have a non-conforming use, changing to another non-conforming use, basically, let's say, so long as it's about less restrictive nature, it's okay in your board's estimation. And I, I, I that makes perfect sense to me because you're transitioning slowly to, to something that is either more complying or, or, no less non-con, no more non-conforming. I don't have a problem with what is being proposed. I think that Charlie Martabano has accurately stated the history. I understand that this is, you know, that this is trying to make a better use of the site. I get all of that where I'm having a problem is how that interfaces with A because in this particular situation, these commercial uses or proposed commercial expansion into the other demise space is not a standalone that's on the same lawn as a three family house. And so I'm just trying to figure out how these two provisions can be reconciled.

Charlie Martabano: And, and my point is and I think Whitney will agree with this. There's one consistency. I shouldn't say one but one of the most consistent theories in the law is about statutory construction, especially in connection with zoning Codes. And that law is, the zoning Codes is supposed to be construed strictly against the drafter and in favor of the property owner. Any ambiguity resolution is required to be construed in favor of the property owner. So if there's two sections here, especially when one is specific to this instance. It seems to me, if you're looking at the Code and you need to interpret it. You come out with section D as cited by the building inspector is what applies to this very specific application. And I think that, that's clear.

Mr. Miley : Can I ask you that the, the people who live in the house? Are, are you one of them?

Charlie Martabano: No.

Mr. Miley: No. Do you, do you know they were aware of the deli when they moved in?

Jacque Broth: [00:28:48] [indiscernible].

Mr. Miley: Okay. So, so expanding the deli, for them you don't think takes away I mean, have you had any complaints about a potential expansion of the deli?

Charlie Martabano: Okay.

Mr. Miley: And, of course, I served the requisite notices on all property owners and published a notice as well. Whitney, I'm, I'm, I'm just grappling with why the fact that there's a second structure that's all residential would have an impact on this application. Could you just explain why you feel that's, that it is problematic?

Whitney Singleton: Because you're on the same wall. You have two principal uses on the same wall, which is generally prohibited in our Code. If not generally it's prohibited.

Mr. Miley: But they have two, they have actually two separate addresses.

Charlie Martabano: Yes.

Whitney Singleton: Yeah. That's, that's not relevant. They're on the same taxable law there.

Mr. Miley: That's a pre-existing condition as well.

Charlie Martabano: Correct.

Whitney Singleton: Correct. So the so the question is, how do you, how do you give, how do you give acknowledgement to paragraph 110-34 A if you simply allow them to change a use is under 110-34 D. Because my, the way I read this is let's just say that they re-demise the interiors space of the three family house or they propose anything to do with the three family house. I read 110-34 A as requiring the complete demolition or removal of the use at the sub, at, at the deli site.

Mr. Miley: Wouldn't it be activated?

Whitney Singleton: While containing an oxygen pump. Commercial use in a residential district, where there's any proposed new use or increase in the size of these on any portion of the lot. Which new use or increasing the size of site is not accompanied by the complete elimination of the existing non-conforming use shall be deem to be an enlargement.

George Hoyt: But Whitney, Whitney if, if just for sake of argument, one must read the two together A and D. Can you give a, can we give a, can we give an example of how D can operate independently? Or would it always be captured by A in which case D doesn't.

Whitney Singleton: No. So, so let's, let's just say that you had, you had a, a standalone building on one lot. And it was a, it was a residence I mean, I'm sorry, restaurant and bar that stayed open till like 02:00 in the morning. And somebody came along and said, you know what? I'm considering buying this building. I don't want to continue the restaurant or I'd like to do a coffee house that serves espresso and coffee and some Danish, and we're only open till, you know 07:00 at night. I can see that, that is a situation where your board could employ subparagraph D. You're evaluating it in isolation of.

George Hoyt: But isn't, isn't [00:31:46] [indiscernible] buildings. Isn't the, the deli deal, your example, it wouldn't have to be a non-conforming use. I'm not sure I understand.

Whitney Singleton: Right. That's what I'm talking about. A restaurant and a residential neighborhood.

George Hoyt: I see. I see.

Whitney Singleton: Converting to, let's just say, you know, a coffee house in a residential neighborhood. But it would be the only use on the property. It would be a single building. What can, what, what confuses me and confounds me, quite frankly, and I'm not looking to hold up Mr. Gilliard. But, you know, right now you have six different demise spaces on a parcel one of which is vacant, two of which are commercial, and three of which are residential. And I'm trying to figure out how all these things gel together.

Charlie Martabano: And let can we not forget the fact that all of this has been created by a rezoning done by the village of Mount Kisco? We're talking about such a draconian result if you want to apply that level of interpretation, which I don't believe you're entitled to do because I believe, subsection D especially being a specific section of the Code addressed to this specific situation to try to extrapolate A to say you'd have to wipe out the rest. I mean, what sort of result is that? And again, you've got a construe, pardon me when I say you have to. The rule of construction is that you need to construe the Code and favor the property owner with any ambiguity resolution in the property owner's favorite. I don't know how you go down this path without an incredibly draconian result. Then again, these are innocent people. These are people whose property was rezoned. So or the property is this way. I don't think you can go down as path.

George Hoyt: Well, Whitney, can you can you just do me a favor? Can you explain one more time why you think the fact that the sole building in your example, well, it's important in your example to you that it's, the single kind of one building on the property. Well, I don't where is that, why, why is that important in this analysis? Why is it so important to critical?

Whitney Singleton: Well, because, because we're talking about, we're talking about how you're supposed to become not more conforming. And what I'm, what I'm worried about is what a more, what, what, what Charlie Martabano is talking about is reoccupying demise space within a building that has, that has a pre-existing non-conforming. I'm kind of okay with that. But when you're talking about something that's in a residential neighborhood, and it is not a single use going from one non-conforming use to a, to another non-

conforming use, which is less impactful or more consistent with the Code. What we're talking about is a number of nonconformities. I mean, we have, we have a couple of nonconformities in this building. And what our Code says in an effort like many Codes to eliminate the nonconformity is to when you have an non-conforming use in a, on a residential site, like, like this one you're supposed to get rid of the non-conforming use over time.

George Hoyt: But isn't the, isn't the elimination of the beauty parlor? The, the elimination of that non-conforming use?

Whitney Singleton: It's well, I don't know that it's an elimination of, of, of the non-conforming use. It's being substituted with another.

George Hoyt Spector: But nonetheless, if you read that as elimination, then, then A works. Right?

Mr. Miley: Why the second floor is not usable.

Charlie Martabano: Okay. Well, the second floor is not usable because as I mentioned to you, originally, it was used for a commercial use. It was office space originally. Okay? Then it was, I believe, a Methadone Clinic, I believe. Is that correct, Mr. Hilliard? And then it was subsequently was actually converted to a use that wasn't permitted, and then it lapsed. So then since it lapsed, okay, that the former commercial use can't be used. We may make an application in the future for some sort of residential use, we may need a variance for it. But right now, one of the things we did, one of the first things we did when we got the violations, we eliminated that use. We did it because we wanted to come and improve the situation. We want to put our best foot forward. But what we're hearing tonight is that, wow, you know, this is a type of thing that we're talking about, which like I said, has such a draconian result. And to me, how do you ignore what the specific Code provision says. That's what we're here for. That's what the building is, pictures scientists for. Why are we going down this unbelievable path as if, well, then take down the three family house, what? Or take down the commercial building?

Mr. Miley: I don't think anybody's suggesting that anything would be take and down.

Charlie Martabano: Yeah. Well, let's, let's talk about the elimination. That's extreme. So talk about the elimination of the non-conforming use. Right. Yeah. That's, that's, that's, that's what's being said.

Whitney Singleton: The residents is not the non-conforming use.

Charlie Martabano: The residents could stay. Right? But he's talking about eliminating the commercial building [00:36:38] [indiscernible].

Mr. Miley: Eliminating the commercial use, but

Whitney Singleton: Not the building.

Mr. Miley: Not the building. I mean, the building could be converted theoretically to residential. Now if in order to use the upstairs at this point, I'm assuming that they would need to come in for a use variance because they would be looking for, I guess, a mixed, mixed use, which is not allowed. And it's not it would be used for our kids, I believe.

Whitney Singleton: I, I think the applicant as part of their as part of their application is consenting to that use not being allowed for anything. It would be dead space. Is that correct, Charlie Martabano?

Charlie Martabano: No. No. What we said is that the use of that space would be subject to further application to this board, which may or may not be approved. We eliminated it. We said that would be our position.

Mr. Miley: What would you like to use the space for?

Charlie Martabano: It depends on what we could do and use and not probably to I think Mr. Gilliard actually came in and requested the opportunity to turn it into an apartment correct? And I think that the planning board said no to that without coming to the zoning board. But then the most important thing we want to focus on first was the commercial aspect. So we'll do this in steps if that's possible. And it and if we get this and your board determines that we don't make our case for whatever use we have there, that's up to you. But this one that we're talking about today, it just seems to be such a small step and it's something that we need to do.

Harold Boxer: Since this is not conforming to begin with, I think it's, it's within our rights if we wanted to, to restrict the second floor, to, to remain empty?

Charlie Martabano: Oh couldn't you say that without further action as boards. That's what we need anyway.

Harold Boxer: No, because it's more than just further actions of the board. We're trying also not to set precedents is all up and down the street. So if you're content with the second floor remaining empty, I think it behooves us to put that in as a requirement as well as we, we really need to know what you're going to use, what the new spaces for the deli is going to be used. I think we can also restrict that strictly to counter and storage and not have space for dining. Dining is a whole separate issue.

Mr. Miley: Can I ask what the history of the zones was? I think I'm missing that piece.

Whitney Singleton: Yeah. I, I think I can address that and Charlie Martabano can really supplement it. Kisco Avenue I'm sorry. Maple Avenue used to be the commercial corridor. But when the, when the train station came through and was realigned, it was made residential.

Mr. Miley: And so, and so how much of that street has, has the commercial been converted into a residential over that time frame?

Whitney Singleton: I would say, I'm guesstimating, I would say it's 90 percent residential.

Mr. Miley: Are there any other remaining commercial uses on that street besides this particular location?

Whitney Singleton: Yes. There's a, there's a sheet metal shop owned by John Marshall. And there is, I don't know what it's being used for, but something at the other end of the last property on the, the last property on [00:40:14] [indiscernible]. The last property opened, up near, up there that I don't know. Are you still seeing my screen?

Mr. Miley: Yep.

George Hoyt: Yeah.

Whitney Singleton: This is the last property going north, there's some sort of commercial element here in this building. I, I don't know what it is.

Mr. Miley: What is it? What is commercial on the corner 30 West Main Street is commercial building.

Whitney Singleton: Yeah. But I, I believe that's a separate zoning district.

Mr. Miley: Isn't there like a playground?

Whitney Singleton: There's a community, there's a community center. Right. That's not a city center. Yes. Okay. The village, the property you owned by the village?

Charlie Martabano: Yes.

Mr. Miley: I see. Yes. So Okay. So like so then the question really is relevant that the Whitney brings up, which is the presidential fact of a decision on this board on, on the other commercial properties on that street. And perhaps in other residential districts that have similar situations.

Charlie Martabano: I mean, if, if they are interested in converting the upstairs to an apartment, which would be residential, maybe that should be part of our consideration. Is it the second floor would not be for commercial? That's what you were saying. Right, Harold?

Harold Boxer: No. I think it we have to say that the second floor has to remain completely empty as it is right now?

Whitney Singleton: Well, there, there, there are other issues with this in that, there's insufficient parking on-site under our Code. Now again, you could argue that the whole list of predates, but the fact of the matter is, there's insufficient parking onsite for all the uses combined.

Harold Boxer: There's three apartments. What does the three [00:41:57] [indiscernible] this building right here?

Whitney Singleton: There's three apartments in here. I believe there were four and they were prosecuted and removed it back down to three.

Harold Boxer: How many spaces are required for a three family.

Whitney Singleton: Peter?

Peter Miley: Well, it depends on when it was constructed.

Charlie Martabano: Right.

Peter Miley: In my re-collection.

Jim: We're forgetting the fact that...

Peter Miley: Hold on, Jim. Hold on, Charlie Martabano. I got this.

Jim: Thank you.

Peter Miley: And my understanding is built prior to the requirement for parking. So today's Code require two spaces per unit. Thereby six would be required if you built that structure today. But it was built prior to 1954 and it was no parking requirement at the time.

Charlie Martabano: Exactly. Thank you.

Peter Miley: Right. Okay.

Harold Boxer: Yeah. So how many spaces do you have? Do I see only two spaces on the, on the submission to the planning board? That's true?

Charlie Martabano: I'm sorry. Harold, did you say that again? I didn't hear you.

Harold Boxer: It's like they're straight.

Charlie Martabano: But I, I don't believe that that site plan was ever built.

Harold Boxer: Okay.

Charlie Martabano: I don't believe that site plan was built.

Harold Boxer: And why is it here?

Charlie Martabano: I wanted to show you the orientation, the buildings. I think I covered that in the submission to give you the orientation of the building, the sizes, et cetera.

Mr. Miley: So are there no Wall Street parking.

Charlie Martabano: No. There are, there are Wall Street parking space. I don't, Mr. Gilliard, how many Wall Street parking spaces are there? [00:43:21] [indiscernible] Right. Okay. So he's saying that he did install a gravel parking lot, but not, not going getting a site planner pool of Fort Worth, but there is parking there. Again, I just want to stress that this particular situation that we're talking about here is, is very limited in its scope. We're talking about a pre-existing building which had commercial uses on the first floor. And we're looking simply to allow the, the first floor, the northern portion of the first floor to be utilized for the pre-existing deli use to be expand it into it. It's a very limited application. And it's but it's essential to this particular applicant. And I think going down the path that we were just going down was an over extension not applicable to this situation. That's the key. And that's why, again, we've got a specific Code section that the building inspector cited us for. I don't believe subsection A applies at all. If you read the first sentence of it, it's pretty clear it doesn't apply. And these are independent sections.

Mr. Miley: Could, could I ask, just from, from a, a particle standpoint, is the only issue was having an apartment above the deli parking or are there other issues?

Charlie Martabano: I believe that the zoning district does not allow Peter, please correct me if I'm wrong. Doesn't allow residential above commercial. Am I correct?

Peter Miley: Well, you create him a mixed use building.

Charlie Martabano: Right.

Peter Miley: Correct.

Charlie Martabano: Okay. As an independent two family home would be permitted.

Mr. Miley: Right. I got it. So, so in order to have to, to retain the commercial.

Charlie Martabano: Well, I, I don't believe that that's the case, so not because a two family is not a permitted use, but you'd have two principal residential structures on the same property, which is not allowed?

Mr. Miley: Again, you can, you can get a variance from that as well by I'm just trying to respond to the board member's question as to what, what would be the problem with it. And I do believe that as Peter's pointed out that with the commercial use there, you're not allowed to have the residential use above that absent a variance from your board.

Charlie Martabano: And we clear that's a use variance, not an area variance. I, I think you, you might be correct about that and that has a very different burden as you well know. Again

Mr. Miley: I just want to establish what the, you know, you know, what, what, what the burden or what, what kind of mountain would have to be climbed in order to be using that upstairs for residential use, and I think it's pretty hard. I wouldn't be in favor of, of sitting here today and restricting somebody for making such an application, but I think, I think given the nature of the properties and especially that street with the parking situation, I think I think it's very unlikely.

Charlie Martabano: I think you spelled it out accurately, which is the same thing that I was saying. And that so as opposed to restricting it, if we were able to demonstrate when we build a problem, I was saying, who knows? we build a small parking structure. If we're able to demonstrate the entitlement to it, that's a different story. That's our burden. So I think we're correct.

Mr. Miley: Those are the financial aspects that you've approved.

Charlie Martabano: Absolutely. Well, yeah. That's always an element of a use variance of course, I totally agree with you.

Mr. Miley: So, so over your history of running the beauty parlour, how many years was that second floor occupied with the business.

Charlie Martabano: Well and the first person to build is would you have to go back and have anything outstanding for us? Some, some new events here. And at the left page, you may have a really [00:47:22] [indiscernible]? It was a [00:47:24] [indiscernible]

Mr. Miley: Yeah you might need, okay, Charlie Martabano.

Charlie Martabano: I, I can repeat what he said if that's is okay with the board. Sure. What he was pointing out is that originally he, when the building inspector came and told him, this is about to say, how many years ago?

Mr. Miley: About 15, 16 years.

Charlie Martabano: Right. That he could convert it to a boarding house, but then there was an administration change, and that was turned out, turned out that the decision was that that was not appropriate, and they eliminated the use, put all 10, 10, 10 tenants out.

Mr. Miley: Okay. I converted in 2001 and I kept [00:48:13] [indiscernible] it down.

Charlie Martabano: There you go. Okay. And so there were people. It was, like, a, a, a, little hotel. Is that what you mean? [00:48:22] [indiscernible]. Okay. But that was eliminated when the building inspector brought it up. Yeah. Of course. It was fine. Interesting. Whitney, If you guys are you there?

Whitney Singleton: Nice. That's for a sec. Charlie Martabano, can you have your client when he speaks to next time he speaks, come up to the podium for me?

Charlie Martabano: Without a doubt. Yes.

Whitney Singleton: Do you have any specific question? I was going to come up right now, Harold.

Harold Boxer: No. Well, I'm just curious as to what the extra space is going to be used for because it he has to show that it's not going to increase the use of the building. And it's, you know, it's a deli. It's a deli. What it, what does the deli have now in it? And is there going to be anything, any more put into it such as cables or extra counter space that would create a bigger use.

Charlie Martabano: Okay. So the applicant or actually his daughter is indicating that, that is not the present intention at all. The intention is for storage purposes. There's also a bathroom there. But as I mentioned to you, I wouldn't want to prohibit if they wanted to put storage cases or things of that nature. And I guess we could include that among the storage. The intent is not to put tables and chairs there at this point in time, but since I don't know that, that's going to really increase its intensity going back to the fact that the beauty parlour used had six chairs and there was a huge volume of people in all day. I wouldn't necessarily want to restrict them from using it as a delicatessen would?

Harold Boxer: Just so I have an idea, the expansion is going to be for a space that is in front of the counter or behind the counter? Or is it I don't know. What's the, what's the setup like.

Charlie Martabano: I'm sorry.

Harold Boxer: [00:50:16] [indiscernible].

Charlie Martabano: Yeah. I, I didn't give you a floor plan. My understanding is the in the current deli, I'm going to ask the question, then I'll relate the information to you. Is the counter towards the back of his existing space? The counter and the.

Female Speaker: The counter is not the exist.

Male Speaker: The counter is not exist, so.

Charlie Martabano: No. Understood. But is that in the back of the space, in the front of the space?

Female Speaker: In the middle.

Charlie Martabano: In the middle of the space. Okay. So the president orientation is again, remember, these spaces are very small. The entire building is only 32 by 60. So on the one side, which is roughly around 800 square feet, you have the existing deli that's on the southern side. Okay? So again, 800 square feet, as you know, is very small. So they would move into the 750 square feet on the northern side and then use that again primarily for storage. But again, I wouldn't want to necessarily restrict them. And part of that 750 square feet is a bathroom. So there's not a lot of space to be used for that purpose. Can I get you any more specific information or?

Harold Boxer: No. I think.

George Hoyt Spector: Hey. Whitney, not to believe at this point, more just be it over the head here, but for in section 1 10 34 B. Why isn't B in player?

Whitney Singleton: Said? It, it, it is. I mean, there, there are other sections here that may be applicable. But what, what I was trying to do is to figure, you know, try to take a pulse of your board as, as was pointed out. I forgot who pointed it out, but one of the board members pointed out, you know, the, the intent here is not to deprive you of the user to tear down the building per se or to, to private, to private owner of some reasonable use of the property. It's to bring it into greater conformity with our zoning. So, yeah, that's what B speaks to.

George Hoyt Spector: I, I just have to say that that that, you know, these sections of the, of this Code D seems to be most on point because we're changing on from years. You know, I, I have to say, I, I does the way these are outlined, the each section seems to deal with a slightly different fact pattern.

Whitney Singleton: Right.

George Hoyt Spector: And I have to agree with, with the applicant that I think you could, one could read the in isolation and effectively in, in this situation, effectively making the reading of A not, not relevant. I, it's hard to read them all if you read every section having if you read A as, as dwarfing all the other sections, I it seems like it's, it's consuming the entire section.

Whitney Singleton: Well, I mean, you could read the A too. All right. I mean, it's been disc, the use has been discontinued for more than a year. All right.

Male Speaker: That's what I was thinking before, but I guess.

Whitney Singleton: Then theoretically, no non-conforming use should go in there.

George Hoyt Spector: Well, if you read each as right. If you, if you read this Code as you have to satisfy every, every prong. I agree. I don't think any it, it makes you wonder whether this section if, if read that way.

Whitney Singleton: And, and, and, and, and, and my goal here is, is not to stand, is not to stand in the back of a pickup truck as we drive down the road throwing obstacles in Charlie Martabano's way. That's or the property owner's way. That's not that's not the objective here. The objective here is for your board to find out whether or not moving into that space would be an appropriate use or you deem it to be an appropriate, you know, reutilization of, of that space. And if so, how I can make sure that it doesn't want to file the other provisions in there? So I want to, you know, whatever resolution your board comes up with, I want to very carefully work.

Charlie Martabano: And I and I can understand that. I mean, obviously, you would draft the resolution, you would protect anything like that. But I think that the point that the gentleman just made is the accurate one. This is the section that I think is most appropriate to the circumstances.

George Hoyt Spector: Also a little confusing because we've got right? We in fact, we have two non-conforming users. One, one would, one is going away or has not been in use, and one continues. It's not clear when I read A, which, you know, the non-conforming use reference in A, is that the beauty parlour in our case or the deli. It's not.

Whitney Singleton: It's both. It's both.

Charlie Martabano: Which would have, again, that draconian result, I just mentioned it again.

Whitney Singleton: And it's really frank about that.

Charlie Martabano: Yeah. So again, I don't think that's the way that any word again emphasizing. I'm sorry if I sound like a broken record that you must construe this Code and favor the applicant. That that certainly would be interpretation that would not. If you say as well, I'm a little confused, it's ambiguous. That he, me and said it's got to be construed in favor of the applicant.

Mr. Miley: But D is the most specific, and I would agree with that.

Charlie Martabano: Thank you.

Mr. Miley: Well, it's I, I'd like to talk a little bit about the intensity of the use because, you know, this is the way I mean, knowing that road, I think that it's pretty clear why commercial was discontinued. It really is not an appropriate road. There's, there is no Wall Street parking. It's a narrow road. There isn't room. I've been on that road where there have been vehicles parked out in front of that, that particular business I guess, where they were picking up food, deli, you know, there, there is food in there. I believe if I'm, if I'm thinking correctly. There is cooked food in there that's offered breakfast items and, you know, various items. You know, expanding it for storage, adding more, almost making it more into a little grocery store, you know, will attract more people and potentially more vehicles and create greater issue on that, on that road as to parking. That said, I am also not in favor of a big portion of that building being unusable. I mean, it does make sense because it was built obviously as a commercial building. But, but the clear intent of the Code was to eliminate that commercial use at one at some point in its, in its history as a structure. So I have to respect that as well. So, you know, I'm and with all these conflicting provisions that could be read one way or the other, you know, I'm, I'm sort of at a loss right now to decide which, what to do here. I don't know because I see both sides.

Male speaker: I would say that, you know, he, he said a beauty parlor 6 seats for many years. I would think that the traffic generated by the expanded use of the deli cannot be as high as the beauty parlor was on its own, and therefore it's less use. That's, that's my thought. I mean, I just think it's, it's been used as this for a period of time. I think we should allow it.

Charlie Martabano: And that was reason why we did point out that obviously, if someone runs a beauty parlor for 38 years, this particular man right here had 6 chairs that was 1 hell of a busy beauty parlor and he succeeded for all those years. So that I, I think your point is very well taken. I think he generated more people coming to that, to that location for those services, then we will see with the expansion of the deli.

Male Speaker: Yeah. I think that's right. I mean, I, you know, I, I haven't been to, you know, a hairdresser to quite a while, but.

Male Speaker: We use the same barbering.

Male Speaker: But I, I do know that they, they're very crowded.

Mr. Miley: I mean, I'm leaning, I'm leaning towards also towards permitting this, but I would like any decision to be written in favor, as this, as as restricted away. And and also to cite the specific circumstances here as being, you know, minute you know, the mitigating circumstances is leading towards decision assuming the board does go along with it. So that so it can't be you know, this is not thrown in our face at, at a, at a future time especially for these other businesses on that road?

Male Speaker: I, I mean, I think it makes sense to restrict the second floor so that we don't have a, a big traffic issue. That'd be my suggestion.

Whitney Singleton: Well, I would propose that we keep the public hearing open.

Harold Boxer: And get a draft of the resolution and go over to the next meeting.

Whitney Singleton: I can draft something for your next meeting.

Mr. Miley: That would that would be fine from our point of view. Okay.

Male Speaker: Okay. That makes sense. Sounds good. Thanks. All right. Thank you. Thank you, Paul. See what you're saying.

Whitney Singleton: Charlie Martabano, not, not to go off on a tangent. This is something we discussed a couple years ago and you're before the, the planning board. Could you at least demonstrate even if you don't do it, could you demonstrate that the properties, that the property could be subdivided in such a fashion that you would have a conforming residential lot and a conf-, two conforming lots.

Charlie Martabano: I'm going to have to ask the question. Why would I do that? What was the, what is the purpose of doing that?

Whitney Singleton: Because I don't want you to be in a position of paragraph 110-34 A in the future. If we can demonstrate that the property can be subdivided, then, then the properties could be dealt with independently in the future?

Charlie Martabano: I'll look into it.

Whitney Singleton: If I read 110-34 A, and they decide to put an addition on the house, it requires the commercial building to be eliminated.

Charlie Martabano: Well, we'll make sure we put no, no additions on the house.

Whitney Singleton: Well, right. But, you know, you I don't want you to say you, you should have done that way back when. I'd, I'd like to be able to show that in the event that something comes before the, the, the village in the future, that it's possible that it could be subdivided and that the modification to one property or alteration to one property isn't going to necessarily adversely impact tenants and occupants of the, of the commercial property.

Charlie Martabano: Well, okay. So the public hearings open offline, I'll discuss that with you, and then we'll see what we do. Does that sound reasonable?

Whitney Singleton: Yeah. That's fine.

Charlie Martabano: Okay.

Whitney Singleton: Thank you.

Male Speaker: Anything else? Thank you all. Have a good night.

Male Speaker: Thank you.

Harold Boxer: I need to take a short print here.

Male Speaker: For what, for what?

Mr. Miley: Okay, chairman. That's a good idea because we're having an issue again with Facebook. We're going to try and log back on. Thank you. How many minutes? 5 minutes? Let's see what was that? Chairman, what was you like?

Michael Bonforte: I'm okay it was 5. I'm upset. I set the timer in my watch.

Male Speaker: Okay.

Mr. Miley: Hey. Hey, Chairman, whenever you're ready, live.

**3. B. Green Holdings, LLC
43 Moore Avenue
Mount Kisco, NY 10549
(SBL 80.41-3-16)**

**ZBA# 21-25
Area**

Harold Boxer: Okay. Next case is 21-2543 Moore Avenue.

Michael Piccirillo: This is Michael Piccirillo, architect, MAP architects, representing Mr. and Mrs. Bernard for 43 more evident.

Harold Boxer: Okay. You can start your presentation. Anytime you'd like.

Michael Piccirillo: So thank you very much and good evening. So the existing house, the existing single family house is on an irregular lot with a non-conforming side yard, a non-conforming combined yard and a non-conforming front yard. It's an existing [01:02:19] [indiscernible] one and a half story cape. As we all know, the second floor of the cape has, the front has a dormer with a slope ceilings. And then the, the rear has a very shallow pitched shared roof on it. So the, the Bernard's came to me to expand the existing house, essentially to square off the, the house to enable the second floor to have proper eight foot tall walls and a flat ceiling and then expand slightly forward over an existing front porch and then on the above that as a second floor as well. So we're here seeking the three variances to expand this house single family house. Again, it's a, it's, it's, a in keeping with the neighborhood. And certainly, because of the irregular lot shape. And then that's the primary cause for us to, to be here today.

Harold Boxer: Did you have anything you want to put up on the screen?

Michael Piccirillo: I don't have an ability to because I had to look to. I don't have an ability to share my screen as it were.

Harold Boxer: Okay. I don't have the ability to open up your plans because they're way too big for where I am. Anybody else want to I think, I think the board members that are in person have the better.

Whitney Singleton: I can I can share if you'd like to share.

Harold Boxer: Okay. That'd be good. Okay.

Michael Piccirillo: Perhaps. So right there, so there's next that's the proposa.

Whitney Singleton: Just stop me where you want me to go, Michael?

Michael Piccirillo: That's fine right. The proposed survey is, the, the, sorry the proposed site plan, SP1 is fine. That one right there. Correct. So that one is showing the, the existing house, the, with with the existing porch of it and some front steps. All we're doing is literally going straight up. We're not increasing the footprint except for some stairs and landing the front. So we're really just going straight up with this building, squaring it off. It'll be, the height will be compliant. And any every other aspect of coverage will be compliant except for the fact that I have existing non-conforming front and side yard setbacks. Again, if it wasn't for the strange shaped lawn, I, I wouldn't need before you, so.

Mr. Miley: When you say square off, there it's going to have a pitch roof, I assume, above, above the second floor.

Michael Piccirillo: Correct. Yes. There'll be a, there'll be a pitch roof about the second floor. Yes. And there, so there's the proposed, there's the post elevations. So, yes, it'll have a gable end roof with stucco finishes to match existing. The deck is going to stay. The front porch has to be expanded, obviously, a little

bit. But, again, it's a, it's a very straightforward. You know, there's, there's nothing, what's the word? Controversial about the project. It's very straightforward.

Mr. Miley: Okay. In the current Second floor is a two bedrooms and a bathroom, and you're going to make it two.

Michael Piccirillo: Three bedrooms, I think. Three bedrooms.

Mr. Miley: You're converting, you're adding one bedroom?

Michael Piccirillo: I believe so. Yes.

Mr. Miley: You're adding one bedroom, and you're adding a second bathroom.

Michael Piccirillo: Correct.

Mr. Miley: Okay. This remains a one family house.

Michael Piccirillo: Correct.

George Hoyt: This feels very much like the first applicant in her time. All the same fact pattern identically. Out of curiosity, did out of curiosity, does anybody know the history of that chip block? Is that just said, what's the, what's the origin there on a curiosity?

Mr. Miley: Yeah. That is a very strange shaped lot for sure.

George Hoyt: Anyway, other than that, which is not relevant here, I don't have here any comments, Chairman.

Harold Boxer: Okay.

Mr. Miley: Seems pretty basic very. There's really nothing about it that strikes me as being objectionable.

Harold Boxer: So then I'll make a motion to close the public hearing. Give me a second. In the opposition. Okay. We have one or two things we can do. I can, we can wait for Whitney to address something up.

Whitney Singleton: It's done.

Harold Boxer: Or somebody can try and put together a motion.

Whitney Singleton: I, I, I have a resolution I can share with your board.

Harold Boxer: Perfect.

Whitney Singleton: And you see that?

Harold Boxer: Yep.

Whitney Singleton: Okay. It's just basically a recitation of everything that they're requesting. 1.6 foot variances from the front yard. The side yard variances. No comments at the public hearing, the submissions. Since this is an area of variances for a single, for a single family home, it's determined to be not have any adverse significant impact based upon what you were discussing, I put in your comments that there's no undesirable change would occur to the character of the neighborhood. That is already adjacent to a substantial larger office building to the east, which is known for office buildings, OD, that's a DiGregorio building to the east. The benefits sought by the applicant cannot be achieved by feasible method other than the variance. Based upon the existing configuration of the house, property, and a regularly shaped lot, but the variance is not substantial. That there will be no adverse impact on the environment as the increase is vertical and does not create any new impervious surfaces. Applicant owner has committed to a single family home eliminating the need for further parking or impervious surfaces. And notwithstanding the applicant submission, I presume that the board disagrees with them as to whether or not it was self-created. Their submission states that it was they bought the property this way. Therefore, it's not self-created. And as your board knows, you're charged with constructive knowledge of the zoning when you purchase a property. So it is a self-created hardship, but it's not fatal to the application. And then we have the standard conditions of approval, that solely for the plans presented, no further encroachments along any other setbacks, including along the same plain. That no disturbance to joining landowner property, that the

expansion shall be for a single family use. And it has built surveys to be delivered to the zoning board. And I'm just waiting for your vote.

Mr. Miley: Whitney hold on. Before you take a vote, Whitney go back to the, the variances cited, the distance. I think it was a front yard setback.

Whitney Singleton: Art is 25 and provided as 23.4.

Mr. Miley: No. It's.

Whitney Singleton: No.

Mr. Miley: No. Front yard's 30 19 foot provided, 11 foot front yard setback needed.

Whitney Singleton: Okay. 19.

Mr. Miley: Yeah.

Whitney Singleton: I don't know why I got that wrong, but that's so I'll fix it.

Mr. Miley: So 11 foot even and then just go to the side yard.

Whitney Singleton: Okay.

Mr. Miley: So we need 2.3 and a 5. That's correct. That was it.

George Hoyt Spector: You've got eagle eyes.

Mr. Miley: That's definitely not accurate. I wasn't sure exactly what it was, but I went back and looked at the rejection letter determined what it was.

Harold Boxer: Okay. Then I'll make a motion to approve based upon the resolution submitted.

Mr. Miley: I'll second it. I'll second.

Whitney Singleton: [01:12:32] [indiscernible] who wants the second? Who wants the second.[01:12:35] [indiscernible].

Harold Boxer: Opposition, none. Okay. The variances granted.

Michael Piccirillo: Thank you very much. Have a great night.

Harold Boxer: Thanks. Okay. I'd, I'm not set at this point to approve the minutes. So just keep carrying them over until we have a big, big, big, big book. Whitney, is there anything you want to tell us before we sign off?

Whitney Singleton: I thought there was another application.

Anthony & Angela Giardina
79 N. Moger Avenue
Mount Kisco, NY 10549
(SBL 69.73-3-5)

ZBA# 21-20
Area

Harold Boxer: Is there wait. You're right? There is.

Mr. Miley: You have 79 North Moger.

Harold Boxer: It's the return. Right? I don't flip the page. We get to go home. Okay.

Charlie Martabano: Harold, I'm getting a complex. Is the second time, you know, I've been ignored over here. What's going on?

Harold Boxer: You know you and I have always had a little problem over the years.

Charlie Martabano: But we're still and we're still here. How do you figure that one.

Harold Boxer: Okay. I don't know. But I'm, I'm getting out of dodge through me. So..

Charlie Martabano: Okay. Well, let's, let don't, don't leave yet.

Harold Boxer: Okay.

Charlie Martabano: As, as currently, as properly noticed, this has been involved 79 North [01:13:59] [indiscernible] Avenue. With me tonight are the trustees of the Giardina Living Trust. Anthony and Angela, they've come out tonight despite the weather because they wanted to be here to provide any testimony that you might need regarding the application. What's important about this particular application is at the end of the day, this is an application to legalize something that's been there for decades. Okay? This property was actually, the structures have been in the same place on this property we believe since 1870. Now, of course, the applicants weren't around in 1870 but they did purchase it, I believe in 19 90 if memory serves me correctly. Is that correct?

Male Speaker: 89.

Charlie Martabano: Forgive me. Okay? So they voted all that time. And before they bought the property, they consulted with a [01:14:48] [indiscernible] building inspector at Austin Cassidy, as to legality of the uses, etcetera. They've owned the property since that time. They've done some improvements, meaning there was a, a pre-existing apartment in a, I guess, you call it a garage, barn, whatever you want to call it, that they did renovate unfortunately, they did not get a certificate of occupancy as I indicated in the presentation. And then as a result of the fire inspection, I believe, in 2019 a question arose as to the lack of a certificate of occupancy. So we met with a building inspector and Peter was incredibly helpful going through all sorts of records. We could not find a certificate of occupancy. And this is referring to a studio apartment that is in the second floor of the existing garage, which is right on the street. Okay? So at that point, when we could not find any additional information that would assist us. We made application. We waited for Peter to issue a denial letter. He's issued a denial letter as part of your application, and now we made this application for relief from it. Our application is in the alternative because we believe that certain of the sections that were cited by Peter do not in fact apply to this particular situation. The property I also want to point out to you is located in the RM 10 which is the moderate density, multifamily housing district. Property consists of 12000 square feet. We're allowed to have multi-family dwellings on lots of 10,000 square feet or more and you're allowed to have one dwelling unit for 1,500 square feet. So this would allow theoretically, and I say theoretically because if we built today, there would be issues with respect to parking and whatnot, but you can theoretically have 8.5 units on a pure density basis. So the property is certainly large enough for what we're talking about. In terms of what we have. And I also want to point out that since they bought it, when the, when the village adopted a landlord registry laws, they registered each of the departments. They believe, there are three single bedroom apartments, one, two bedroom apartment, and one studio apartment. Is that correct? So all of those have always been listed since they've owned this property, and they've consistently maintained it in a first class condition. And now like I said, we're here to legalize it. But the building inspector has written the, the denial letter and you have copies of it. One thing I want to do is I want to apologize to everyone because one of our grounds for relief that I'm going to talk about tonight, I actually did not put my initial submission because I only looked at it tonight when I was preparing for it and said, this is an additional ground for leave. Let's talk about the actual denial letter itself. It was issued September 23rd, 2021. The first item states that section 110 12 3G precludes the location of the residential apartment that we're talking about in an accessory structure. Now if you take a look at that section of the Code, when it lists subsection 3 okay, when it lists what accessory uses are permitted, subsection A is off street parking and passenger and commercial vehicles in the open or in private garages. This is a private garage. But the section that was cited is subsection G, which says other customary accessory uses, pardon me, I have to take my glasses off to read, believe it or not. Buildings or structures subject to the applicable provisions, Article 5 hereof, such as playhouses, greenhouses, cabanas, trash containers, outdoor air conditioners and the like, provided that site uses and buildings or structures are incidental to the principal use and further provided site uses shall not include any activity conducted as a business or as a separate residence. It is upon background that the billing inspector said, you, you can't have the residents above the private garage, but take a look at this section. It's a separate section that describes certain specific accessory uses, not the section that describes public garages, sorry, private garages. So our position is that, the section, it's relied upon does not in fact, apply to this particular instance. It would apply if you wanted to take a cabana and make it an apartment or a residential use or a playhouse and do that. But in our opinion, it does not apply to the provision of an apartment above a garage. So that's our first argument on that score. Okay. So let me go to the second one, second point raised by the building inspector is section 110 31 of the supplementary development regulations where the Code requires that. Except for designed, multi structured developments, such as but not limited to shopping centers, office parks, or multifamily, or townhouse developments, not more than one principal use sorry, principal building here and after erected shall be permitted on any lot in the village of Mount Kisco. The key is here and after erected, after this Code provision. And I think the Code provision was adopted, what is it 87 or Peter, is it earlier than that?

Male Speaker: No.

Charlie Martabano: Okay. The point of it is -- these buildings haven't changed since 1870 in terms of being on this property. As far as we're able to tell, certainly decades and decades before this Code provision was adopted. My point is this Code provision provides a prohibition against structures to be here and after erected. So I don't again, I don't believe that provision applies to this situation.

Whitney Singleton: Certainly, what section are you voting?

Charlie Martabano: That is with me, that's section 110-31.

Whitney Singleton: Okay. I'm looking at it. Okay.

Charlie Martabano: Okay. If I mis-point it, just let me know.

Whitney Singleton: No. That's right.

Charlie Martabano: Okay. So again, here and after erected. These have been here for decades and decades before that Code provision was adopted. So we don't believe if that applies.

Whitney Singleton: But, Charlie Martabano, is it your position that it was, that it's a principal structure?

Charlie Martabano: Is it not more than one principle building is what this says. That's the Code section that was cited by the building as factors that Code section. That's his position.

Whitney Singleton: No. What, what I'm saying is you can, you can take, you can take an accessory structure and make and make it a principal structure. Is, is it your position that it's a principal building or an accessory building?

Charlie Martabano: I've, I've taken no position on it. It was a pre-existing accessory structure which contains a well, an apartment in it. That's what it is. But irrespective, if it was called if, if the citation was that we have a principal structure. I'm saying that the, the Code provision doesn't apply in any event. Because it applies two structures that are here and after erected after the adoption of the Code provision. So they can't apply to that.

Whitney Singleton: Well, no. It applies to principal structures here and after erected.

Charlie Martabano: Okay. Well, again, I'm not sure if the building inspector by his denial, who is here, characterized it as a principal structure or not. I'm saying, principal structure, etcetera, I don't care if this provision doesn't apply to this situation because it's not a here and after constructed situation or erected. Did I just say constructed? Forgive me. You don't have to erected. Okay? So the, the third section of the dial letter references the fact that three parking space are located adjacent to and south of the pre-existing garage and asserts that 110-28 regarding off street parking and loading regulations specifies that all off street parking shall exhibit the requirements. I won't quote them. And that subsection D 2 indicates that no parking spaces shall be designed so as to require a vehicle to back out onto a public street or sidewalk. So our position on that again is that this is a pre-existing situation, and I believe that if you take a look at Code section 110-28J1 It provides that structures and land uses and existence for which building permits and site plans have been previously approved. I should point out that the same denial letter indicates that building permits have been issued for this building. That's why I quoted this section. Shall not be subject to revised requirements for off street parking spaces set forth in this chapter, provide that any parking facilities currently exist in serving such structures or uses, shall not in the future, be reduced except when they exceed such requirements. So, obviously, we haven't reduced these, the number of parking spaces. You also note that we have not been cited for any inadequacy in the number of parking spaces is that the alignment to these parking spaces so that you back out onto the road. That's the issue. But from our position again, we're protected by the Code provision. Now, these are all interpretational arguments that we present to you. I did mention that in the event that you don't subscribe to the interpretations that we're referencing. And again, I apologize about the one that I raised tonight that you hadn't seen it before. Otherwise, we'd seek to get an area of variance in connection with these issues, but I don't think we get there. I did submit separately and you received copies of it. A short memorandum of law on the dock district construction, which we talked about a lot in the Gilliard application. And again, those lines of cases all from either the court of appeals or the second department are completely consistent on how you have to interpret this Code. We believe they apply to these sections by their expressed terms. When you apply strict construction and begin with a resolution for the property owner, I don't see that these sections applied to these circumstances. If you feel that they do, we will go into the other section where we talked about, okay, if we need area variances, why would we not get the area variances based on these situations for a memory? A

pre-existing group of buildings that have been here since, as far as we're able to tell, the 1870s. We don't have any additional land that we could acquire to correct anything, and we are not in any way different from many of the other uses that are long that area. And I think as a matter of fact, we submitted a number of photographs. I hope you have them. Do you have them?

Male Speaker: Not done with us.

Male Speaker: No. No but in, in the application so this was a packet that was circulated in in November, I believe?

Charlie Martabano: Yes. You're right. Yeah. So you're saying it might be in that packet?

Male Speaker: It's not. There's not in this one. It's not provided tonight.

Charlie Martabano: So, so I guess what we first should do is let's talk about the interpretive arguments first before we get to any possibility of being a variance. So we're going to talk about those first. I'm happy to expand upon anything I said earlier.

George Hoyt Spector: Do you mind citing the first, the first Code section you referenced again, please?

Charlie Martabano: All right. What I was talking about is with the building inspector determination being predicated on 110-12 subparagraph 3G. And I was pointing out that if you take a look at what type of accessory uses are described in that particular provision, as opposed to what's described in subsection A, which is the parking to private parking garage. That talks about other customer uses buildings or structures as references such as playhouses, greenhouses, cabanas, trash containers. I'm not sure how anyone can make a residential use out of a trash container, but who knows? Outdoor air conditioners and the like. That section limits the type of structures where you're not permitted to use them as a business or a separate residence as opposed to subsection A. Which talks about Wall Street Park capacity with commercial vehicles in the open or in private garages. Was that the section you want me to review?

George Hoyt Spector: That was a section. Thank you. Yeah.

Charlie Martabano: No problem.

Michael Bonforte: I'd like to ask Whitney, whether he has any I, I guess alternative interpretations to any of, you know, to your interpretation which you're, which you're proposing that the Board adopt?

Charlie Martabano: Of course.

Whitney Singleton: My, my understanding that I have not had a chance to go through the building department file, but my understanding based let's just say, let me pull up a copy of the submission to you.

Michael Bonforte: That would be helpful. I, I did actually again, Whitney, did the section regarding subparagraphs A and G of 110-12. I did not raise that specific thing in the submission. That's why I made that statement right at the outset.

Whitney Singleton: Right. So we haven't I haven't had a chance to review that yet, but my understanding is that this is the property in question. It is a, it is forget the existing condition for say. It's a, it's a through lot. So I think some of the calculations here are incorrect with regard to yards, but so you have to have two front yards and two side yards. This is a front yard. The building in question is one foot from the side lot line and four feet from the rear lot or the front lot line. And these parking spaces are actually in the public right of way. That, that, that just providing some perspective. My understanding and my recollection is that this right here was always a frame barn as reflected on their own survey. It was not a residence.

Charlie Martabano: Well, the the applicant submitted a statement. First of all, first of all, I don't know what the reference to side yards is. We're not cited for any side yard violations. We cited to work.

Whitney Singleton: I'm just pointing out to the board that your calculations you provided a zoning conformance chart.

Charlie Martabano: I, I just, I just submitted that again too. We're not here for site plan approval. We're here. I, I just really.

Whitney Singleton: Charlie Martabano. I'm pointing out the error in your submission. You'd, you don't have rear yards. You have front yards.

Charlie Martabano: But I'm not cited for it.

Whitney Singleton: I'm simply providing some context just like the fact that you, you're making arguments that were not made in your submission. My understanding and reading of the Code is that the RM 10 allows multifamily dwellings within one structure unless it's designed to be a multi structure development. Such as like what you have down the street where a number of buildings were put on a property pursuant to a site plan. What exists over here for an accessory building, which I haven't researched this yet, an accessory building has a different setback from a principal building.

Male Speaker: Whitney, do you mind zooming in on that?

Whitney Singleton: Sure.

Male Speaker: Thank you.

Whitney Singleton: If this you if this building was converted from an accessory used to a principal use, It becomes a principal building and has different setback requirements. And my understanding is that, it was a barn as reflected on the applicant's survey. And that it was subsequently converted to an apartment and to a business for which no certificate of occupancy has ever been issued. So as far as pre-existing, non-conforming, construing, you know, zoning laws being interrogation of the property rights and must be construed in favor of the applicant. I think that goes all goes out the window because the fact of the matter is, it is the applicant property owner that does not have, that does not have a certificate of occupancy or a pre-date letter. This is not your board, you know, rendering some sort of draconian as Charlie Martabano used the word or draconian result, the applicant does not have a certificate of occupancy. And I don't know whether it's, I'm not really clear based upon my discussions with the building inspector. I was under the impression that the applicant acknowledged that they could go to the space to apartment.

Charlie Martabano: The, the applicants here, does anyone want to hear from the applicant?

Giardina: Sure.

Charlie Martabano: Okay. Mr. Giardina, so that they can hear you. Would you like to if you have specific questions, you can ask them of the applicant. He put in a statement. And again, you're, you're, you you were asked by the board to talk about the interpretive issues, but now we're talking about setbacks. I'm just a little confused as to where this is going again.

Michael Bonforte: No. I think it's a valid question about the nature of this building, whether it's an additional principal building versus an accessory building.

Charlie Martabano: But again, to what effect would that be if it occurred.

Whitney Singleton: We're trying to use it as a principal use, Charlie Martabano.

Charlie Martabano: Could, could you allow me to finish this this statement?

Whitney Singleton: Okay.

Charlie Martabano: Okay. If that section does, it was not in effect when this came into being. I don't know. Shall hear and after be erected? Where's the hearing after erected?

Whitney Singleton: I think it's when it was converted. Isn't that isn't that the issue at some point?

Michael Bonforte: Right.

Whitney Singleton: If it was originally accessory and it was converted to principal use, then it's here and after bed converted to a principal use.

Charlie Martabano: There's, there's no language in that Code section that says here and after convert.

Whitney Singleton: So, Charlie Martabano, is it your position? Is it your position that a chicken coop can be converted to a resident?

Charlie Martabano: Tell me what my a chicken coop application did. Sorry. I'll respond on my checking scoop application before the board. Okay. I, I, I, I don't, I don't understand where this is going based upon what the building inspector found and what our position is, what the interpretation is. But the applicants here if you want to ask a specific question to, you know, clear out, clear, clear the air here.

Giardina: So will it this is this is Mr. Giardina?

Whitney Singleton: I guess the question is whether or not Mr. Giardina or people on his behalf converted the space to residential use.

Charlie Martabano: As opposed to preparing existing community that you are asking.

Whitney Singleton: I'm asking whether or not he initiated the residential use of the barn?

Male Speaker: No. What, what we bought was there already. All we did was maintain it and, and try to improve it a little bit to make it.

Whitney Singleton: You had a you had a tenant in the building when you purchased it?

Michael Bonforte: What was upstairs in that.

Male Speaker: The build, the building was fully occupied when we purchased it. But, unfortunately..

Whitney Singleton: Your, your closing documents say that you don't have more than four apartments.

Male Speaker: Well, I don't understand that myself. Charlie Martabano brought that up to me a while ago, and I quite frankly, you know, not being an attorney. I don't understand where that came from because when we bought the building, it was fully occupied. We did on it as an occupied structure. We purchased it in an occupied structure. Unfortunately, when we did buy it, couple of months after we bought it, all the tenants except one moved out. I think they were afraid we were going to raise their rents or something.

Michael Bonforte: Were their leases written leases?

Male Speaker: No. Here there were no leases. They, they all, they all gave me notice and moved out one at a time, which was not a problem because we were in a repainted and in those days, it, it was very easy to rent.

Michael Bonforte: Well you bought the building? Did you get an appraisal done of it or the property?

Male Speaker: No. I did not. No.

Whitney Singleton: You have a mortgage on it. You didn't get an appraisal?

Male Speaker: Not that I recall.

Whitney Singleton: Okay. Do you have a business in the, in the, in the structure as well?

Male Speaker: A business? No.

Whitney Singleton: Okay. Because I see trucks loading in and out equipment from the building.

Male Speaker: Yeah. That's but we, we have storage in the barn area, in the area, the garage area for maintenance stuff. And as those trucks belong to my son, who is.

Whitney Singleton: Okay. So, so you're using the are you using the required parking for storage of commercial businesses?

Charlie Martabano: I, I didn't want to reply to this stuff. Just like an imposition.

Whitney Singleton: Well, Charlie Martabano, there's representations made as to what they're, what's there that are, that are at odds with the record.

Charlie Martabano: Right. I didn't know. I, I.

Male Speaker: Go ahead. Go ahead. Go ahead. Go ahead.

Charlie Martabano: Yeah. Come over here. Sorry. It's unusual to come here with no advance. And then you want to conduct an inquisition, I offered to allow this man to speak. But instead, he got attacked and he's, he's just, it's just unusual that they would come out with such payments. And again, no, no, no prior

notice. This, this is the position you want to take. The building inspector is not taking these positions. So I guess my question is, why are you?

Whitney Singleton: Because based upon, based upon my observation of what's there and in the record and in my discussions with the building inspector, that, that space was not occupied as a residence. And that it is occupied for business purposes, and that's required parking for the site.

Charlie Martabano: Okay. So Then why don't we have it? If, if that's your concern, that if they grant the relief, then we'll make sure that there is no business use of it. Is that what you want?

Whitney Singleton: No. I'm not saying that. Charlie Martabano, you still need to go even if you get your relief here, you still need to go to the planning word for site plan approval. None of this was approved. None of it predated.

Charlie Martabano: Then I, I guess we'll see where I do after I get to, hopefully get the relief from the zoning board. I'd, I'd like to get back to the interpretive issues because I think those warrant consideration. That's what this board is here for.

Whitney Singleton: Right. And, and the reason I'm bringing these things up is based upon my conversation with the building inspector. He thought you were plumbing in for variances, not in interpretation.

Charlie Martabano: My application is anyone can tell by looking at it. Was they sought interpretations or in the alternative, if the board did not see it, you know, our way, for the area variances. So that's.

Whitney Singleton: I won't, I won't speak for the building inspector. And I understand, I understand that you're raising new issues tonight. So I would ask that the board.

Charlie Martabano: I'm raising a new theory tonight. Yes, I am. And I, and I mentioned that right at the outset, so there's no question about it. But my application states, the public notice states that it's for interpretation or in the alternative for the area variances. That's what we're here for. So I'd like to go forward on the interpretive issues and see where we go from there.

Whitney Singleton: Right. And what I'm saying, Shirley, is since you're raising new issues as a basis for your interpretation.

Charlie Martabano: Okay.

Whitney Singleton: The first time tonight, I would ask that the board not act on the application until I have the opportunity to review those, those arguments.

Charlie Martabano: And, you know, in, in fairness, I'm perfectly okay with that. That's a reasonable request. I was forthright in saying I was raising it for the first time tonight. I have absolutely no problem with that.

Whitney Singleton: Okay.

Charlie Martabano: Okay. So do we want to send you to next meeting?

Whitney Singleton: Well, I assume the board has more questions, and I, I don't know what.

Charlie Martabano: I, I don't, I don't want to take away, please. Of course.

George Hoyt: I mean, I, I, I for one. I for one of little skeptical if you're targeting with respect to the accessory use. I just don't see the short list that does not include private garages to something to, to suggest that private garages, you know, and I included within this I don't know. I, I did that, that, that's to me, out of the argumentative phrase, that's to me the weakest as being.

Charlie Martabano: If I can and, and again, this is again, me, me, getting prepared for tonight and then suddenly raising the argument, So in the interim between tonight's meeting and the next meeting, I'll submit something much more detailed to outline it for you. And then we can then look at it the next meeting. But I, I, I appreciate the comment.

Michael Bonforte: Yeah. I would love for you to include pictures of, of, of, of the sites.

Charlie Martabano: Yeah.

Michael Bonforte: I, I think that's some of the confusion that's true with that.

Male Speaker: And we could also do a site visit, I suppose, if we need to.

Charlie Martabano: Yeah. We and you're entitled.

Male Speaker: We absolutely are entitled. Yes.

Charlie Martabano: Absolutely. So if you'd like to do that, let us know we can arrange that. I can bring pictures. Anything many more information you want, I'm happy to bring it.

Male Speaker: I'm going to do a drive by personally and see if I feel I need additional.

Charlie Martabano: Anything at all. Of course. Of course. Anything else that I can hopefully respond to or whether it be now or in our next submission?

Michael Bonforte: Well, I'm personally looking forward to your additional supplemental submission and, and to Whitney's as well.

Charlie Martabano: Sounds like a plan.

Michael Bonforte: Yes.

Charlie Martabano: All right. If there's nothing further, thank you all for your attention and we'll see you next, next meeting. Okay? Thank you.

Harold Boxer: Charlie Martabano, the next meeting has, is it we've changed the date of the next meeting.

Male Speaker: February ninth.

Male Speaker: I don't know.

Male Speaker: It was moved up just so you're now.

Male Speaker: To what date, please?

Male Speaker: February 9th.

Male Speaker: I believe it's the time.

Charlie Martabano: I believe I'm going to be here.

Male Speaker: February ninth. Yes.

Charlie Martabano: That's fine.

Michael Bonforte: February ninth.

Charlie Martabano: All right. Thank you very much for your attention, and we'll see you all. Obviously, you're leaving the public hearing open. Correct?

Male Speaker: Correct.

Charlie Martabano: Okay. Very good. Alright. Thank you so much.

Harold Boxer: Is there anybody want to discuss anything or should we just call them right?

Michael Bonforte: You have two.

Harold Boxer: [01:41:19] [indiscernible] to vacate the premises?

Male Speaker: Chairman, you have three things.

Michael Bonforte: I'll make a motion to and the.

Male Speaker: Hold on, Arthur. I'll not to, to Jack. You have a number of minutes and a schedule. For 22 to approve.

Harold Boxer: There were the minutes I have not reviewed, so I can't do those.

Male Speaker: Okay. And how about the schedule?

Harold Boxer: Schedule. As far as I know, there's no problem with it. Now I, you know, anybody have any problems with this schedule?

Michael Bonforte: I agree with you. As far as I know, I do not.

Male Speaker: So you're going to adopt the schedule so we could post the chairman.

Harold Boxer: Yep. And have somebody just let Charlie Martabano know the new submission deadline so it doesn't Go crazy on us.

Male Speaker: He's jumping up and down right now. Unfortunately, this the submission deadline for the February ninth meeting is tonight. According to this, it's January eighteenth. Could I am? You have to go back to your office.

Male Speaker: Can I get a brief extension on that?

Charlie Martabano: Is that a new application? It's simply a supplemental right?

Male Speaker: Had that to the end of this week.

Charlie Martabano: The, am, am I correct? Today is Wednesday?

Harold Boxer: Give me 2 days. Come on. I'll give you the next Thursday, next Monday.

Male Speaker: God.

George Hoyt: Today is Tuesday, by the way.

Charlie Martabano: No. It's not.

Harold Boxer: Yes it.

Charlie Martabano: Today is Tuesday?

Harold Boxer: Today is Tuesday. Unless you live on a different planet.

George Hoyt Spector: We just gave you a day back.

Charlie Martabano: I, I've been accused of worse thank you all. So I have to next Wednesday, there is plenty of time. Thank you all.

Male Speaker: That was pre-planned.

Harold Boxer: Okay. Anything else you want from us, Peter?

Peter: I'm good. I'm ready to go home.

Harold Boxer: Okay. I'll make the motion whenever you turn. Come on. You have the drill some, one second here. All bigger. Fine. Bye.

Female Speaker: Bye.

Male Speaker: Bye.

Harold Boxer: Okay. Thanks very much.

Male Speaker: Thank you. Thanks, everyone.

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