

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, July 20, 2021 at 7:00 pm** via Zoom Teleconference

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

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

**1. Kate Moran & Stephen Busby**  
**43 East Way**  
**Mount Kisco, NY 10549**  
**(SBL 80.71-2-11)**

**ZBA#21-12**  
**Amendment**

Mr. Kate Moran, property owner and Mr. Ed Elliot were present.

Harold Boxer: Fourth quarter meeting of the zoning board of appeals on July 20th. First case is ZBA 21-12 Kate Moran, and Steven Busby. Are the people, are you present? Okay. I can't see you, but that's fine. Okay. Who am I listening to? Okay. Okay.

Ed Elliot: What we're looking for is to get a side yard variance for an accessory building. A few years ago, I did the project to work on their house, to take what was a two-story building with no attic, no basement, basically no storage except for what closet space they had and get them into the house. Now they're ready to move forward with putting garage on. They have two cars, need parking for two cars, plus because there is no space in the house for any storage, we're looking at putting a shed and second story above the gara-, or partial second story above the garage for storage. Because of the narrow site, the access driveway now is on the right side of the house. The approach through that to the backyard is not wide enough to really be able to maneuver to push the garage much further from the property line than what we show it. The maneuvering on this space we have now is tight to make it so that it works better for getting in and out with pushing it to the setback would require extending the driveway probably another 50 feet and then to push the garage almost to the middle of the yard, which destroys the use of the backyard and it adds a tremendous amount of extra paving to get to it. So for those reasons, we're looking to get a variance to side your to allow for a 3 foot setback on that side.

Harold Boxer: Right. Is on the property next to the driveway? How long is it is there a house, how close?

Ed Elliott: The house next door is on a, what seems to be a larger lot and probably about 50 feet away from the property line.

Harold Boxer: Okay Did we get anybody objecting to this?

Ed Elliott: Doesn't seem to be.

Harold Boxer: Okay. Anything, and the board have any questions? Comments?

George Hoyt: I assume that the Peter, the coverage ratio, everything else is within limits.

Mr. Miley: That's the only variance requested.

Harold Boxer: Okay. Are there anybody in the audience or online that wants to make a comment? Okay. Can I have a motion to close the public hearing?

George Hoyt: I'm [indiscernible] [00:03:21] to close the public hearing.

Wayne Spector: I'll second.

Harold Boxer: Second?

Michelle Russo: Wayne seconded it.

Harold Boxer: Did somebody second did?

Wayne Spector: I did.

Harold Boxer: Okay. So all in favor of breaking the variance? [indiscernible] [00:03:40] I can see you raise your hand. You're in favor of the variance, raise your hand.

The motion carried by a vote of 5 to 0.

Harold Boxer: Okay. Very good. Okay. Then I guess what we'll do now is, we close the public hearing. We did. Okay. The variance will be granted. Based upon, I think, Whitney sent in a. Okay. Can somebody read that for me?

Mr. Miley: I can't read it because I don't have it. Yeah. Mr. Chairman, location of property is 43 East Way. The applicant proposed the construction of a detached garage storage building pursuant to section 110- 9C3 of the village code. The requirement of the side yard setback is 10 feet. Application proposed the construction of detached garage storage building 3 feet from the side yard property line. Therefore, necessitating a variance of 7 feet from the required minimum side yard setback required under the village code. The location is RS9 zoning district, which is a moderate density, one family zoning district. So the variance request as indicated early as a minimum side yard setback required 10 feet provide 3 variances 7 foot. Anything further chairman?

Harold Boxer: No. Just have to, I would ask the applicant to go through the 5 factors for me.

Mr. Miley: Yes, sort of basis for the decision of the ZBA and the conditions of approval.

Ed Elliott: Okay. I believe you have that in the write up that I presented with...

Harold Boxer: Hey, let me get to it.

Mr. Miley: Yeah. That's your job. Indicating the variance and why it meets the character of the neighborhood and, you know, all those factors. Correct. Yeah. He needs to read into record. The applicant.

Ed Elliott: Okay. I've got to find it because I don't have it. Right.

Mr. Miley: Yeah. That's I could give it to you. I can't make the case for you as much as I like you. You have it.

Ed Elliott: That no undesirable change would occur to the character of the neighborhood. Two that the benefits sought to the applicant could not be achieved by any feasible method other than the variance based upon the existing configuration of the house and property. Three, that the variance is not substantial. Four, that there will not be an adverse impact on environment. And five, that, while the alleged difficulty was self-created, it is not fatal to the application as it does not outweigh the other factors favoring variants as set forth above.

Harold Boxer: [indiscernible] [00:07:24] I did it backwards as far as approving. So based upon the five factors, does anybody have any comments?

George Hoyt: I think this proposal is very consistent with the neighborhood. It's consistent with houses in Mount Kisco. Generally, it makes no sense to force them to put an extension in the middle of their backyard.

Harold Boxer: Okay. So now we can close the public hearing. I have a motion to close the public hearing.

Wayne Spector: So moved.

Ralph Alfano: Second.

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

Harold Boxer: Okay. Based upon what the five factors and, we can grant this variance. It is only for the plans as presented now and the other change in the future, you will have to come back before us. Thank you.

Ed Elliott: Good. Thank you.

**2. Suregreen Properties, LLC**  
**1 Manchester Drive**  
**Mount Kisco, NY 10549**  
**(SBL 69.80-4-1)**

**ZBA#21-13**  
**Interpretation/Area**

P. Daniel Hollis of Hollis, Laidlaw & Simon was present.

Harold Boxer: Okay. 1 Manchester Drive.

Mr. Miley: Chairman, if you could just standby for a minute, Whitney was having an issue logging on to the meeting. I just gave him the code. He should...

Harold Boxer: Okay.

Mr. Miley: In a second.

Harold Boxer: Good thing you didn't see me goof.

Mr. Miley: Double approval. Very efficient.

Harold Boxer: Peter, can you zoom in closer on the plans that he's, that he's showing us? Can you zoom in closer on the display?

Mr. Miley: It's magic. Yeah. [indiscernible] [00:10:01] is taking care of it right now.

Harold Boxer: Okay. Very good. Thank you. Okay. And I think I saw Mr. Hollis there.

P. Daniel Hollis: Correct, Mr. Chairman. May I know...

Mr. Miley: Whitney's with us. I'm sorry.

Whitney Singleton Sorry for the delay, guys. I had some trouble getting in.

Harold Boxer: Nice background, Whitney.

Whitney Singleton Thank you.

Harold Boxer: Okay.

Wayne Spector: Harold? Harold?

Harold Boxer: Yes.

Wayne Spector: I just want to confirm I had sent an email today indicating that I am recusing myself from this matter.

Harold Boxer: [indiscernible] [00:10:35].

Wayne Spector: Yes.

Harold Boxer: Okay. That's fine. We still have four people, four people. Okay. Thanks. Okay. Dan?

P. Daniel Hollis: May I begin?

Harold Boxer: Yes.

P. Daniel Hollis: Good evening, members of the board, Mr. Chairman, members of the public. My name is P. Daniel Hollis. I'm a member of the firm of Hollis Laidlaw & Simon, 55 Smith Avenue, Mount Kisco, New York. We are the attorneys for [indiscernible] [00:11:05] Green Properties, LLC, the owner of the property and the applicant here tonight. With me tonight is Paula Rodriguez. Stand up, Paula. She's the managing member of the LLC, and Thomas Currow is our project architect in the blue shirt in the front aisle. And here, Sarah O'Shea, one of our young lawyers who helps me out on these matters, is sitting in the front row where I had been. I don't want to take a lot of time because we, my letter of April 21st, 2021, was pretty comprehensive with regard to the criteria for granting area variances. We're only here because this is a prior nonconforming use as to the setbacks. What we're asking for is a variance as to the setbacks. We are not here, building inspector did not make a determination that the height was an issue for a variance. So we're here for, because there are existing setbacks and we need variances because we want to work on a building that is nonconforming because of those setback deficiencies. So the property is located in the [indiscernible] [00:12:13]. And I'm sure you're all familiar with it. You've probably all been there. But I just want to refresh your recollection as to the 110-1 of your zoning code, the purposes, clause, and it has the usual boilerplate, but it talks about the purpose of the code being for the protection and promotion of the public health, safety and welfare, and shall be deemed to specifically include the following among others, and it list A through K. I want to talk about J and I. J is to enhance the character in appearance of the village of Mount Kisco as a whole. Right now, I would respectfully submit that this property, as the gateway into the village, as you come from 133 on the west, is not exactly a testament to good architecture or good appearance. And all the plan that Mr. Currow and Mr. Rodriguez have put together, will cure that. Second of all, the purpose of the project or the code is to gradually eliminate nonconforming uses. So this property was built in the 1920's. And Mr. Miley, did his usual exhaustive job in searching the records of the tax assessor and other files available to him and set forth in some detail the history of this property and it's possible nonconformity. Jack Wade, the long-time building inspector when I first started at this nearly 50 years ago now, enumerated back in the 80s that it was in fact the prior nonconforming use because it did need a CO when it was constructed in the either in the late 20's or mid 20's, CO's had not come into existence as the zoning code came into effect in 1929, I think it was. So when, we could go through, and the non-conformity wasn't created by our client. That's very important to know. Our client bought this property with a nonconformities in place. So our client did not self-help here to create a situation to improve that property for her own purposes with disregard for the zoning board. She bought it as is with the work that others had done through nearly a century rendering this property evermore and nonconforming by the virtue of the fact that work was done without permits. So Mr. Miley, did his exhaustive job set forth 10 references to the history of this property. That's, they're all in my letter. And specifically, then Mr. Miley, after Mr. Currow submitted plans, Mr. Miley denied the building permit application. And he said that we needed variances because of those nonconforming setback issues. If you've been to the property, the property is right up on Manchester and right up on West Main Street. Now, the property, curiously, is two stories on Manchester, but 3 stories on West Main Street. But the three stories on West Main Street

does not at a character with what is directly across the street. The two buildings that were built there, I believe, in late 70's or early 80's, if I am correct in my memory. So the front yard setback requirement, excuse me, in the RT-6 is a minimum of 10 feet, and the residential structure is located 2.3 feet. So there's a huge deficiency there from the northern property line and 0.5 feet from the western property line and is located 0.7 feet from the eastern side yard and 1.9 feet, there's, because it's a corner lot, there's no rear yard dimensional requirement. It just has sides in front. The property is, the requirement is 6250 square feet. But this property from its beginnings in 1928 or '29, is only 3484 square feet. So those are the, that's what makes it nonconforming. Not the plans that Mr. Currow put together. The height of it is because we're plopping it down on the same footprint and improving it. That's why we have to be here because you're technically any work on a non-conforming building expands the nonconforming nature of the building, but that's not what we're doing here. We're not encroaching any further in the side yard, frankly, because you couldn't because you'd be in the street, either Manchester or West Main Street. So as you all know, there's a balancing test and a five criteria that you just went through. We didn't talk about the balancing test so much in the last case, but I think it's important to talk about today because the balancing test you have to weigh the benefit to the applicant against the detriment in these criteria are important, health, safety, and welfare of the neighborhood or the community if the variances granted. This is a very heavy balancing test. And next, we move to those five criteria. Whether an undesirable change will be produced in the character of the neighborhood, whether the benefits sought by the applicant can be achieved by some other method, whether the request is substantial, and we'll talk about each of these how we match up favorably in a minute, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district and whether the difficulty was self-created which consideration in and of itself alone is not sufficient for the denial. So in making your determination, you can make such determination in your opinion that ought to have been made. So what, basically, what we're doing here are asking to be done is taking a 90-year-old building, 90-plus-year-old building and making it compliant with 21st century building codes. That's what it is. Because right now, it's not safe. And you might say, well, why don't you just fix it and fix it the way it is and have some you sort of convoluted one family or one and a half family mother-in-law suite or something like that. Well, it won't look any better. And the cost would be the same, and we'd still be here for the variances because we're doing work to a non-conforming building. So we'd be here whether we were asking for the building to go up a little bit, which doesn't need a variance, or if we were asking for that building to go up a little bit. So the I cite case law in my letter in some length about the balancing test and how you have to really weigh that carefully, and [indiscernible] [00:19:08] any decision to deny it based on any detriment of the health, safety, and welfare of the public at large, and you have to weigh that, whatever that harm is that you feel against the benefit to the applicant. The benefit to the applicant couldn't be more clear. You know, they want to, they spend a lot of money, they bought a property that's not conforming and they're trying to make it right. Building will be made safer, that's the biggest thing. Right now, it has warrens and a little rabbit warrens. And right, that's not safe. You know, my son is one of the fire chiefs here. He goes into these buildings all the time that aren't compliant with code. They sort of have to guess where people are living or where there's habitable space. That's not safe for the people that live there. That's not safe for the firemen that have to go in there. So we're trying to remove that as a problem. The granting of the variance won't make an undesirable change in the character of the neighborhood because we're trying to take an incongruous use, which is whatever it had been and turn it into a two-family house, residents that's attractive and compatible with the neighborhood and definitely compatible with a two family or multi family structures across the street. We're not looking to introduce any incongruity. The applicant cannot achieve this in any other fashion. It's a two family zone. We're not asking for a variance to give us a two family use when it's not permitted, it's a two family permitted use. We're just saying, because we have these dimensional nonconformities, we need you to have a variance to let us do to work, to make it be a conforming permitted two family use. The area variance is not substantial. Now, this is a case you might say, well, you know, adding whatever number of feet it is and Mr. Currow can go through that a little bit. You know, that's that seems to be a lot, but it isn't when substantiality in these cases that go to court, and to our higher appeals court, substantiality isn't really in the math. You know, it's in the impact. And to turn this into a compliant two family house, permitted two family house, takes away that issue as to what the math is on the number of feet sought to be increased in the height. Because we, that height is necessary to make the second floor safe. Right now, that second floor, I probably would have a hard time walking around up there. I don't know if anybody went inside, but it's not compliant to building codes, let alone the zoning code. We're going to take care of that if you grant our variance. In the case, there's several cases, one was close to home [indiscernible] [00:22:00] case against the town of Bedford where, you know, that point that I just made about substantiality not being equal to just strict math is important. We plan to upgrade the appearance, the safety and functionality of the building. There's no feasible way to do this without that, that work. We respectfully submit that the variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district, converting the property to a legal two family resident, does not represent a significant increase of use, especially as it appears the property has been used [indiscernible] [00:22:44] as the two-family residents or multi-family residents for a considerable period of time before our client purchased it. And last but not least, we talked about self-created hardship. The self-created hardship was we bought it that way and we brought out the community to make it better. To make it better for the families that will live in there, and frankly, to make it better for village of Mount Kisco, [indiscernible] [00:23:10] come down that

hill from the west from [indiscernible] [00:23:14], wherever you're coming from, [indiscernible] [00:23:15], you're going to see something that's going to look a lot nicer than what's there now and more importantly safer and allow families which we're, we'd like to attract to the village of Mount Kisco to live in comfort and safety to raise their families. So the, as I said in beginning, [indiscernible] [00:23:34] not closed by the applicants, and I don't think this [indiscernible] [00:23:47]. That's all I have. That's a recap of my letter. My letter's already in the record. If you have any questions as to the that or the plans, we'll be more than glad to try to answer them. Or if the answers [indiscernible] [00:23:59].

Harold Boxer: And what's the total height going to be?

P. Daniel Hollis: Total height...

Harold Boxer: What is the total height going to be?

P. Daniel Hollis: From the ridge to the peak?

Harold Boxer: Yes.

P. Daniel Hollis: [indiscernible] [00:24:20].

Thomas Currow: Well, it. Good evening. I'm Thomas Currow, architect. Is this on?

Michelle: It's on.

Thomas Currow: Okay. It depends on where you're taking the height from. The thing is that on Manchester, the building right now is really one story above grade. But along West Main, it appears to be two stories. So currently, the height is only maybe, you know, 12, 15 feet. We're just raising the attic, existing attic, so that it's a habitable space and minimal habitable space of 8 feet ceiling. So whatever that is, that's where the, that's where the top of the ridge is going at the minimal slope. So we're increasing this on the minimal code requirements just to get a headroom of 8 feet in the attic level, which is now I guess you would consider a story. But from Manchester, it will appear to be a two-story building as well as around the corner on West Main until you get maybe 80 feet down on West Main, which is down a hill, and you look back and you'll see the new edition. The footprint is not changing and actually, no the footprint is about 1150 square feet. We're only adding 1100, so we're actually decreasing. The addition is less than the footprint. And like Mr. Hollis said, we are trying to make improvements. There's no installation in this building. Structural system is an adequate, very unsafe building. So with, you know, it would be a lot more cost effective for any owner to make improvements such as this if they have to go ahead and reconstruct most of the house anyway. So I don't know if that answers your question, but I don't have exact heights [indiscernible] [00:26:26], but I could tell you from Manchester, it's probably going to be about 25 feet to the ridge. And then as it slopes around, whatever that is.

George Hoyt: So what, so the plans call for a basement apartment, right? The plans call for a basement apartment. Correct?

Thomas Currow: That's correct.

George Hoyt: So what's the argument against, that seems like the addition, the raising the roofline, adding a third floor is just to make the upstairs apartment larger instead of 3 bedrooms, I get four.

Thomas Currow: It's a very, I mean, relatively speaking, it's a very small apartment on the first floor. And the bedrooms are a very tiny, you know. So to have that additional level and make that a duplex is in keeping with, you know, comparably speaking with the homes in the area. You know, it's not really, and like I said, it's only 1100 square feet that we're adding, and it's in a perfect alignment with the build-, with the house below. It's just making the best use of that real estate. It's given the most value back to the investment the clients make.

Peter Miley: Chairman, can I just interject the sec? I just wanted to circle back to the height. So if you look at the topography and the way the elevations are a way to hide as measures from mean average grade to mean average roof height. So one will look at the house in the front, it'll be three and a half stories and you'll look in the back, it may look like one and a half stories. So what we flagged was it wasn't, that it was too high is that, there was an additional story based on, on that determination. So whether it's a cellar or basement, constitutes a story whether the attic is high enough to constitute another story. So you have a 3-story home that is at and don't quote me to the exact figure, I think it was 3-, 32.58 feet to the mean average roof height, which is code compliant with respect to height, just one additional half story, thereby making the home three stories.

Thomas Currow: Also, that basement is below grade. There's only windows on maybe 2 sides of that...

Peter Miley: Yeah. It's...

Thomas Currow: A lot of...

Peter Miley: The way you look at it. [indiscernible] [00:28:32]...

Thomas Currow: Excavated. So it's really...

Peter Miley: Uh-huh.

Thomas Currow: By building code more of a cellar than a basement. But it's a basement because it's habitable and they have compliant...

Peter Miley: We indicated basement as a story.

Thomas Currow: I'm sorry?

Peter Miley: We indicated the basement as a story, but...

Thomas Currow: That's...

Peter Miley: We did not, we did not indicate that the attic was a story because it didn't meet the 7 and a half foot threshold. So we gave you the benefit of the attic, but we counted the basement as a story, there by 3 stories.

Thomas Currow: Yeah. But ironically, that attic was used as bedrooms for many years. I mean...

Peter Miley: Unlawfully. It was issued violations. Yeah.

P. Daniel Hollis: So stipulated, and we're trying to get rid of that.

Peter Miley: Uh-huh.

Whitney Singleton: And to be just to be clear, if the basement was categorized as a cellar, it wouldn't be capable of occupancy?

P. Daniel Hollis: That's correct.

Whitney Singleton: So it is a basement not a Cellar.

P. Daniel Hollis: Is that right?

Thomas Currow: Well, that's correct. I mean, I don't I don't know exactly what the code read back in 1920. I know it has changed a lot over the years. But, yeah, I mean, by definition today, it's a basement.

George Hoyt: Why is it a basement not a cellar?

Peter Miley: It depends on how much is below grade and how much is above grade. So you take the average grade and so long as 48 inches at 50 percent is above or below grade determines whether it's a cellar or basement. Above would be a basement, below would be a cellar.

George Hoyt: Basement and it's habitable.

Peter Miley: Basement could be made habitable. Yes. It has full height story located in Manchester. And if you start to go up, Manchester starts to decrease, but if you go to the left, say, you know, more towards the train station, you could, it also has, you know, full dimension and full height walls there.

Thomas Currow: And the nearest home on West Main is about 80 to a 100 feet down the hill. And so even though that is the only side that you're going to feel the height, you'd have to be right up against it in that very small side yard to actually see it.

Peter Miley: Yeah. It's very sloped, the topography there.

P. Daniel Hollis: It's a pronounced slope coming down that hill.

Peter Miley: Uh-huh.

George Hoyt: So were there plans for not the additional story, but had you developed plans to try to make that second floor the first floor a habitable modern two bedroom...

Thomas Currow: You couldn't get the light and ventilation in, you wouldn't get the emergency access that you need because of the gables and the collar ties that are required by, into today's standards. And it just...

Peter Miley: It's only a five feet.

Thomas Currow: Just can't have it...

Peter Miley: It's only a five feet.

Thomas Currow: Just can't have...

Peter Miley: Yeah, it's only a five feet. Would have to be raised even further to make it habitable.

George Hoyt: You mean the, I'm sorry, about the main floor, I'll call it.

Peter Miley: Oh, I'm sorry. Think you're talking about the top floor.

George Hoyt: No. No. The main floor.

Peter Miley: Yeah.

George Hoyt: I'm just curious why I just, you know...

Peter Miley: Uh-huh.

George Hoyt: Whether the benefits [indiscernible] [00:31:17] the applicant can be achieved by some other method. And that's a prong that suggests that, well, I want to make sure that I'm comfortable that you're just not adding a luxury apartment because you want to, there's a need for raising the roof and the current first floor is not large enough to accommodate...

Thomas Currow: That's correct. That's correct, sir.

[indiscernible] [00:31:55]

P. Daniel Hollis: I'm not in-charge. The person in-charge has...

George Hoyt: Let the chairman open up for question.

P. Daniel Hollis: When I looked to my left, I'm not being evasive because Mr. Singleton and Mr. Boxer are on the screen there. So I try to be responsive to them when they ask me a question. I'm not looking away from the audience to be rude just for the record.

Whitney Singleton: And do you have plans to show what you're proposing as close to what exact...

P. Daniel Hollis: Absolutely. There are submitted.

Whitney Singleton: [indiscernible] [00:32:20] my package.

P. Daniel Hollis: Yeah. They're referenced in the agenda, and they were part of the package, Whitney.

Whitney Singleton: Right. They weren't part of my package. I was just wondering if you could me what they were.

P. Daniel Hollis: You mean the floor plan?

Whitney: No. Not a floor plan. Just the exterior elevation plan.

P. Daniel Hollis: Tom?

Thomas Currow: Sorry about that. Okay. So, these are the existing elevations. You could see hopefully how this is one story off of Manchester Road. Okay. And the other side, what we're proposing is this. Which the same drawings in the same place, but with the vertical enlargement. So it's definitely an enhancement to the streetscape on both sides of the building. It looks like it was designed that way from the very beginning which was the intent, not to make it look like it was a attack on type of addition, but the house was there originally, two stories or whatever. You know, from this, you could see clearly it's a two story house. Now again, I, you know, also the back, it appears that you have a two story and a cellar, but by definition I know it's base. But you can see how only a slight part of that lowest level is visible.

George Hoyt: Is the parking, the parking is always been tight there, I think.

Thomas Currow: It's very tight.

George Hoyt: Has that parking been addressed at all? Is there a way to address it?

Thomas Currow: We don't plan on changing any anything having to do with the parking.

George Hoyt: Removing the carport?

Thomas Currow: That's correct.

George Hoyt: Okay.

Thomas Currow: Try to reduce the coverage as much as possible. Okay. Thank you.

P. Daniel Hollis: That's all we have. Any questions from the board? [indiscernible] [00:34:50]. I don't know how you want to handle the people who want to speak, Mr. Chairman.

Harold Boxer: Peter, do we have anybody that wants to speak? Or does anybody there that wants to speak?

Peter Miley: Yes. Chairman, we have people with hands up. We could bring them up.

Harold Boxer: Okay.

**Kathleen Donovan Warren:** Hi, my name is Kathleen Donovan Warren. I live next door to the property at 11 Manchester. We've been there for 23 years happily. I have several concerns. I hadn't seen the pictures. Mostly for the safety of the neighborhood, number one, the traffic on that street. It's a tight narrow street.

It's a steep street. People drive quickly there. There's a lot of children on the street. And where we live, which is right next to, we're at 11 Manchester, we have to, because you can't make a left turn at the bottom of the hill, we have to do a K-turn just to go around the block to get out onto Main Street if we want to go, if we want to go up 133, so and I'm always concerned about safety with that. So I'm very concerned about putting more cars and more traffic at that corner. It's a busy corner. Number two, the parking. I'm very alarmed that he said there's no accommodation for parking. Parking is a real problem on our street, including our parking. We have 3 cars and just finding parking for us is difficult on the street. And we're talking about a two family. We're talking about more cars being on the street. I'm very concerned where those cars are going to go because there isn't any other place to put them. And my third concern is the beauty of the neighborhood. They mentioned houses across the street. The houses on Main Street that are on the same side as this building, are beautiful historical homes and I hadn't seen the pictures. I don't know if they've got to be matching beautiful historical homes. I think it's a beautiful entrance down 133 coming down towards that street, and I would hope that it would be matching in the beauty of the neighborhood. I know that 2020 Manchester Drive, which is a little bit up the hill from us, a few years ago, the owner wanted to make that into a two family residence and it was turned down because the amount of traffic on our street, I'm at 11 and I'm even closer to this. There's a lot of traffic of people zooming up that hill, zooming down that hill. So I am concerned about safety, safety of the families on the street. The house has been in horrible disrepair for quite a long time, including in the last year, whoever owns it doesn't always shovel the ice and snow on that corner. It's hard to walk downtown there. The windows are boarded up with tape and paper, and it's been an eye sore for a long time, but especially in the last year or so. So I am concerned about the beauty of the neighborhood. I know that 20 Manchester Drive, which is a bit up the hill from us, a few years ago the owner wanted to make that into a two-family residence and it was turned down because the amount of traffic on our street. I'm at 11 and I'm even closer to this, there's a lot of traffic of people zooming up that hill and zooming down that hill. So I am concerned about safety, safety of the families on the street. The house has been in horrible disrepair for quite a long time, including in the last year. Whoever owns it doesn't always shovel the ice and snow on that corner, it's hard to walk downtown there, it's, the windows are boarded up with tape and paper and it's just been an eyesore for a long time, especially in the last year or so. So I am concerned about the beauty of the neighborhood. My main concern is the safety, though, the parking. How are people going to park in a two-family home and the safety of the traffic there? So thank you for letting me speak.

George Hoyt: Peter, are there other steps that the applicant needs to go through, like, Architectural Review Board, that kind of thing.

Peter Miley: Yeah. There's several steps. This house was flagged as a one family. It was being used as unlawful three family. So we indicated that planning approval was also required, which would need to demonstrate adequate parking. They do get credit for the one dwelling unit that was present prior to the code. It's my understanding and maybe Mr. Hollis could elaborate a little more than he wanted to, I guess, see the variances through first before making, I don't want to put words as mouth, but that's my understanding. And ARB would be required, Architectural Review Board.

Ralph Alfano: Right now, it's a legal one family, or it's meant to be a 1 family?

Peter Miley: It's a unique property. So the house started as a one family. A code change in January 10th, 1928, the inception of the code, in 1954, the code changed. And 61 had changed again, not until May 1961 where two families allowed. Tax cards indicate in 1954 that it was a two family conversion. We don't have any records of that nor do we have any CO's. So we flagged it as a one family home. However, there is a letter, excuse me, a pre-date letter indicating that it was a two family. May 26th, I believe, like 2020, I sent a letter to the broker that was showing the home indicating that all this information and that the home at some point converted into a multiple dwelling without permits, and we also indicated that, let me just get to my records. The carport was constructed without permits and a tax card represented that, you know, conversion at some point, and we just can't put our, you know, we can narrow it down to, but we can't get a specific date when that changed. But we know that the code did a lot too failing till 61, to my understanding, it was changed at some point before it was no record of those changes.

P. Daniel Hollis: Yeah. We were not arguing the prior nonconformity of the two family because that would be hard to piece together. But there is every indication that it was a two family by use. And Jack weighed in 1982, April 1st, 1982, issued a letter saying that the CO wasn't required. And he knew it was a two family use at that time.

Peter Miley: Yeah. And I think, Mr. Hollis, correct me if I'm wrong. And I spoke to Dee Roider, she was the broker at that time. I sent her a letter. I think you have a copy of that email indicating that the board prepared a set of guidelines that allowed two family homes if they had a signed pre-date letter. But it went to the original owner. So the original owner of the home allowed or went to legalize it that it would be permitted and probably, Whitney, can you elaborate a little bit more on the guidelines that the board created for those homes with pre-date letters because we were flagging every home and then, you know, it was a hardship to a lot of homeowners.

P. Daniel Hollis: With that exhibit A, that letter's exhibit A to my letter.



Whitney Singleton: I think that, maybe you'll agree with me, maybe you won't. This is a little bit of a distraction from the issue at hand. The use that's permitted there, even though it's right next to the woman that just spoke who's in a single family home. The use that is allowed there under the zoning is a two family. So Mr. Hollis is going to be applying to the planning board for a two family home which was not previously require a permit to the planning board, but the legal approval of record is for a single family and Mr. Hollis is seeking to make it a two family, which is regardless of its past usage, its past permitted usage, was either a one family, and or a two family, and it's going to be used in accordance with the code as a two family home. So regardless of the history, the question is he's applying for a two family home for his client. He's going to have to demonstrate requirements for a two family home. The requirements is best I understand them for a two family home have two parking spaces per dwelling unit. It does not matter how many bedrooms or square footage or it is for each use. The parking requirements are not going to change by virtue of the increase in the square footage. That's what my understanding is. So discussing the history of this, well, it may be germane, I mean, well, it may be interesting and provide some sort of context. Ultimately, what they're applying for is a permitted use and they will be required to demonstrate compliance with the parking requirements. What is not compliant is the existing setbacks, the proposed height, and the proposed development coverage and the proposed building coverage.

P. Daniel Hollis: The height, it doesn't need a variance, Whitney. [Indiscernible] [00:43:24].

Whitney Singleton: Well, you're going above the permit number of stories.

P. Daniel Hollis: Stories, right.

Whitney Singleton: My understanding, and this is the part that I wanted very much clarification for the Board, for the Board's benefit. I think what I heard tonight was that Peter is not regarding the top story as a story because it has less than 50 percent of the square footage at a ceiling height of 7 foot 6 or whatever it is. But the bottom story is being considered a story because it is above 48 inches on average.

Peter Miley: That's accurate.

Whitney Singleton: Is that correct, Peter?

Peter Miley: That's accurate. Yeah. The attic is not flagged as a story.

Whitney Singleton: So the floor that fronts and exits onto Main Street is a story. The story on Manchester is a story. And what the applicant is proposing is another story and a half or a story plus, and that is going to exceed the maximum building height that's permitted in the zone, which is two and a half stories.

P. Daniel Hollis: It exceeds the story limitation. Not the height. The height is 34 feet.

Whitney Singleton: Correct. Well, that's like story. The height limitation is a function of either gross square footage. I mean gross height or average mean height or the number of stories. And it's going to exceed the maximum number of stories.

P. Daniel Hollis: Right.

Whitney Singleton: Correct.

P. Daniel Hollis: But not the height?

Whitney Singleton: Well, all right. The maximum height is a function of the number of stories for the gross height.

P. Daniel Hollis: They're 2 different definitions. So it's either height or stories and what we have is a deficiency is a half story. So that's what we're asking for. Oops, I might have. No, I didn't. That's what we're looking for the variance for. And then, you know...

Peter Miley: [indiscernible] [00:45:13] 11 and a half foot story.

George Hoyt: Okay. And a single family house. [indiscernible] [00:45:20] 11 and a half foot story. So, how the height comes into place? How tall it is? I mean average room height. You could have 7 foot stories. And then they're only 28 feet if that 4 story, so.

Whitney Singleton: The maximum height for this district says two and a half stories.

Peter Miley: Correct.

Whitney Singleton: So you're exceeding the maximum height. Which is the height. It says the maximum height of the principal structure is closer to two and a half stories for 35 feet. Yeah. They're exceeding two and a half stories.

[indiscernible] [00:45:58]

P. Daniel Hollis: It's getting a little [inaudible] here with how many angels on the head of a pin, but we'll try to move on beyond that.

Georgy Hoyt: Well, there is a concern about the actual height.

P. Daniel Hollis: I understand.

George Hoyt: That's why you're making the [indiscernible] [00:46:09].

P. Daniel Hollis: And I understand. And we've explained why and that's why to make it a two-family house that's attractive and habitable and safe. That's why we're doing it that way. And, you know, the prior nonconformity that, you know, that may become an issue at a different time and in a different place. You know, we're not in any way, shape or form, conceding that it isn't, we're just saying for tonight's purposes, we're here, we got a letter of denial that cited area variances, and we're here to get variances based on those dimensional shortcomings.

George Hoyt: Whitney mentioned potential parking, need for additional parking or variance or waiver from that? Who grants that?

Peter Miley: Well, your board, if they need to, they'd have to seek a variance if they can't comply with the standards.

George Hoyt: If they have to come back.

Peter Miley: They would go to plan board, they create, we don't have a site plan that's being submitted yet that could demonstrate the required parking.

P. Daniel Hollis: Or a way that we've taken care of it in a different way.

Ralph Alfano: So what is the plan for parking then?

P. Daniel Hollis: Pardon me?

Ralph Alfano: What is the plan for parking? I assume we had two...

P. Daniel Hollis: Well, there's no site plan at the moment, but you know, what we've done, I was involved with the open door building years ago, and we have parking spaces that we paid for.

Harold Boxer: Do you think it makes sense for us to wait to see a site plan before we vote on this?

P. Daniel Hollis: It's no. I don't think you can do that. That's not, there's nothing, you've not had a referral from the planning board in in that respect. I may do a good job there and find a way to have them indicate, believe that there is sufficient parking provided in some fashion by the applicant, whether it's renting spaces, purchasing spaces from the village down the hill, since there are residences, they can get a parking spot. And so if there are two spots there, we might have to rent two spaces down the hill. I mean, there's a solution to everything. We're not there yet. That's not an issue that's before the board at present.

Whitney Singleton: But that's not something permitted by the code, Dan.

P. Daniel Hollis: But maybe that's a topic of discussion. That's where the nonconformity may become a topic of discussion at a later date.

Whitney Singleton: When you say nonconformity, you mean preexisting nonconformity?

P. Daniel Hollis: Correct.

Whitney Singleton: So you're saying that you're taking a position that this is an existing two-family house?

P. Daniel Hollis: According to Jack Wade, yes. That's what he said in 1982...

Whitney Singleton: Oh.

P. Daniel Hollis: but that's, that, we didn't come in here and say we don't have to be here at all because of it's a prior non-conforming use. We came in, we're trying to comply with, letter I of 110-1 to bringing properties into conformity as best as possible and as soon as possible. That's what we're doing here.

Whitney Singleton: Well, you're also expanding a preexisting non-conforming building.

P. Daniel Hollis: Only by virtue of the fact that there's work being done there. The nonconformities...

Whitney Singleton: Let me weigh in on that. The fact that works being done there, does not necessitate a variance from this board. What necessitates a variance from this board is that you were going vertically on a plane within the setback.

P. Daniel Hollis: Correct. And...

Whitney Singleton: Okay.

P. Daniel Hollis: The setback...

Whitney Singleton: Then you're increasing the degree of building coverage, development coverage, building height and setbacks, encroachments.

P. Daniel Hollis: The deficiencies that were cited are not being expanded upon. They are the deficient...

Whitney Singleton: We've determined on this board on numerous occasions. It's called the, I forget his name. You'll know better than I will, [indiscernible] [00:40:52] on Smith Avenue. Doctor...

P. Daniel Hollis: Uh-huh.

Whitney Singleton: You might remember, you'll remember his name. I know you will, before I...

P. Daniel Hollis: Caroso.

Whitney: No, I don't think so. But anyway, the case had to do with the fact that increasing a degree of nonconformity on a plane increases the degree of nonconformity for this board and under our code. So if you're going up within the front yard setbacks, so you have two front yard setbacks here, and I didn't hear exactly what the numbers were, but they're substantially in the front yard setbacks. Those are going to require front yard setback variances as well.

P. Daniel Hollis: That's what I asked for. Right?

Whitney Singleton: Okay. So you're going to have two front yard setback increases. You're going to have a building coverage increase, a development coverage increase, and a height increase. Those are not necessitated by the fact that you're doing work, those are necessitated by virtue of the fact that you're increasing the size of the building.

P. Daniel Hollis: As I said before, we are not increasing the deficiencies that presently exist closer to the boundary lines.

Whitney Singleton: Under our code, you are. By going up on the same plane, we determine that to be an increase in the degree of nonconformity.

P. Daniel Hollis: Not sure I agree that that's something would be upheld by a court, but that's not a discussion we need to have tonight.

Whitney Singleton: Uh-huh.

P. Daniel Hollis: We've gotten a little far afield from what we're here for, which I'd submit are the area variances that I've talked about at some length. We go to the planning board and whatever goes on there, goes on there. If we have to come back here, we come back here. We don't have to come here, we don't. So I think I just want to call this particular question not get into a hypothetical about what might happen somewhere else.

George Hoyt: Chairman, I think we have some more comments from the gallery.

Harold Boxer: Okay.

**Susan Feinstein:** Hi. My name is Susan Feinstein. This is my husband, Michael Green. And we're the new owners of one of the historic properties that our neighbor has mentioned, 70 West Main Street. Unfortunately, notification of the request for the variance, whatever, did not come to us. It must have gone to the prior owners despite the fact that we closed on April 23rd. So...

**Michael Green:** Let me stop on that. Yeah. The list seems to indicate that I checked was able to, we only learned about this this morning. So we've had since 11:00 this morning to prepare for this, but listing [indiscernible] [00:52:50]. Right. Sure. The list indicates that a note was that something was mailed to [indiscernible] [00:52:56] 70 West May Street. That's our seller, and they live in New Jersey, and I don't know whether they received or didn't receive it. But the only information we got was I happen to run into our neighbor this morning, late morning, and it's a workday for me. And that's how we learned about this hearing. So we're a little bit...

Peter Miley: What was the address that?

**Susan Feinstein:** 70 West Main.

P. Daniel Hollis: Thank you, ma'am. So great, sir.

**Susan Feinstein:** What was the next issue? So, and the other issue about that height variance, that's very much going to, that's of some concern to us. Because our side yard is on Manchester. So it will directly impact the view from the side of our home, our home is, goes from Manchester onto West Main Street. So the issue of height is not minimal for us. There's also a question of the trees across the street and what trees will be removed? So it's not minimal the changes the changes that they want to make. It's very impactful to our home. And see if my husband wants to add something?

**Michael Green:** So again, I'd like to apologize not being more organized. We have not had any preparation time. And I didn't, I sort of woke my lawyer up from his nap today to ask him to send a note that we had to sort of object to proceeding that we couldn't possibly have known about. But I understand if the requirements were met and all I know is we closed on April 23rd, and I don't know what date the list had to be accurate as of. I just don't, I actually don't know the first thing about zoning or building codes. So, but what I'm picking up tonight is that the question, the relevant question is conformity to the community and from our point of view as well, we just bought a house that was built in 1875, just like Mount Kisco, and it's one of the sort of contributing important homes along West Main Street. But we're, so we're sort of acutely aware that there's a really special historic neighborhood going west from this particular corner that we're talking about, and there's really lovely, well kept residential neighborhood going south along Manchester, and those were important aspects for us and I just want to make sure that this board to the extent that it's within its jurisdiction, keeps in mind that anything that is approved contributes and doesn't detract from those neighborhood characteristics. That's really all we have to say.

**Susan Feinstein:** The other thing is that we were not able to see any drawings of what's proposed, so you know, I think that's rather important to us. I mean, I will admit like our neighbor said, it's an eye sore presently that nothing seems to have been done or to maintain the building. So, I mean, we do have a sense that we do want to keep whatever is built in the character of the neighborhood.

The Secretary: Just to be clear, the plans aren't posted in the packet, which is posted to the website, which I believe I spoke to you this morning and give you the page number to start at, at packet...

**Susan Feinstein:** Well, just to be as clear for what was sent to us, we were not able to see it.

**Michael Green:** You know, we couldn't find the drawings. Maybe they were in there.

The Secretary: They are.

**Michael Green:** We I we tried to pull over. We couldn't find them in the drawings, you know. But that may be our technical deficiency.

George Hoyt: Is there a way to, want to, we often get visual renderings of properties in their final form. I think because of the height of the steepness of the hill, the potential view that's, is there a way to get more information, doctored photographs, etcetera, it would show what this, what the construction would look like after this additional story is added? It's going to be helpful because these are very helpful, and the plans look terrific. But it doesn't have a context of as you're coming off the hill, is this going to be a looming structure blocking the sunlight from the village, or is it going to be well, is it going to...

P. Daniel Hollis: I have another case nearby in another town. You know, nobody, you know, views change...

George Hoyt: I think this...

P. Daniel Hollis: But, I mean, as far as rendering time, is that something we can put together. Yeah. We can do that.

George Hoyt: Maybe from coming down the hill or coming up the hill. Yeah.

P. Daniel Hollis: Yeah. There's a couple, maybe a couple from a couple of vantage points. Sure. It's fair.

Jaqueline Broth: If possible, including some visual representation of the surrounding homes, so you can see the sidelines.

P. Daniel Hollis: Yeah.

Jaqueline Broth: Thank you.

P. Daniel Hollis: I know all those sounds before any of these people were on this board for sure. And maybe anybody in this room would lived here, you know, back 30 years old, nearly when Pleasant Rolland wanted to have Samantha's house, in the ragtime house, there's a lot of talk about that, that number went through sadly, because we wanted to have a tea room in the back. There were, the planning board at that time was good to go with the building. And that would have been a magnificent thing to be. Pleasant Roland and the American Girl doll series and Valerie Trip who wrote those books graduated from Fox Lane High School with one of my sisters, went to Harvard and became successful author. Neighborhood went crazy over that and it didn't happen. That's one of the things that should have happened. It would have been great for that neighborhood to really preserve the historic aspect of it. Pleasant Roland would never run out of money, take my word for it.

Whitney Singleton: But she did sell the business, Dan.

P. Daniel Hollis: Pardon me?

Whitney Singleton: She did sell the business and she was proposing tour buses to go up through the residential neighborhood.

P. Daniel Hollis: Don't categorize it [indiscernible] [00:59:07]...

Whitney Singleton: Stand, and that's why everyone in the neighborhood came out.

P. Daniel Hollis: Oh, that, people come out in the neighborhood because they don't like to see change. That, I'm not saying that's what's going on here. But that, that don't call them tour buses, Whitney. They were those little mini buses on a regular basis from the, down where the gap is now I think was the building. I think that's right. But it does, that doesn't matter. But my point is this, you know, the size of the house isn't what will preserve the character of a nice neighborhood. The clients has invested a lot of money already, is willing to invest a lot more money, and boards can't legislate taste. It will be tasteful. But planning boards and zoning boards can't legislate taste. And when what beauty is in the eye of the beholder? Mr. Currow will come up with a rendering to take care of your concerns that are more spatial and so that it doesn't jump up as a, oh, my gosh, what the heck is that? It's going to be a two-family house that's going to blend in. And I respectfully submit, and I don't know who owns those houses across the street, but they'll be better looking than that. I'll promise you that.

Harold Boxer: Dan, it still is, but it's still a question of the number of stories.

P. Daniel Hollis: Yeah. That's what I'm, that's why we're here for. We've gotten, you know, pretty far field with parking and traffic and the like. But, you know, we'll it, we're glad to answer those questions. But the area the standard is standardized set forth. The balancing test and the five criteria, let's always remember that. Is there anything else I take it, then we would be adjourned till next month for us to, can you get a rendering together in time for next month?

Harold Boxer: There's no August meeting.

P. Daniel Hollis: So what's the date, in September? Pardon me?

The Secretary: I don't know off the top of my head.

P. Daniel Hollis: Okay.

Whitney Singleton: Dan, just so that whatever the next meeting is, is productive. Currently, you're appealing how many components of the zoning code? Three.

P. Daniel Hollis: They're four.

Whitney Singleton Can you just go through them with me? I apologize because I'm remote. I don't, you're appealing the, the number of stories.

P. Daniel Hollis: We're appealing Mr. Miley's letter of, give me the date and an exhibit to my submission. I can, let me just, I'll scan it to you tomorrow or email it to you. Don't...

Whitney Singleton: That's okay. I just want to I just want to make sure that you don't come back at the next meeting, and we ascertain that there's additional variances that are needed. If there are additional variances, I think we should just, we should figure out what they are right now.

P. Daniel Hollis: There aren't any Mr. Miley's letter exhibit C to my letter, February 25th, 2021, pardon me, sets forth the forum. I can read it. Variance is required. Pursuant to 110 35D, noncompliant buildings and structures may not be enlarged without a variance being obtained from the ZBA. Do I have to read the rest of that one.

Whitney Singleton: No. That's fine.

P. Daniel Hollis: Okay. Number two, pursuant to 110, excuse me, 110 C1B of the village code, the maximum permitted building coverage is 25 percent, and we don't have that.

Whitney Singleton: Right.

P. Daniel Hollis: Number three, pursuant to 110 10C 1C of the code, the maximum permitted development coverage is 40 percent. We don't have that. We were..

Whitney: Right. I get that.

P. Daniel Hollis: Pursuant to 110 C1G, the maximum permitted height of the structure is 2 and a half stories. The proposed height of the principal structure is 3 stories and therefore a building height variance of 0.5 story is required.

Whitney Singleton: Okay. And we don't have to discuss this right now, but your corner lock your client has a corner lock there. Correct? So they have 2 front yards and 1 side -- a 2 side yards.

P. Daniel Hollis: Right. I said before, no rear. You don't have a...

Whitney Singleton: Right.

P. Daniel Hollis: Rear on us.

Whitney Singleton: Right.

P. Daniel Hollis: At a corner lot.

Whitney Singleton: And so the question becomes is when you increase the plane of the building, whether or not you're going to be required to get front yard variances as well. We don't need to discuss that now, but I want to make sure that you don't come back and then say, well, there are additional variances and nobody told me about them.

P. Daniel Hollis: Well, no. I've asked for the front, I've asked for those variances. Right? In my letter?

Peter Miley: No. No. No. Let me make a clear stop. Whitney is right the way it's explained in a letter indicating a noncompliant building with respect to the front yard setbacks described in paragraph 1 So I think it's more productive if we spell out every single 1 including the front yards.

P. Daniel Hollis: Right. I did that in my letter.

Peter Miley: Yes. You did. Thank, yeah.

Whitney Singleton: But if they weren't noticed, they're no good. Well, you know see what I'm saying then?

P. Daniel Hollis: Well, they were noticed in that it's expansion in non-conforming. We're going to have another meeting next month that can be re-noticed to set forth to include, but not be limited, to be that...

Whitney Singleton: Yeah. And that's fine. I just don't want to go around and around unnecessarily over these things. I don't want your time or your client's son to be unproductive.

P. Daniel Hollis: Alright. So...

Peter Miley: So, we could drop the one as we usually do. I'm sorry to interrupt.

P. Daniel Hollis: Yep.

Peter Miley: Indicating a noncompliant building. Because we know it's a noncompliant building, and we could add the 2 front yards indicated in the first paragraph as separate.

P. Daniel Hollis: I would just call...

Peter Miley: In distinct variances.

P. Daniel Hollis: Amended notice. I think it's an amended notice.

Peter Miley: Yeah.

Whitney Singleton: I think that's fine.

P. Daniel Hollis: And then you'll get me the notice? Yeah. Absolutely. Okay. And then Mr. O'Shea was...

Peter Miley: Yes.

P. Daniel Hollis: Absolutely perfect in the administration that started saying was secret...

Ralph Alfano: Since there's not a site plan, could there be additional variances once the site plan is approved?

Peter Miley: We don't have an application, so I don't want it.

Ralph Alfano: But it's pop.

Peter Miley: Anticipate there may be, yeah. There may be. I I don't know.

P. Daniel Hollis: Was that in the parking?

Ralph Alfano: It could be one area. Sure. I'm sure that will come up during the site plan review.

Peter Miley: Yeah. Could be... Sorry about that. I don't want to put forth hypotheticals. You know...

Ralph Alfano: No, I understand. I just we don't we have just we're not, we're at the very beginning. That's my -- why I'm asking the question.

Peter Miley: Usually goes the opposite direction.

Ralph Alfano: Right.

Peter Miley: You know, I'm not going to tell the ...

P. Daniel Hollis: Let's see what goes on.

Peter Miley: Yeah.

P. Daniel Hollis: We're the playing boy. Sorry about that. I can put that on to expecting a call from Mr. Carol. Just in case well, I never met him before tonight. So I had it on in case he didn't find the place. Apologize for that going off. Anything else? So we'll have plenty of time to get the notice out for the 21st. The new owners of West Main 70 West Main Street will get it as presumed they'll be in the tax assessor's role by then, but If not, if you don't get it, call us up. We'll make sure you have it just so you have everything you need.

Peter Miley: We'll get it out to you within a week.

P. Daniel Hollis: Thank you.

Peter Miley: You're welcome.

P. Daniel Hollis: Anything else? Can I, let's see. It was September 21st. I hope everyone has a safe rest of the summer and hope we can still be here in September. Healthy. Well, it'd be better. Maybe the guys won't be upstairs and saw us, so that did stop.

Whitney Singleton: Good to see you, Dan.

P. Daniel Hollis: Good to see you Whitney, thank you.

Harold Boxer: Take care, Dan.

**3. Rivera Auto Group, Inc.  
353 North Bedford Road  
Mount Kisco, NY 10549  
(SBL 69.43-2-3)**

**ZBA#21-14  
Interpretation/Area**

Mr. Daniel Patrick and Mr. Tony Gioffre of Cuddy & Feder, Mr. Alex Muscarella of Rivera Toyota Group, Mr. Ralph Peragine, P.E., and Mr. Bryan Zenick, Architect were present.

Daniel Patrick: Thank you. Good evening. My name is Daniel Patrick from the law firm Cuddy and Fader. I'm joined this evening by Alex Muscarella of Rivera Auto Group Inc., Ralph Peragine, project engineer. Bryan Zelnick, the project architect and Tony Gioffre of Cuddy and Fader. We are here this evening on behalf of the Rivera Auto Group Inc. In relation to the proposed redevelopment of 353 North Bedford Road. So just to kind of put the application in perspective, Rivera Auto Group has operated the Rivera Toyota at 325 North Bedford firm about 6 years now. They also -- that's their sales location. They currently operate their service location Kisco Avenue, a few blocks away. They leased the space at Kisco Avenue, and their lease is due to expire in 2023. So they are looking for a new location for their automotive service location. They have identified 353 North Bedford as a prime possibility for redevelopment to use that site as their new service location. And we have met with Village Staff several times. We've been before the planning board for a few conceptual site plan and special permit reviews. Most recently, we're before the planning board on June 22nd, after which the planning board had very favorable comments for the proposed application. We are here this evening in regards to the relief requested for the proposed redevelopment and we are requesting as much feedback as possible this evening because our client is due to close on the property mid-August and understanding that there might not be approval before, then we would like to get as much feedback as possible prior to that closing given at least one of the variances is strictly related to the operations of the service location at this facility. So, before you and on the screen are the site plans for the proposed redevelopment. The applicant proposes to demolish the existing restaurant

building at 353 North Bedford and redevelop the site with the new vehicle the new motor vehicle repair shop use, which is a permitted special permit use in the CL district. The service location will include 8 interior service bays, access through the back of the property to the back of the building, an enclosed customer drop off port, and a customer waiting area. We have some detailed renderings that we can share with you after. I go through a little bit more detail on the proposal and the requested relief. So, the building will be just under 13,000 square feet and will include new landscape buffers around the site and new architectural design matching, the renovated sales location of 325 North Bedford. All services will be performed within the building and will include routine maintenance such as oil changes, brakes, tire rotations, things like that. Nothing too major at this location. The relief we are requesting is in relation to two provisions of the zoning code. One, is section 110/30 D1 which states that dumpster enclosures must be no closer to the property lines than is permitted for accessory or principal structures. The second is Section 110/30 G1 which is a special permit provision requiring a motor vehicle repair shops not be located within 1,000 feet of similar uses. As it relates to the dumpster enclosure, we've submitted a detailed interpretation request, identifying ambiguities in the zoning code, which we believe support our position that there is no need for an area of variance relief for this application. But to save time, I can I'll skip that for now. And at the end, if you guys would like me to go through that, I'd be happy to go through more detail what that interpretation request is. But in the alternative, if that interpretation is not granted, we have submitted an alternative request for an area of variance. For the proposed dumpster location. So as you can see on the plans, the dumpster locations that locate approximately 25 feet from than southern. It's a side yard, but it's the southern lot line. Currently, the dumpster enclosure for the restaurants located approximately 10 feet from that same lot line, and that dumpster location is also much closer to the North Bedford Road right of way. So we are proposing to move the dumpster enclosure further back in the property in the far left corner with the plan, which is about 25 feet from the property line as compared to 10 feet as it currently exists. This location will facilitate adequate truck access to and from that dumpster enclosure and will also allow for safe side circulation around the property. For customers and employees and other vehicles traveling the site. As it relates to the second variance request, as indicated, 353 North Bedford is classified in the Seattle district, which permits gasoline stations, commercial garages and motor vehicle repair shops as a special permit use. One of the special permit criteria for this use is the limitation that such use not be located within 1,000 feet of a similar use. So if you're familiar with the North Bedford corridor, you're aware that there are several automobile uses on that along that corridor, including the adjacent property, which is the town bus company, 343 North Bedford. There's also Mount Kisco Automotive, Presto Lube and Oil, a meal, auto repairs, minor key car care, and several more. And I've identified there's a map as exhibit H in your submission, which I advise an aerial photograph of the area and shows the other existing automotive uses located nearby. So the written submission also includes a detailed analysis of the five factor balancing tests, which demonstrates of the benefits to the applicant if this variance is granted far outweighs any conceivable detriment to the community if same is granted. Specifically, the proposal will not change the character of the neighborhood which is already largely commercial and includes several automotive uses as indicated and exhibit H. The applicant is not introducing a new use or operation to this area, but it is simply relocating the existing service location, which is currently operating on Kisco Avenue, which was ceased operations once the lease expires in an alternative location is obtained. The proposal will also concentrate these automotive uses to the one to one area of the village as opposed to having these uses spread out throughout the community. The applicant believes that this pride this site is an ideal location due to its proximity one property over from the existing 325 North Bedford sales location. The redevelopment will present an aesthetic improvement over the existing conditions as well as we can show on the indicated run rates that we have made available for this meeting. The proximity of the service location, the sales location will also improve business operations and will reduce traffic trips between the 2 locations. And I will also note that automobile repair and service uses are permitted as accessory uses to the automotive sales uses, which are currently operating at 325 North Bedford. So but for the one property in between the two sites, the proposal could be a permitted accessory used to the existing automotive sales. I'll finally note that this board granted area variance relief from the same provision for the adjacent town bus company at 343 North Bedford in 2015. A copy of that resolution is included with your written submission. There are several criteria and considerations that this board included in their analysis which match the existing proposal, including the aesthetic improvements to the area, and the fact that the new use is not new, but rather a relocation of an existing use from nearby. And the notable benefits of relocating supporting use closer to the use that it's supporting in this instance, the service location, which is in support of the existing sales operations. So it's therefore respectfully submitted that the facts that this matter and the precedent by this board support the granting of the requested relief and permitting the proposed redevelopment, which aligns with the character of the community, and does not present any adverse impacts to the neighborhood. So I would like to now either turn it back over to the board for any questions or comments or I'm happy to turn it over to our project architect who has some renderings of the proposal and he can kind of visualize what's being proposed. You so choose?

Wayne Spector: I have a threshold question and it's really So I fully understand one of the aspects of the variants being requested, and that has to do with the special use permit. And criteria and how it's treated from a ZBA standpoint. Hopefully, Whitney can answer this. So who would grant the special use permit in a situation in this particular case?



Peter Miley: That's granted by the planning board.

Wayne Spector: So my understanding and I may be wrong on this is when it come that special use permit provisions are different than standard zoning provisions. And criteria that are included with respect to the issuance or non-issuance of a special use permit, I want to know whether or not this board does have the authority to grant a waiver from those provisions since we're not technically dealing I understand the dimensional part of this because it does include a dimensional element, which is the proximity to other automotive uses. But I've seen this before in certain situations. And I know that the laws that provide for limitations in terms of proximity to other automotive uses are intended to you know, sort of put a cap on the proliferation of automotive uses in certain commercial districts. And I know that's the case and that is the purpose of the of the board. I mean, my -- again, this is, I'm not a hundred percent clear on this, but I'd like to know whether or not as a threshold question. We do have the authority to grant the variance with respect to that legally. And I don't know if, Whitney, you're able to answer that.

Whitney Singleton: I can answer that.

Wayne Spector: Yes.

Whitney Singleton: I'm trying to figure out exactly where things are here. There was a change in the law several years ago. That allows applicants to apply directly to the zoning board of appeals, not only from relief from the zoning ordinance, but from special permit requirements. It's expressly within 7 dash 725 B3 application for area of variances notwithstanding any provision of the law to the contrary. Where a proposed special use permit contains one or more features, which do not compliant with the zoning regulations. Application may be made to the zoning board of appeals for an area variance pursuant to section 7 dash 712B up this article without the necessity of a decision or determination of the administrative official charge for the enforcement. So there just not need to be a denial letter from the building inspector, and there just not need to be a determination from the planning board. The applicant may apply directly to your board.

Wayne Spector: Okay.

Whitney Singleton: For relief from specialties permit requirements.

Wayne Spector: Alright. So you answered by question. I thank you for that.

Whitney Singleton: Yep.

Jacqueline Broth: I have a question you stated that you stated in your presentation that moving the dumpster in the area that you indicated would not be difficult for the garbage to get there. I can't figure out how they get there and they turn around and come back out. They're not backing out. Are they?

Daniel Patrick: No. So there's or you can address this. But if you see the two arrows at the top driveway, there's actually an easement over the adjacent property, which yeah. If you're expanding that, you can see the expand which provides access.

Jacqueline Broth: Oh it's going to go through the mattress property?

Daniel Patrick: Correct.

Jacqueline Broth: That's the same way fire would access because otherwise you don't have fire turnaround either. They've made their trucks bigger. So unless you come out that way, and I know there's a ramp to the to the Mattress Firm building. There's an access to about 200 feet over.

Ralph Peragine: There's actually a driveway a street that comes out to Bedford Road in that location as well. Between...

Jacqueline Broth: From the back.

Ralph Peragine: From the back, yes.

Jacqueline Broth: There's safety glasses.

Ralph Peragine: Yes. So they can -- they'll be coming in from north Bedford, head into the dumpster, and then make a right going out towards that access easement, through that access easement, and out to that side street.

Jacqueline Broth: So they'd be going around the backside of Mattress, about their parking lot.

Ralph Peragine: Correct. The backside.

Jacqueline Broth: And that would be the same for fire egress.

Ralph Peragine: Correct.

Jacqueline Broth: Thank you. And I have another question which does not necessarily pertain to this building. But if you are -- are you looking to get rid of both facilities on Kisco Avenue?

Daniel Patrick: No. The existing sales locations will remain there. There'll be a few...

Jacqueline Broth: Used car.

Daniel Patrick: Oh...

Jacqueline Broth: On Kisco Avenue.

Daniel Patrick: Everything from Kisco Avenue is going to be relocated.

Jacqueline Broth: So where are your new vehicles going to be stored?

Daniel Patrick: That is to be determined. We're still looking for an alternative location. But not at this Yeah.

Jacqueline Broth: But it's not going to be ---

Daniel Patrick: Not here.

Jacqueline Broth: On 117, because the last thing we need are more car carriers in the middle of 117.

Daniel Patrick: No.

Jacqueline Broth: Thank you. I'm just going to ask this one because I'm on a roll. What's your construction time period here? If you were to get approvals, you want to be in by 20 out of the other facility by 23?

Bryan Zelnick: Yes. It's going to be something out in the door to service facility. Moved to Charles and Richard's facility [Indiscernible 1:26:20].

Jacqueline Broth: And you're aware that there's another huge construction project going on behind you during that time frame. Well, I'm not so sure the residents on 117 are going to be fine with two huge construction projects going on. It They're the same. 22-23. So it's just something to think about. For those of us who live there.

Bryan Zelnick: I think we're only 13,000 square feet buildings.

Jacqueline Broth: Yeah, the other question I did have was you're going to have your customers coming into the service reception area where you're according to your notes, you're going to have somebody pick them up and drive them around back. Do two trucks fit in there?

Bryan Zelnick: The tow truck would drop it off into the parking lot.

Jacqueline Broth: So they would go in the main entrance. That side of entrance.

Bryan Zelnick: And then we take around back. Yeah. We didn't come through service. That's really just for customers. It's just all weather, air condition.

Jacqueline Broth: Just want to make sure that we don't have people blocking out onto 117 trying to figure out to get it.

Bryan Zelnick: No, no, no, that's why we're trying to keep that two entrances egress from the side.

Jacqueline Broth: Thank you.

Bryan Zelnick: How do I get in here just the folder?

Daniel Patrick: Okay. And like I said, this will just be routine maintenance at this place. There's ...

Jacqueline Broth: Oh, that has been an affect.

Daniel Patrick: Yeah.

Jacqueline Broth: Where's your regular maintenance going a bit?

Bryan Zelnick: Our longer vehicles will be in the showroom underneath we're putting bays underneath the showroom. There's enough room.

Ralph Alfano: Quick service meant to be...

Bryan Zelnick: Yeah. For it's like routine stuff and the longer repairs will go to the other building. And then we're going to have a third property which will have bays as well. Somewhere in the distance so as the new inventory and then longer there.

Ralph Alfano: Any thoughts on the third property of this time?

Bryan Zelnick: We're just, like, so focused on this, but it's on the radar once we get to secure it, then they're going to they have a time frame for that where they're going to.

Wayne Spector: So this is going to be, like, lube, like, lube service and, like, you bring it in.

Bryan Zelnick: Like, quick stuff people go in and out, they wait, they get their car, you know, and then turn around, bring it back. And if it's a long repair, they have rentals that they can have, that they can obviously combat.

Wayne Spector: Tires as well?

Bryan Zelnick: I'm sorry?

Wayne Spector: Tires as well?

Bryan Zelnick: They had new tires there yet.

Wayne Spector: Is this also going to be the parts department as well?

Bryan Zelnick: Yeah. There's going to be parts on both levels. I have a little second story as well that will have parts but anything that's longer term, they get it delivered, but everything that's off the shelf will be there for, like, filters and whatever's standard. Some of them, they have same day deliveries for parts. The kind of trucks are going to be making deliveries there. So smaller trucks, not bigger trucks, and we have we have an area that we have for parts like a parts store. Sorry. I'm just trying to find my folder here. Right now. I just have, like, 7 images and they're basically just different shots of a side front and back. This is I'm just going to run through it quickly. He wants to be the through it quickly. Like I said, we're leaving the existing drivers that exist, and we're doing that because of DOT as well. We hope that'll help with us. This is the view of the south. 0 yeah. Great. K. There we go. So basically in the front would be customer waiting area, cafe, the service drives right. I'm just going to go to the next image just to pull that up, and you can see where they pull in. I also have a little aerial as well. Let me just zoom into this. So on the right sides, we're leaving the North Drive to come in, and that's where the service reception is. It's going to carry 6 vehicles, so it's 2 bays, 3 deep. We have 6 cars in there. There's a ramp in the back because of grade services in the back, which will enter, and we have a loop in the front so they can bring the cars back around for the customers. So they're going to exit. And we were going to use the Eastman as an exit where they can circle back around on the south side to exit as well. This is this is just as you know, this is image 2 which is the standard for all Toyota of North America. So I've made it work on the site, but the ACM is a metal cladding, then we'd have Stucco, but it's very modern and it's obviously it's designed for the customer. This is just the back of the building that shows the service drive exiting and then the entrance to the back service. It's double loaded. Sorry. Let me So it's a single garage door and then we have bays on both sides. It's just 8 bays or 4 and 4 and then you can see inside the service drive, it's Again, it's air condition that's heated. So it's really for the customer to I just have a couple more. This is just the back of the building again. This is probably Stucco or ACM. And it just again, this is looking at their garage. And then so the right there, there are steps down and there's an ADA ramp, and that's where parts would be delivered into the parts area. Just 3 more. This is just the front of the building. Again, just the name, logo and then service the right.

George Hoyt: And just assume chief cruiser you had in front there?

Bryan Zelnick: We did. Yeah. My guy then play around. I have a I have a supra too.

George Hoyt: They don't you don't make them anymore.

Ralph Alfano: Are they going to wear a go?

Bryan Zelnick: No. This is the oldest the older 1 I don't. But I do have a super in in the last photo. The new supra. I told him that it has to be only Toyota cars and the rendering stuff. This is good because it shows you, like, the aerial of it. But, yeah, that's an FJ, an older FJ. And the Toyota Corolla in the front, and then there's a a super MSI. And the last photo is just going to be a blow up of the service drive. And I just completed one at Interstate Toyota in Rockland County, which has the same elements. It's just a different site, different conditions, but same aesthetics, but just again different layout. But that's basically it. I don't know if you have any questions on the architecture.

Daniel Patrick: Like I said, this is scheduled to close midway through August. So as much feedback or as much input that you guys can provide the better, just so our client can know whether or not to proceed with this application or they need to continue looking for alternative locations for a new service.

Jacqueline Broth: Did they do a traffic study?

Daniel Patrick: No traffic study has been prepared, but we're expecting less traffic from the prior restaurant use because I think it's estimated about 7 or 8 trips an hour at this location. Coming in staggered throughout the hour.

Jacqueline Broth: The restaurant didn't do any business, so that's really wasn't much of an issue there.

Bryan Zelnick: Study reveals that [Indiscernible 1:34:17] ...

Jacqueline Broth: Understood in the increase in volume or change in volume, but I was wondering if you had taken into consideration the supermarket that's going in behind you.

Ralph Peragine: Based on what the numbers we were talking about is just a trip generation rate that was calculated for the facility. It was not No. Full traffic study has not been prepared yet or has been --- 0 sorry. Say complete traffic study has not been prepared. As I said, those values or trip generation rates based on IT standards. Full traffic study has not been requested by the planning board or any other or the village consultants at this point.

Jacqueline Broth: You're looking for feedback about the site. I just wanted you to be aware that the traffic in that area is going to be abysmal, and the roads are going to change as well. Traffic lights and cross streets will be changing. And if you haven't seen the drawings for what's happening at 333 you should be aware of that.

Daniel Patrick: No other comments? A good thing or understand that this will go through the full site plan, a special permanent application. It's assuming we go through with this. It's just it's just threshold and this is in order to get some feedback before they make a commitment to this property.

Ralph Alfano: Mean, for the variance is being requested, I don't have any issues with it. I mean, I you're, you know, it's been negotiating, but I'm assuming you're going to align with the branding that they require for North America. So that's it given.

Harold Boxer: Yeah. Allscripts gonna look the same. Every other dealer has the same color now. So we won't know where we're turning into.

Jacqueline Broth: Will they need sign variances as well?

Peter Miley: We don't have sign package yet.

Jacqueline Broth: Their standard, you know, based on what they have. So they should probably you know, if we think there's going to be a problem let them know on a variance.

Peter Miley: Yeah, of course. They'll be prepared an application to the architectural view board and at that time we review the signed package that's being proposed.

Wayne Spector: So, what is the sequencing going to be for this. It's going to go back to the planning board.

Daniel Patrick: Right. We still need to submit a full formal site plan especial permanent application for this site and for 325 because we're also proposing some exterior renovations and interior renovations.

Wayne Spector: And they're obviously going to be the lead agency, I assume, and proceed with the SEQRA review as well.

Daniel Patrick: That was....

Wayne Spector: I think there's an EAF attached.

Daniel Patrick: There's an EAF in there. It was the intent that they act as a lead agency, but this can also be treated as uncoordinated, if as part of wishes.

George Hoyt: Alright. I don't think it comes.

Harold Boxer: Anybody any public comments?

Peter Miley: No. I think everybody here is for the applicant. Anybody else? For the applicant while I speak? Go to you, chairman.

Harold Boxer: Okay. I think we can take a word and just now if you'd like to.

Daniel Patrick: Before you do that, I would ask whether or not the GML notices were circulated. I mean, if we would appreciate a straw poll, but I believe this would need to be.

Whitney Singleton: But if what was circulated? I didn't hear you.

Daniel Patrick: The general, county planning notice for the...

Whitney Singleton: I believe that was done by the planning board. Because you're on a state you're on a state highway?

Daniel Patrick: Correct.

Whitney Singleton: Yeah. I believe Michelle was that done or Peter was that done through the planning board?

The Secretary: Hi, we [Indiscernible 1:38:58] to that.

Peter Miley: We don't know Whitney...

Whitney Singleton: Okay, may I make a suggestion to the zoning board and not trying to dictate how you proceed. Perhaps you want to give the applicant your feedback because I think what the applicants council is telling you is they're making a financial commitment to move forward and they're under a time constraint. If we want to wait until such time as they've made more progress with the planning board, that's fine. But the applicant would like to know whether ultimately your board intends upon approving this application once you see a more comprehensive resolution. So I think that's why they're asking for the straw poll. Is that correct? Yeah. If you feel so, you'd rather wait for the planning board to act, that's certainly within your purview tonight.

Harold Boxer: I have no problem with the store policy, but you'd like to do it. Think that is the answer.

Wayne Spector: I'm happy to start with this by saying that. I mean, as a good -- as a concept, I don't think I have an issue with the use there. I still I do have some concerns about traffic, particularly by reason of some of the comments that were made tonight about a lot of what's going on there. I'm not sure about that you know, how the traffic is going to turn -- be turning into this property and the timing of it might be, you know, might be, you know, might be particular that this type of use. you know, I'm still, I guess I want to hear more. I'd like the planning board's input on that issue as well. I'd like to hear that as well. So, I mean, but as, you know, a preliminary first time seeing this concept of what's going in there, considering what's there now and what the business climate is. I don't have a strong opposition to it, but I think we need more, we need to look at it more. That's my opinion.

George Hoyt: Yeah, I don't -- I second what Wayne has said, but I don't have any issues with what's in your presentation. I think the variances you've outlined seem reasonable. But knowing there's a lot more work to be done. So no issues on my end.

Daniel Patrick: Thank you.

Harold Boxer: I agree with their, all the comments that you have made so far. So issues right now. Did the comments? So do you have an understanding of what we are you satisfied with what we've done so far?

Daniel Patrick: Yes. So we appreciate the feedback, and we would welcome more if available, but understanding that it's up to this point.

Harold Boxer: Okay. So then we'll put this over till September 21st. There's no August meeting.

Whitney Singleton: Okay. Is there any is there anything else at the applicant would like to inquire about as far as...?

Daniel Patrick: No. I think we have a clear understanding. It's you know, there's no major issues from what I hear about the actual variances requested. Just a matter of the sight plan issues and some of the specifics which will, of course, work with the village and planning more through as this process proceeds. So I appreciate the feedback.

Harold Boxer: Okay. Thank you.

Daniel Patrick: Thank you.

Harold Boxer: Okay. Sure. Right.

Ralph Alfano: Before we begin, I'll just I'll have to recuse myself in this case.

Harold Boxer: Great. You're lucky to get the aches and stuff with all the big ones. Yeah. Okay. Is there anybody here to present the Verizon? There you go.

<b>4. New York SMSA Limited Partnership d/b/a Verizon Wireless</b>	<b>ZBA#21-15</b>
<b>45 Main Street</b>	<b>Interpretation/Area</b>
<b>Mount Kisco, NY 10549</b>	
<b>(SBL69.81-2-3)</b>	

Leslie Snyder of Snyder & Snyder was present to represent the application.

Leslie Snyder: Good evening, honorable chairman.

Harold Boxer: Alright.

Leslie Snyder: May I start?

Harold Boxer: Oh Yeah. I'm fine.

Leslie Snyder: I know it's late, so, oh thank you. I know it's late. So I'll try to make this very simple and quick. Good evening. Good evening. Planning Board. My name is Leslie Snyder. I'm a partner in the law firm of Leslie Snyder & Leslie Snyder. And I'm here tonight on behalf of New York SMSA limited partnership doing businesses for Verizon Wireless in connection with its request for an area variance to install a public utility, personal wireless service facility on the existing building located at 45 East Main Street. In Mount Kisco. Please note, I've submitted a detailed statement of principal points in support of the application. This property is currently used for telecommunications purposes, so the proposed facility is consistent with said use. The property is located in the CB-one zoning district, the central business district, under the zoning code of the village. And according to the village's comprehensive plan, the village needs to have an active central business district. In order to have an active business district, the village needs to ensure that there is ubiquitous wireless connectivity. This facility will allow for enhanced wireless communications in the district by utilizing an existing structure, thereby avoiding the construction of a new tower. In accordance with input from the building inspector and the planning board, Verizon Wireless has strategically designed and located this facility. The facility consists of antennas and equipment collocated on the building with no increase in the height of the building. The facility meets all of the criteria set forth in section 110-727.1 of the village's zoning code. Except for section 110-27.EF entitled setbacks. As stated in a memorandum dated June 17th, the building inspector Peter Miley held that the facility did not comply with section 110-27.1E5 entitled setbacks and determined that a 514 foot setback variance would be

required. The building inspector's decision found that the existing building is 50 feet higher than what's currently permitted in the CB-one zoning district. 40 feet permitted, and the building is 90 feet. And the setback requirement increases 100 feet for each 10 feet that the facility in the building exceeds maximum permitted height. And the required setback in the CB-one zoning district, abutting residential district is 20 feet and the closest residential home, which is a residential treatment center at 38 Carpenter Avenue, is 6 feet from the property line, and that's how we got to the 514 foot setback. As you'll see in our principal points, really the way the code, Mount Kisco's code is set up, it's really for a tower, not for a co-located rooftop facility. But just assuming that the way the building inspector interpreted that we needed a variance is respectively submitted that there's a relaxed standard for public utilities and that the applicant should be granted a variance where the intrusion is minimal, just like the issue here. In the instant case, the facility is being co-located on existing building and is demonstrated in the visual renderings, the facility's impact is de minimis. I don't know if you all saw the visual renderings, but I have an extra copy. It's an exhibit to our statement of principal points. But if it's easier for you, I can give you that. In considering the 5 factors offered for consideration in connection with the village zoning code and New York State village and town law. The following is to be considered. The proposed facility would not produce an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties. In fact, the facility is proposed to be collocated on existing building, precluding the need for a new tower. In addition, due to intervening structures, topography, and vegetation, the proposed facility would not have any adverse visual impact on the surrounding area. The facility consists of antennas which are flush mounted to the rooftop bulkhead. Ends with one sector mounted to the parapet. The antennas attached to the bulkhead will be painted to match the existing building. The facility will serve the neighborhood and benefit the entire community by offering enhanced reliable wireless communications to the surrounding area. There's no method other than the requested setback for Verizon Wireless to pursue to locate the facility on the building. The wireless law requires that all co located facilities like the facility here be integrated into the existing structure to which they are fixed. In order to in order to utilize the building and integrate the structure, we've placed the antennas of such a sufficient height and location to be collocated, and therefore, it will not have any impact on the neighborhood. The nature of the variance, the variance requested is not substantial in light of the nature of their quest and the minimal adverse effect which the variance would have on the adjoining properties. Effect on the environments or the neighborhood. The facility will have no adverse effect on the environment. The facility complete compliance with all applicable FCC regulations as we've demonstrated with the report that we submitted as an exhibit to your principal points. In addition, it will have no significant effect on the physical conditions of the neighborhood and just tracked. In fact, the setback variants being requested as a type 2 action under the New York State Environmental Quality Review Act and therefore deemed not to have a significant environmental impact on the environment under state law. The facility is -- the difficulty is not self-created. The facilities required for Verizon Wireless to provide reliable, continuous, and seamless, wireless services to the area surrounding the property, which is in the central business district. The alleged hardship is not self-created, but instead the result of Verizon Wireless' technological requirements and the physical conditions of the building, which were not created by Verizon Wireless. For all of these reasons, we respectfully request that the setback variants be granted. I also provided some information on interpretation, but, you know, I'm not sure we need to go through those that issue here because I believe that we certainly make the variance criteria, but I have that for the record, unless the board.

Harold Boxer: Okay. Any comments?

George Hoyt: I have a couple of comments. Yeah. I have a couple of comments. So just as far as the power density, immediate power density. So I saw the renderings, it looks like it's only dangerous effectively when you're on the rooftop. Right? Near those new emitters. Right? Effectively, and that's what the report says. I'm just concerned, I guess, that that building is right behind that buildings is steep slope. So the renderings, you know, suggest that there's at ground level, there's it's within the accepted criteria. I assume you've run -- I assume -- it looks like the power the wireless units are going away from the building, but is there away from the hill behind the Verizon building, but is there a concern or I have a concern that if the building, the hill above slopes up greatly, which it does, that people living on that hill above may be exposed to...

Leslie Snyder: It actually, the study actually considered all the adjacent rooftop. So from all the adjacent rooftops, it met all the criteria. The only place that doesn't meet the criteria is the sector where it's by the power pit. You'd basically have to be like a witch on a broom to be able to in front of those antennas. And then the other ones are the antennas on the bulkhead, which will be barricaded. No one will be able to get up at that location. They just exceed the standard by a small amount. But all the others, the ground and all the other rooftops were reviewed and in the studies certified to meet all the FCC regulations. So there's absolutely no issue. And as you probably know, the signal dissipates as it goes out.

George Hoyt: Yeah. It's just that there's a hill steep hill behind. That's all.

Leslie Snyder: It doesn't make a difference where the steep hill is it's the signal's going to gradually go out. The power will be reduced. And they also certified to the adjacent rooftops. So that would deal your concern of any of those locations?

George Hoyt: And the second question is, you know, the one always comes up with these is need. You know, is there do we all I haven't had my signal drop. We're in a new world. I understand that everything's wireless now. Speak to the need.

Leslie Snyder: So we submitted an affidavit from a radio frequency engineer, which showed the need. There is a capacity problem with respect to this district. And as people, as you acknowledged, the world is wireless now. You need connectivity. If you want to have an active business district, you need to have reliable service this facility will be able to provide that. And there is a problem now. You may, you know.

George Hoyt: How does one demonstrate there's a problem after?

Leslie Snyder: We actually submitted documentation, and that was reviewed by your RF consultant, Mike Musso, who acknowledge that we have an issue with respect to being able to provide service. That was reviewed. And I should also say that the planning board spent some time with us, and that's why we designed it in the fashion that we did. They asked us to lower it. We originally had it higher. And they asked us to flush mount it, which we did to the bulkhead. And it's they were very pleased at the June meeting. That's why, obviously, we're before you tonight.

George: What? By the way, what goes on in that Verizon building currently?

Leslie Snyder: That has switching computer equipment in order to be able to –

George Hoyt: I've seen all pictures where ...

Leslie Snyder: Utilize.

George Hoyt: There'll be rows of people switchboard operators back in their 50s and 40s and 30s.

Leslie Snyder: But that was in the old days. That was in the old days. Now it's computer equipment.

George Hoyt: Okay.

Wayne Spector: I realize that I think our hands largely are tied in a lot of aspects of these types of applications. But personally, you know, I suppose if since it's a reality of life that we have to have these and we all do rely on them, you know, assuming the concerns about the rooftops locally have been addressed, I can't think of a better location to do this, frankly. Then a co-located facility on top of an actual Verizon building. So that's my take on it.

Jacqueline Broth: Whitney, does the set up red flags for any other types of wireless intrusion into the village?

Whitney Singleton: That's instead of red flags. Well, my ears did perk up when Leslie said that this will eliminate the need for any other towers.

Leslie Snyder: Yeah. I didn't say any other towers, but no towers.

Whitney Singleton: I noticed that she said that there's not a gap in coverage here that this is for capacity. There's plenty of coverage downtown, but I would say that I'll say this. I parse Leslie Snyder and Leslie Snyder's words very, very carefully. Some representations have been made that I don't believe have been accurate on other applications. So I would like the benefit of reading through this much more carefully, but I would concur with the applicant that this is a good utilization of the site that the planning board did not deem there to be problems with the with the presentation to date that they've made modifications to it. And that this will help with regard to capacity for Verizon. And I think that this is probably and I would also concur with the applicants council that our code is primarily written for towers and not for rooftops which is something that we will be addressing in the future. And this would be a less impactful, visually impactful used than in other locations. I wish it was true of their other applications.

Harold Boxer: I have a question. I know on the -- on the towers, they would say that they have to allow other companies to use their tower. Is there any plan for anybody else to come up here and say they need this?



Whitney Singleton: No. There's no proposed colocation or do I think that Verizon would allow that but I'll certainly let the applicant's attorney address that.

Leslie Snyder: Okay. At this time, only Verizon is oh, sorry. Thank you. At this time, only Verizon is proposing to co-locate on this building. And we would ask if possible, if we could get a vote tonight on the on the request because we do have a shot clock, and we have spent a lot of time retooling the site we have a need for the service, which is becoming more and more pressing. And so, I would ask if at all possible, if we could get and hopefully, it would be affirmative vote so that we can proceed back to the planning board, especially because you're not going to have a meeting next month. So it really would appreciate that.

Harold Boxer: I think part of I think we need to find out if Whitney that he had to review its board. I don't I think we need to wait until he...

Leslie Snyder: But they'll do respect to Whitney. He's, you know he's obviously a trusted council, but it's the board that has to make the determination. We've presented all the materials. We do have we submitted them. It's been quite some time. Again, you're not having a meeting next month. There is a shock clock. There is a need for the service. So we would ask that you consider voting tonight. I don't think there's anything...

Whitney Singleton: Conversely, we we've had this application. Dormant for over a year, year and a half, if I'm not mistaken?

Leslie Snyder: You had it when you say dormant, no, we spent time retooling it because the planning board didn't like the way that we presented it. So we went back and we spent quite a bit of time working with our radio frequency engineers and our engineering to presents a new plan, which the planning board said they weren't in favor of at the last meeting.

Whitney Singleton: Okay. I don't know that's an accurate assessment, Peter. I don't think we had submissions for several months. Is that correct?

Peter Miley: Not a new submission. No. Just the latest.

Leslie Snyder: No. No. When you say submissions, we submitted for the June meeting, your June planning board meeting, I'm not saying that the applicant was dormant in some sense that we were spending that's what we're spending our time doing. As well as dealing with COVID, people who had, you know, all of the problems with COVID, but now we're before you won an act you know, Mount Kisco was one of the places that is, you know, wants an active business district. We retooled our application to make it responsive to your concerns and it's been.

Whitney Singleton: Leslie, I don't think the planning, the zoning board has any problems approving this application nor do I think that the planning board has any problems approving this application. But you have dug through and manipulated prior resolutions of our boards in the past, and I want to make sure Barry's clearly that there are no issues with regard to this application. And any resolution adopted by the board.

George Hoyt: Why don't we Whitney, what's wrong with the board taking a vote on this subject to our council's satisfactory review to make sure the resolutions match the presentation?

Leslie Snyder: Don't think we have any objection to that?

Whitney Singleton: I have no objections to that.

Leslie Snyder: Thank you.

Harold Boxer: Then why don't we proceed with that?

Whitney Singleton: I believe your board has Leslie, did you submit an EAF?

Leslie Snyder: It's actually a type 2 action.

Whitney Singleton: Oh, okay. No. No. Okay. Never mind. So that's fine. That'll be something I need to incorporate reference in the resolution.

Harold Boxer: Any other comments? I don't know, I don't know how we word the resolution.

Whitney Singleton: I think you simply say subject to final wording of a resolution prepared by counsel, the board does hereby vote as follows.

Harold Boxer: Okay.

Whitney Singleton: Or make a motion to vote as follow, you know.

Harold Boxer: Okay. Alright. Anybody want to make a motion?

George Hoyt: I'll make a motion, I started this to approve the presentation as presented subject to council's review of the materials and the resolution to ensure that the resolution matches the presentation as presented?

Wayne Spector: I'll second.

Harold Boxer: On the table? Alright. Okay. Great. Wait, Whitney, anything else you want to tell us?

Whitney Singleton: Yeah. Just bear with me a second. I had terrible time logging on. I apologized. I missed a first application. Could somebody tell me what happened with that and who made the motion and second?

Harold Boxer: I don't ...

Whitney Singleton: East way?

Harold Boxer: Michelle, are you taking notes? I don't...who made the resol-, [Indiscernible 2:03:08] the first one do you know?

The Secretary: Make date wise.

George Hoyt: Yeah, we approved more garages than they could possibly build the property.

Peter Miley: You see my notes.

Harold Boxer: They were going to allow Toyota to go into their property with the garages.

Whitney Singleton: Okay, so the board unanimously approved?

Harold Boxer: Yes.

Whitney Singleton: I apologize for that.

Harold Boxer: Okay.

Whitney Singleton: Don't worry. I'll follow-up with a-- Michelle or Peter with regard to the balance of it.

Harold Boxer: Okay. Alright. Do I have a motion to adjourn?

George Hoyt: Is that attorney case, you know? Homeland Towers. Is that...

Whitney Singleton: Oh, yeah. We need to we need to adjourn Homeland Towers, Snyder & Snyder for 180 South Bedford Road to the next zoning board meeting.

Harold Boxer: Okay. Do we need to vote on?

Whitney Singleton: Yeah. Yeah. Just a motion in a second to adjourn it to September 10<sup>th</sup> is it, I believe? What? September 21st?.

Harold Boxer: Okay. I'll move that we join into September 21st.

Jacqueline Broth: I second.

Harold Boxer: All in favor?

The motion carried by a vote of 5 to 0.

Whitney Singleton: With regard to that, that is going to be a -- if it gets to your board, which at this point, it's likely going to get to your board. It's going to be a very, very hefty application. There's several at this point, I think, thousand pages of submissions. And I don't know whether your board's going to want to do informally or collectively a site visit what's being proposed. And I think that we're going to have to make sure that Michelle recirculates all information to you. I don't know if you want to recirculate it in a hard copy format or electronically, but there's a lot to review.

Harold Boxer: Okay. Give me something to look forward to.

Whitney Singleton: Yeah. It's not something that that I look forward to either. I'm already -- I already have litigation cases on that site. And now I have another case where there's another proposal for use on that site. This is a 25 acre parcel in between Mount Kisco Chase and Sarles Street.

Harold Boxer: Right.

Whitney Singleton: But I'll try to do is circle back with your board as far as kind of maybe Peter and I can get together and lay out more concisely what exactly the nature of their applications are. And the nature of the lenient treatment that self-providers is supposed to be granted by the federal government.

Harold Boxer: We're not the federal government.

Whitney Singleton: No. The federal government mandates that you record them.

Harold Boxer: Well, once they give me -- they lower my taxes, I'll say yes. Okay? Motion to adjourn? Anybody? Alright, we'll stay here all night.

Jacqueline Brother: Motion to adjourn.

Ralph Alfano: second

Harold Boxer: all in favor?

The motion carried by a vote of 5 to 0.

The meeting adjourned at 9:25 pm.

The meeting was transcribed by Transcription. Names only were corrected by Michelle Russo.

The audio and video for this meeting may be found by using the below link:

<https://player.vimeo.com/video/578136265>