

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, May 18, 2021 at 7:10 pm** via Zoom Teleconference

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

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

Chairman Boxer stated this is the May 18, 2021 Zoning Board of Appeals meeting. Just a little bit of housekeeping, number four on the returning cases, Homeland Towers will not be on tonight. The first case is Bagnato 205 Lexington Avenue Corp and I see Kory is here.

**1. Bagnato 205 Lexington Ave Corp**  
**215 Lexington Avenue**  
**Mount Kisco, NY 10549**  
**(SBL 80.32-4-6)**

**ZBA# 21-8**  
**Area**

Mr. Kory Salomone of Zarin & Steinmetz, Mr. Ralph Alfonzetti, Engineer, and Mr. Anthony Crecco, property were present.

Mr. Salomone stated good evening Mr. Chairman, how are you this evening?

Chairman Boxer stated good.

Mr. Salomone stated good, so for the record, Kory Salomone, here tonight on behalf of Bagnato 205 Lexington Corp. Here with me this evening are Ralph Alfonzetti, our project engineer and Anthony Crecco, the principal of 205 Bagnato. Just a little background, the subject property is located at 215 Lexington Avenue, it's approximately .26 acres and located in the CN Neighborhood Commercial zone, permits residences above commercial retail uses and townhomes among other uses. Currently, the site is improved with a single-family home, I'm sorry, a single building with retail on the first floor and four apartments above and it had previously been improved with a single-family home as well but about 6 years ago that single-family home was destroyed in a fire. So the applicant is proposing to retain and renovate the existing mixed use building and add three attached townhome, thanks Ralph for sharing the screen here, with associated parking in the rear. So there we have the property at Lexington and Maplewood. And he's been, he's met with the Town consultants several times and it was before the Planning Board, his initial submission was for a six to eight unit apartment building and in discussions with the Town and the Planning Board, the plan has been revised to reflect what you see before you today. One March 9<sup>th</sup> the Planning Board approved this site plan application for the renovations to the existing mixed use building and the three townhomes by a vote of six to one, subject to receiving several variances from your Board. So those variances as I kind of outlined in my memo, include a front yard setback variance in the CN zone, 20 feet are required, the townhomes are set back 4.1 feet, the existing building is .5 feet, so for the new townhomes, we would need a variance of 15.9 feet. And as you see on this plan, you know we tried to line up the townhomes with the existing building to the south, I guess, so as not to have a saw tooth effect along the streetscape there. In addition to the front yard setback, we need an aisle width, a parking aisle width variance, 25 feet is required and while 60% of the spaces meet that requirement, spaces 7, 8, 9, and 10 only have 19.5 feet, so we would need a 5.5 foot variance from aisle width and in order to accommodate that reduced aisle width, the spaces have been widened from 9 feet to 11 feet, to make the maneuvering a little bit easier. We're also deficient in parking, so here for these uses we would need 18 total spaces, we're providing 10, so we need variances for 8 parking spaces. We believe that the impacts associated with this are mitigated by the fact that we're within walking distance to downtown as well as to public transportation. The fourth variance is maximum building coverage in this zone 35% is the max that we're allowed, here we've got 35.47, so relatively small variance of .47% is required and you know what's puts us over is the roof that connects the existing building to our proposed townhouses. And our fifth and final variance that we're requesting tonight is from the maximum development coverage, which is 65%, here we're proposing 13.7% and you know mitigating this additional coverage, we believe that we have more positive impacts than negative with respect to providing new housing, exterior renovations to the existing building, restoration of the sidewalk, curbing and landscaping to create a beautiful streetscape and we're also removing the curb cut that we have right now on Lexington Avenue for parking spaces that requires the cars to back out into the traffic on Lexington Ave. So we think when you look at all the factors, the benefit to the applicant, outweighs any detriment to the health, safety and welfare of the neighborhood. More than happy to walk through the standards with you if you'd like or answer any questions that the Board may have.

Chairman Boxer stated can you point out the parking spaces?

Mr. Salomone stated that we're eliminating or what we're providing?

Chairman Boxer stated I know where the ones eliminated are, the ones that you're putting in.

Mr. Alfonzetti stated they're located in the rear of the existing building and the proposing townhouse buildings, can you see where my cursor is here?

Chairman Boxer stated yup.

Mr. Alfonzetti stated they're along here, here and we have one ADA space in here.

Chairman Boxer stated okay.

Mr. Crecco stated I just want to add that, hi this is Anthony Crecco, the owner. When the front parking lot is getting removed where the new townhouses are going, I know it doesn't count towards parking but we are recouping three street parking spaces which we believe are mostly going to get used by this building because this building to the right has their parking and there's a street here and then these other houses, I think they have a driveway or a garage in the back. So we do have three more spaces here.

Mr. Spector stated those townhouse units are all single-family? Multi-plex, I guess.

Mr. Crecco stated no, they're single-family, they are two floors, basement, first floor and second floor, two bedroom.

Mr. Spector stated what is the purpose of the covered walkway? Just to provide appearances or does it serve any other functional purpose?

Mr. Crecco stated I think it was mostly architectural but Peter Miley, I think is here and he suggested that it was something with the Building Code, correct me if I'm wrong Peter...

Mr. Miley stated [inaudible].

Mr. Crecco stated you're muted. I think it had to do with Building Code, not having two structures on one parcel, I believe it was.

Mr. Alfonzetti stated correct, I believe it was two structures on one parcel, so connecting them acts as one structure.

Mr. Spector stated but that causes the building coverage issue, having that? Is that the issue that I heard before?

Mr. Salomone stated sure, yeah, it causes the building coverage to go over by that minor percentage but if we didn't have that we'd have to come back for a variance for having multiple buildings on one lot.

Mr. Miley stated sorry about that guys, I had glitch and it did not come through for whatever reason.

Mr. Crecco stated oh okay.

Mr. Miley stated I apologize. That was the original intent, when we looked further into the Code, we don't believe that two structures would trigger a variance, well I don't believe and others may disagree. I think there's a section of code that we can apply, thereby not requiring the connection to make it one structure.

Mr. Spector stated I was just concerned about that walkway almost becoming like a dark alley or whatever for people to congregate in or maybe being a danger or something to people on the street, I don't know.

Mr. Miley stated I don't think its going to help with development coverage because you're going to need a sidewalk to go through anyway, so it's still...

Mr. Spector stated it's just by covering it, it creates sort of a darkened sort of pathway.

Mr. Crecco stated well we are going to have lighting in there and Ralph, can you do the front elevation of the rendering just to see if it shows.

Mr. Alfonzetti stated let me see if I can pull that up, hold on.

Mr. Alfano stated if it was simply added to just make it one structure on the parcel and there's not functional purpose, I guess I would ask, do we really need it.

Mr. Alfonzetti stated can you guys see that?

Mr. Crecco stated yeah, so, I mean, this is a rendering I get it, it's not that deep but its going to have minimal light.

Mr. Alfonzetti stated it will serve a little bit of function just that snow will be a little bit, there will be no snow on the walkway and things like that and icing conditions but you know generally it is put in just to connect the buildings.

Mr. Spector stated are these buildings are going to have entrances in the rear to the parking lot as well or just the front doors?

Mr. Crecco stated well the new buildings, just the front doors and when you come out of your car in the parking lot, there's going to be stairs coming up and then you come into there and come in. The apartments in the existing building, the entrances are back here.

Mr. Alfano stated does eliminating that covered walkway of the structure, does that eliminate the need for variance number four, then Peter? If what you said before is the case where having two structures on one parcel would not need a variances.

Mr. Miley stated the only way would be by removing the walkway but the walkway is underneath that, you know the concrete walkway is underneath the roof structure.

Mr. Alfano stated oh by the removing the walkway, got you.

Mr. Miley stated you have to remove both or shift the building to the left and create greenspace to the right.

Mr. Salomone stated so Peter, the walkway is considered building coverage and not development coverage.

Mr. Miley stated it would be both. You have the impervious below but what I'm what I'm saying is if you remove the covered portion, you still have that entire walkway which would be development coverage and that's the variance that you're seeking.

Mr. Salomone stated well we're seeking two, we're seeking building coverage...

Mr. Miley stated I apologize, you do have 1.47 building coverage as well, so that would eliminate that as well, correct.

Mr. Salomone stated right, if we...

Mr. Spector stated I guess my question still is like, is there a functional need for that walkway? Do people need to use that walkway in order to get from the parking lot to their, either the businesses, apartments or new homes?

Mr. Miley stated well the issue is, is there's no sidewalk that's being proposed on Maplewood, that's the only way to get from the rear parking lot to Lexington Avenue, other than...

Mr. Spector stated I see.

Mr. Alfano stated okay.

Mr. Crecco stated because we tried to increase the greenspace that the Planning Board wanted, so we didn't put a sidewalk here, this is going to be all green space.

Mr. Miley stated so that's the issue that we're having, it's either covered or not covered but you still have the development coverage.

Chairman Boxer stated do you have a sufficient number of parking spaces?

Mr. Miley stated they're seeking a variance, Harold, for parking.

Chairman Boxer stated yeah but how many do they need and how many are they putting in?

Mr. Salomone stated we're putting in 10 and we need 18, so it's a variance of 8 space.

Chairman Boxer stated okay.

Mr. Alfano stated in the 10, is the credit of 4 in there? There's a footnote at the bottom...

Mr. Salomone stated the credit of 4 is included in that calculation.

Mr. Alfano stated I'm sorry, Harold, you were saying something...

Mr. Miley stated Harold is frozen, there's an existing one-family dwelling there, two of the units were built pre-code, thereby not requiring, that's the credit they received.

Chairman Boxer stated okay.

Mr. Hoyt stated you mentioned the, I don't recall Lexington Avenue that you're opening up a couple, the renovation opens up the potential for more street parking. Is that street parking 24/7? I don't recall...

Mr. Miley stated I don't have the answer but I can get the answer for you.

Mr. Spector stated is there going to be some reservations where some of the parking spots are designated for the residences versus the business?

Mr. Crecco stated no, we're not going to assign spaces. We're just going to offer tenants that they can only have one space. I mean the store, I think they close at 7, so you know and the way the store operates now, I say the majority of people that go to this store are from the neighborhood, so they walk there but if they don't they utilize these spaces. So we envision them using these five spaces during the day to go to the store here.

Mr. Weise stated the new rendering, it looks like every building is new. Is that the case? Are you going to be tearing down the building that currently exists?

Mr. Crecco stated no, so when you look at the rendering head-on, the structure to the right of the three new townhouses where the parking lot is on Lexington right now, the structure to the left is existing but we designed it to retrofit it to look like the new building, as far as roof design. So, Ralph do you have the existing picture of the existing building? Yeah, so the architect just designed it to do a retrofit so it all looks uniform.

Mr. Weise stated so the stores will only be in the existing building? There won't be stores at the bottom level of the units to the right?

Mr. Crecco stated correct, even though you see two spaces, it's one tenant for the stores.

Mr. Weise stated okay, so right now these spaces, these parking spaces are being used by this store...

Mr. Crecco stated correct and the apartments.

Mr. Weise stated and you'll replace these 5 or 6 with, there will be 3 additional on the street.

Mr. Crecco stated correct.

Mr. Weise stated and this is not metered, I would imagine.

Mr. Crecco stated no, not at that point, not here, no.

Mr. Weise stated okay.

Chairman Boxer stated but the street parking cannot be designated solely for your building, so it's not going to be able to be counted in the...

Mr. Crecco stated right and I mentioned that earlier, although it's not counted, I mean, you know, it's there. Of course anybody can use it, it's not limited to just our building.

Chairman Boxer stated okay.

Mr. Weise stated the owner of the current business, what are there, did they say anything about this, about this change of parking?

Mr. Crecco stated no, no, they're okay with it. They didn't say anything, I mean they're going to get more parking.

Mr. Weise stated in the back.

Mr. Crecco stated yeah, better access, just like Kory said in the beginning, it's much, much safer than what it is now.

Mr. Weise stated and these are individual units, so there's going to be a family in each of these three and then what about the original one, how many families are in there?

Mr. Crecco stated four.

Mr. Weise stated so there will be a total of 7 families?

Mr. Crecco stated correct.

Mr. Weise stated and that's why you have the 18 parking spaces that is by Code.

Mr. Crecco stated well I think and Peter could help me out there. I think the store, the retail is the one that's really kicking up the requirements, am I right Peter? Is that what's really...

Mr. Miley stated are you looking for help, Anthony?

Mr. Crecco stated I'm looking for a little help here, you're the expert.

Mr. Miley stated I'm not...

Mr. Salomone stated the store requires 6 spaces.

Mr. Alfonzetti stated you can see my parking chart right there on screen.

Mr. Weise stated how much of the parking is dedicated for the residences?

Mr. Crecco stated we're not assigning spaces but as far as the Code, Ralph, what is the residences...?

Mr. Alfonzetti stated the one bedroom apartment requires three, the two bedroom apartment is requiring ten.

Mr. Spector stated three bedrooms, each is going to have three bedrooms, each apartment or the townhouses.

Mr. Alfonzetti stated there are two units that are one bedroom...

Mr. Spector stated that's in the original building you mean?

Mr. Crecco stated well I think he combined, I think Ralph, you combined the units [inaudible].

Mr. Alfonzetti stated I did, I didn't separate these from [inaudible].

Mr. Alfano stated there was a statement before stating that the new townhomes have 2 bedrooms each.

Mr. Salomone stated and then in the apartments, there's two, two bedrooms and two, one bedrooms.

Mr. Weise stated so there's not going to be dedicated parking spot for any of the tenants of these buildings.

Mr. Crecco stated no, they can use any spot that's available.

Mr. Spector stated and these are all rentals, they're not being sold, is that correct?

Mr. Crecco stated that's correct.

Mr. Spector stated the new ones.

Mr. Crecco stated that's correct.

Mr. Spector stated Peter, the seven units in total, that doesn't trigger an affordability requirement, does it?

Mr. Miley stated no. You're dealing with three new units, you have four existing units.

Mr. Spector stated okay.

Mr. Weise stated so you're one of the residents, you're the last one back home, all the spaces are taken, where do you go?

Mr. Crecco stated [inaudible] the five spaces on Lexington, I don't know if you can see my cursor.

Mr. Alfano stated what if those are taken?

Mr. Crecco stated I know they're not designated for this building but we're going to make a step out on a limb and say we're going to make an assumption that you know, it's not a very heavily populated where you know, most of the houses on the [inaudible] garage, the building to the right is mostly commercial, I believe they may have an apartment there, I'm not sure. And so we're making that assumption that's where they're going to go.

Mr. Weise stated is there any parking on Maplewood Drive or is that too narrow?

Mr. Crecco stated it's too narrow when you enter from Lexington but I think if you go down, I think you could park, you see there's cars there. They probably could park there, I'm not sure if it's allowed.

Mr. Spector stated we don't know if it's overnight allowed.

Mr. Miley stated I'll get the information for both Lexington and Maplewood for the next meeting.

Chairman Boxer stated Peter, is there, if there's a snow storm, do they have to get off the streets.

Mr. Miley stated there was a snow accumulation area that was originally designated on the original site plan.

Chairman Boxer stated but they can still park on the street, then.

Mr. Miley stated it depends on whether on it's an emergency situation, if they declare an emergency then no, then they have to get them off the street. If it's a general, basic snowstorm, then yes.

Chairman Boxer stated so if there's an emergency which we've probably had several of them, they, you might have more cars than spaces and they would have to go all the way down to the municipal lot to park.

Mr. Miley stated it might be there only option.

Mr. Weise stated I think parking is the only real question that I have in my mind, I think that the design looks beautiful.

Mr. Crecco stated I just want to make a comment which may or may not help, Ralph, Peter, help me if I remember... When we originally, Ralph, when you designed the original lot, it was 14 spaces, right?

Mr. Alfonzetti stated we did have a couple more spaces.

Mr. Crecco stated 15 and per the Planning Board's suggestion, they were really gung-ho on more greenspace, so that is why we scaled it now. And although, I think the spaces did work and I guess it may, it was probably a little tight but they did work physically. So they decided it was better to come down.

Mr. Weise stated is it, if you would make a garage in one or two of the units on the first level, is that, is that impossible or...?

Mr. Crecco stated I mean physically, it probably is but then it would negate the greenspace because we would have to get rid of all the greenspace in order to do that, that you see now behind the new buildings.

Mr. Weise stated okay.

Mr. Crecco stated so that's big, that's part of the reason why the parking got cut down and then what we did was, we pushed the new buildings back to four feet because originally they were in line with the existing to add more greenspace there. So we really tried to maneuver it to make it work for the Planning Board.

Mr. Alfano stated Peter, Peter Miley, is the ADA space required?

Mr. Miley stated yes, you do have a commercial storefront there, so one space with a new parking area is required. One per 25 spaces.

Mr. Alfano stated okay.

Mr. Hoyt stated I guess my feeling on parking is this, in some sense it will take care of itself if the tenants have to go to the municipal lot, they'll be unhappy tenants, unlikely to stay and you're likely to get tenants who don't have cars which I think many people around that neighborhood walk anyway. What I do worry about is Maplewood drive becoming, I don't even know if parking is legal there but I do worry and we should make it, the Town should pay particular attention to making sure that Maplewood drive doesn't become a repository of just cars sitting there, if it's illegal that is. I'm assuming they have kids on that street, you don't want to have the street lined up with cars when its not really built that way.

Mr. Crecco stated well yeah, well I can tell you currently I think people that live on Maplewood, but who would enforce that, that would have to be a police department thing?

Mr. Hoyt stated it would be the Town, right?

Mr. Crecco stated I mean, Peter, I don't know, how would that get enforced.

Mr. Miley stated your building, I would come out and enforce it. Everyone else is the Police Department.

Mr. Crecco stated okay.

Mr. Miley stated it's the police department.

Mr. Alfano stated when it says there are four parking spaces credited, where are those four parking spaces as of today.

Mr. Miley stated let me answer that, Anthony. So Ralph, let me take you back to the original application. So you have an existing four-family structure here that provided zero parking. The parking area to the right which changed, that was originally only a three space parking area which was modified unlawfully, which required people to back out. That actually had parallel parking. So they only had three spaces for both the four-family home and the commercial property. The commercial property was another use, wasn't a retail use, I believe it started as a dental lab, many, many years ago, I'm just shooting from the hip because I don't have those notes in front of me. And then you had an unlawful four-family that was originally a two-family. So we gave the applicant, even before this application, a credit for those spaces that were built prior to the requirement for parking. So therefore only spaces required for new and those that existed after the Code was created. Hence the reason for the four space credit.

Mr. Alfano stated okay.

Mr. Weise stated so by Code you would need 18 and you get a four space credit...

Mr. Miley stated that includes.

Mr. Weise stated that includes it.

Mr. Miley stated that's all in, yeah. They still need that, that accounts for the credit as well, so they still need that 8 space variance.

Mr. Salomone stated correct.

Mr. Miley stated yeah, they still need the 8 space variance.

Mr. Weise stated and there are 10 parking spaces and once of them is marked handicap which is required by law. Is there any time for that, is it business hours or it has to be 24 hours.

Mr. Miley stated well they have a commercial establishment, whenever you create a new parking area, you do have to provide a minimum number which is one ADA per 25 spaces. Whether they use it all day or not, I mean, you can share use of parking if the store, I don't see you can block an ADA space unless the person that needs it is also, requires it.

Mr. Hoyt stated I'm sorry, this may be immaterial, I thought the memo was very well written. But the existing spot from the street, that are illegal, the ones that you have to back out, are those dedicated for the folks in the three family house and the store.

Mr. Miley stated that's for you Anthony.

Mr. Crecco stated the existing spaces that, yeah, as Peter just mentioned, they were originally three and the previous owner that I bought it from, unbeknownst to me, he reconfigured it and turned I into six.

Mr. Hoyt stated are you, I kind of know the answer already but are you aware of any parking problems right now? I mean, it's already under code, it's already under parking, probably under the level. But I'm assuming you're not aware of any parking issues now at the existing building?

Mr. Crecco stated I've never had a parking issues, I've had this building since 2008.

Mr. Hoyt stated alright.

Mr. Alfano stated and you are effectively gaining, it's really like a five space variance because you're getting the three spaces on the street even though you can't control who parks there but let's make some relatively safe assumption that folks who live there will park there.

Mr. Crecco stated I'm making that assumption, yeah.

Mr. Miley stated yeah, Ralph, I think it was talked about at the Planning Board, well it was talked about at the Planning Board that the idea of those spaces were for the, you know there's a small retail setup there, so people can pull up, purchase and leave without having to pull into the parking lot.

Mr. Alfano stated right and then in the evening when the store closes, it's likely folks who live there would park there.

Mr. Miley stated I'll have to confirm that it's overnight parking.

Mr. Alfano stated if we can confirm that, that would be good.

Mr. Miley stated I'll have that for the next meeting.

Ms. Broth stated is there any way to place a rule for the apartments that they are limited to one vehicle?

Mr. Crecco stated yes, the Planning Board asked that too and I believe I responded with...

Mr. Hoyt stated I'm ready with my thoughts.

Mr. Crecco stated okay, yes, that would be part of my, when I do my leases, that they would only be able to have one vehicle. So that's the way I could control, I don't think that Town-wise it could be controlled unless Peter you tell me otherwise.

Ms. Broth stated you may also...

Mr. Miley stated I can't control the private car parking...

Mr. Crecco stated yeah, so that's how I can control it, as the owner.

Ms. Broth stated you may also want to include in the leases that no visitors can use the lot.

Mr. Crecco stated that what?

Ms. Broth stated no visitors will be able to use the lot. I live in a multi-family community and parking is a nightmare...

Mr. Crecco stated I guess it seems to be wherever you are, you can never have enough parking, right?

Ms. Broth stated you can have one family that could have five cars.

Mr. Crecco stated right.

Ms. Broth stated so you need to go into this with the understanding that where the limitations are and they're agreeing to it on the way in.



Mr. Salomone stated we've discussed that restriction already.

Mr. Crecco stated what?

Mr. Salomone stated I said we've discussed the one car previously.

Mr. Crecco stated the one car, yeah.

Mr. Salomone stated we've discussed putting that in the lease to ensure that.

Ms. Broth stated and again, I would also include no guest overnight parking.

Mr. Miley stated you have to excuse me, the fire alarm is going off.

Mr. Alfano stated okay.

Mr. Weise stated so what does that mean, does that we are tabled?

Mr. Crecco stated what, that Peter had to leave?

Mr. Alfano stated no sure what happens now.

Mr. Crecco stated I guess we'll wait for him to come back.

Mr. Spector stated well if there are questions but do we need more information? Are we going to vote on this tonight?

Mr. Weise stated it sounds like we're going to need to come back with some of the answers on the parking front, it sounds like.

Mr. Salomone stated was there any other question other than whether or not Lexington Avenue was permitted for overnight parking?

Mr. Alfano stated and Maplewood as well.

Mr. Weise stated and Maplewood. I think the question is what are the alternatives, if these spots are taking for residents?

Mr. Crecco stated well just to make a comment, going back to putting in my lease that they can have one car, that that four apartments and three new units is seven spaces. So that being the case, there's technically three empty spaces all the time in the parking lot with that restriction.

Mr. Weise stated okay.

Mr. Crecco stated um, so...

Mr. Spector stated that's going to be difficult to enforce, people have guests over and it's just going to be challenging.

Mr. Crecco stated the one car rule, I mean it's in the lease, if guests come over, yeah, of course they're going to use the parking lot but they're going to leave unless they stay overnight and of course you know, we can't police that but like I said, in the last 12 years that I've had it, I haven't had an issue with the six spaces.

Mr. Hoyt stated yeah, I can't think of, I mean, I agree parking is the Achilles heel of this project, you know let's assume the worst and you can't park overnight on Lexington and Maplewood is restricted in some way, I can't think of a solution other than slimming down the whole proposal which I assume would sandbag the whole thing.

Mr. Spector stated there's the municipal lot in Town but can you park overnight there too? I don't know if you can.

Mr. Weise stated I think you can, they're only enforcing between 6 and 6, something like that.

Mr. Hoyt stated I think part of the, in my mind anyway, that, the current parking spaces is untenable, I've never seen an accident there but I'm surprised people aren't hurt on the sidewalk or backing in and out of those spots, that's a horrible spot and Lexington as we all know, is a very busy road. So in a lot of way, the

proposal while causing its own problems, is a huge improvement for safety. It's hard to argue that creating too many, that not having enough spots will automatically be a safety issue but fixing this problem is clearly a beneficial outcome.

Mr. Weise stated yeah, no I think, what I'm curious is the Planning Board, they made a trade-off, less greenspace or more greenspace, less parking, that's the tradeoff that they said...

Mr. Crecco stated yeah, they wanted more, they wanted to see a lot more greenspace, so we cut out the fourth space.

Mr. Spector stated but the greenspace that's most of it, there's some in the front that I see in the planting beds but a lot of it is in the rear where it's not going to be visible from, except I guess from other, from the backs of the units themselves.

Mr. Crecco stated well yeah...

Mr. Weise stated I see the tree plantings, the proposed tree plantings. It looks like there's going to be trees and shrubs in all the greenspaces, is that correct?

Mr. Crecco stated correct.

Mr. Miley stated hey Chairman, I have to interrupt for a second, we have the Fire Department coming, I'm going to need about 10 minutes to deal with the situation we have at Town Hall but the meeting can proceed, I just won't be able to answer any questions for the next 10-12 minutes.

Mr. Alfano stated okay.

Mr. Weise stated thank you Peter.

Mr. Spector stated I just find it interesting that the Planning Board approved the entire site plan, you know which really leaves us with no choice actually, in this matter. That's the way I see it because I think it should have been the other way around, I think we should have approved the parking variances before they approved the plan but you know, that wasn't the way it was done.

Mr. Weise stated I think that's correct.

Whitney Singleton stated that was a question that was posed but they wanted to proceed the way they proceeded. The question was whether they should go to the Zoning Board first.

Mr. Alfano stated yeah but Whitney, is that process not defined? Meaning that if they know that variances are needed, why not come here first before approving the site plan?

Whitney Singleton stated the applicant didn't want to do that.

Mr. Alfano stated the applicant did want to do that, okay, got it.

Mr. Weise stated I would like to know the answer as to whether the Lexington spaces are available to residents, you know all year round, there's no restrictions and if that's the case, that's going to make me feel a lot better about the parking situation.

Mr. Spector stated yeah, I agree.

Mr. Crecco stated I'm sure they're available all year round, as far as 24 hours, I don't know but they are available, definitely during the day. As far as the overnight, I don't know. Is that a County Road, is Lexington a State Road?

Mr. Alfonzetti stated I believe it's a County Road.

Mr. Crecco stated so who would know the answer to that? The police or Peter or the County?

Mr. Hoyt stated I'd think there'd be signage, somewhere.

Mr. Weise stated I would think there'd be signage, yeah.

Mr. Alfano stated it's not a state route for sure.

Whitney Singleton stated the Village regulates it.

Mr. Crecco stated the Village. Then who would know that if there's no sign, would it be the police or Building?

Mr. Salomone stated I would imagine if there's no signage...

Whitney Singleton stated it's changed over time. They've removed a lot of the parking along the Lexington Avenue corridor and it will probably all be gone at some point in time, it's been removed in front of what is now, down by Henry's Deli and north of there. It's been removed in front of [inaudible] Market north and it's been removed between Gregory Avenue and the street with the high school, the elementary school. The more traffic that does on Lexington Avenue, the more street is needed.

Mr. Hoyt stated West Hyatt.

Whitney Singleton stated as you can see, there's no more parking south of there or north of there or south, it's all removed.

Mr. Crecco stated yeah.

Mr. Spector stated right, I suppose we can just let the market take over and if people, you know it's going to affect the rentals if people need two parking spaces and they can't keep their cars there, they're not going to rent. It's that simple.

Mr. Salomone stated it sounds like just, right, we need to find the answers to the parking at Maplewood and Lexington right now and come back next month?

Mr. Spector stated I think we're boxed in, because you know ultimately, the Town may eliminate parking on Lex anyway, as Whitney said.

Whitney Singleton stated that's why they don't allow anyone to count off-site parking. It may enter into your analysis for proximity to available public parking but you can't, that's why you're not allowed to count any off-site parking for your project.

Mr. Hoyt stated I, as I mentioned before, I feel like the parking situation is bad and it's staying bad, it doesn't feel like it's particularly worse than it is now.

Mr. Salomone stated but it is getting safer and that's a benefit to the community.

Mr. Alfano stated I think its getting a little better overall with this plan.

Mr. Weise stated yeah, I think that it is as good of a situation as you can get given what you have, it seems to be.

Mr. Spector stated these are two bedroom units that are being added, so it's likely and they're nice size units, it's likely to be, many of them, not all of them are going to parents, two parents, two working parents and a child, perhaps. I mean, that's a typical scenario where you're going to have two cars.

Mr. Weise stated yeah.

Mr. Spector stated and the reality is, you can say what you want about restricting it, you know, the bottom line is people need to get to and from work. Public transportation, it exists, good but it doesn't get you everywhere.

Mr. Salomone stated and as you said right, if it's such a big deal for a potential renter, the market will find its level, if people require that, they just won't rent here.

Mr. Alfano stated yeah.

Mr. Miley stated guys, I'm back. Sorry about that.

Mr. Hoyt stated the existing building has two, one bedroom and two, two bedroom.

Mr. Salomone stated correct.

Mr. Hoyt stated and you're not aware of any horrible parking situation there currently. They're either parking on the street currently and using those four spots that are dangerous right.

Mr. Crecco stated no, the tenants are parking in the parking lot, one the tenants doesn't have a car and the store pretty much uses those two spaces that are there now, on Lexington and the majority of his customers pretty much walk because they all live in the area.

Mr. Weise stated right.

Mr. Spector stated I guess as long as the nature of the business stays that way, that won't change, in the future, who knows what's going to be in those spaces.

Mr. Crecco stated I mean I've got 2 bedroom units, a little bit smaller in Pleasantville and you know, most of them have one car. One or two has two cars but yeah, I mean, you know, I just have to see how, you know like you said, the market, I obviously don't know what's going to take place but when there's a restriction, I just won't rent it.

Mr. Alfano stated and that, go ahead Arthur.

Mr. Weise stated I was just looking at these street photos, where does the residence to the south, where do they park?

Mr. Crecco stated the residence to the...

Mr. Weise stated it looks like they may be using of these existing parking spaces.

Mr. Crecco stated the building on the corner?

Mr. Weise stated not the one on the corner, the one right south of this development. So it would be the neighbor to the...

Mr. Crecco stated yeah, that's the corner of Lexington and Smith Street, that is...

Mr. Alfano stated Suburban Carpet.

Mr. Crecco stated Suburban Floors, yeah. And with a parking lot, actually picture is while, I guess while they were building it, it's used to be the florist, Reber. I don't know if there's a resident there, I mean it looks like it but I've never seen anybody there.

Mr. Miley stated Chairman, we have Suburban Floors here tonight at Town Hall, they are one or two speakers this evening. So, any questions that you have for them, once your presentation is done, I can ask them to speak.

Whitney Singleton stated Chairman, additionally, if you want me to share my screen, I can show you their parking lot.

Chairman Boxer stated okay, why don't you do that.

Whitney Singleton stated they have parking on the side of their building and I believe they have one, perhaps 2 apartments upstairs with a separate entrance.

Chairman Boxer stated they have as many spaces are you're proposing.

Mr. Miley stated one apartment upstairs.

Chairman Boxer stated I personally don't think we can count the, I'm not willing to count the possible street parking as resolution for this.

Whitney Singleton stated if you actually going down the street, you will see that there's not parking on the street and as you get to their site, it says no parking on either side of the sign...

Mr. Spector stated right.

Whitney Singleton stated so this space up here might not be a legal space. Parking doesn't pick up until you get down the street.

Mr. Weise stated but is that because of the parking lot there?

Whitney Singleton stated I have no idea but that's why we don't count on-street parking spaces for any credit.

Mr. Weise stated right. Have we had variances of 8 less parking spaces for what is required of the 18, has that happened in the past?

Mr. Miley stated not that I recall, I not while I'm here. There's been land bank spaces, there's been shared use agreements, I don't recall of the 8 spaces. I could be wrong, I mean Whitney's been around for a long time...

Mr. Spector stated is there a possibility of land banking at least a couple of spots here on some of the greenspace or is that not possible?

Whitney Singleton stated no, not without increasing the variance. And when do that and Ralph can correct if I'm wrong, when they do that, they have to show it as purposes installed for determining their stormwater with DEP and the Village.

Mr. Alfonzetti stated right.

Mr. Miley stated development coverage will go up and a number of other things.

Mr. Alfonzetti stated correct.

Mr. Spector stated even if you did some kind of a like surface that had some drainage in it. I know I've seen those with the, I forget what they're called, it's a sort of box...

Mr. Alfonzetti stated yeah, like the pervious pavers.

Mr. Spector stated yeah, that's what I'm thinking of, thank you.

Mr. Alfonzetti stated I think for stormwater that will help but I do believe that will still as development coverage...

Mr. Miley stated that's correct.

Mr. Alfonzetti stated if I remember correctly, we did have a land banked space or two and the Planning Board actually had us take it out because they wanted to ensure that we had the greenspace.

Mr. Weise stated so you, what do you guys, I mean, you're making this development, you're proposing this development, would you rather have two additional parking spaces or extra greenspace?

Mr. Crecco stated I like the greenspace. I was kind of in agreement when they suggested that because I do like behind the new units create kind of like a yard. When the parking lot had 14 spaces, I mean it was pretty much right up to like the units, the parking lot. You know, it was a little more, so this kind of, you know you kind of give and take, so get some greenspace, you feel like there's not going to be a parking issue but again you could have 100 spaces right and you never have enough space.

Mr. Weise stated right, yeah, you're basically, you are looking to attract families with one car.

Mr. Crecco stated I am and you know, we're looking to you know, attract, you know people that walk, hopefully people go back to the City and work again one day but I don't know when that's going to be but we'll try to attract them too.

Mr. Weise stated right, okay.

Chairman Boxer stated is there anybody from the public that wants to speak?

Mr. Miley stated there's two people here and then we have to announce our call in number before we move on. So let me see if they would like to speak.

Chairman Boxer stated okay.

Mr. Miley stated okay Chairman, we have somebody logging in right now, just bear with us. They're connecting their audio as we speak.

Chairman Boxer stated okay.

Mr. Miley stated Chairman, they're having a little issue connecting, I'm going to allow her to sit in my chair for now, while she speaks. Emily, just...

**John Reber** stated are we good? I'm John Reber and I'm the owner of the Suburban Floors property, is that alright?

Chairman Boxer stated okay.

**John Reber** stated in the past months, especially in the wintertime, we've had cars occasionally, not cars, a car or two, parking in our parking lot when people, we're not sure where they come from but when it snows, everyone is scrambling for a parking space they've come to us, they've even asked if we would rent them space and we've had to tell them no because you know wintertime is a tough time and especially when you lose spaces because of snow. We are able to alleviate that problem because we have extra greenspace for the parking aspect of it. I know the project that you're speaking up does have parking issues even with the retail store that you have there because I, we live right next door, so it's hard not to see things and they're open on Sundays and they have, they've been, like I want to say double parked in a way in those six spaces, I think it's six spaces that you have, they don't all walk. A lot of them are the landscapers and they trucks which is understandable but it's not a walking type of thing only. So, the and I have a feeling that it's just too much for the space and it's not adequate. We provided the 10 parking spaces in our project when we were developing the Suburban Floor area and we complied with the Codes of the Village and you know, we didn't ask for anything and we just complied and I would hope that you know, that this project would also comply because there are reasons for the ordinances and parking is a major issue no matter where you go in Town and probably any town. And if we're trying to overdevelop a site, I do not believe that's a good thing because here we are fighting, not fighting but arguing or trying to eliminate a problem and the problem I think is its just overbuilt, if you don't have as much retail space or as many apartments, you don't need as many cars and to me that crux of the issue, it's not how you're going to fit them in or you're going to park on the street in the wintertime and you know people are going to park wherever they can, no matter what you ask them to do, it's just the nature of the beast and they'll park wherever they find a spot. I live on Smith Avenue, which is just around the corner and there are cars that park in front of my house at night because they cannot find parking, I'm not saying its this site but the houses that are around, they need a spot and they're parking on the street. And I thought the purpose of an ordinance was to get parking off the street, not to you know, not to add to the problem. So, particularly I think it's a good idea just to maybe eliminate a little bit of the apartments and you'll have plenty of parking and you won't have an issue. That, we complied so I would hope that other people comply also. Thank you.

Chairman Boxer stated thank you.

Mr. Miley stated Chairman?

Chairman Boxer stated yes?

Mr. Miley stated both people are going to speak, only one is going to. Let's [inaudible] this evening. Would you like me to read into the record the number to call in and the other methods, if anyone would like to join us.

Chairman Boxer stated okay.

Mr. Miley stated alright, so first is if you're on Zoom, you can raise your hand and we'll take you in order. The second way is you can call in the number is 1-646-55-8656 and myself and Michelle are monitoring Facebook, so if there's a comment we'll bring it your attention. That's all I have for this application, the one speaker.

Chairman Boxer stated okay. So, we should vote to keep the public hearing open and then we should vote to put this over for a month. So do I have a motion to keep the public hearing open?

Mr. Salomone stated can I ask a question, Mr. Chair? I'm just curious what we're keeping it open for, if we can't count the street parking, you know we're pretty much, we've provided all the information that we're going to have. If there's other information, then by all means, that you guys want, we want to provide it to you but if we can't count the street parking at all, it doesn't really matter whether or not there's overnight parking or not, the application is what it is.

Chairman Boxer stated so are you going to withdraw the application?

Mr. Salomone stated no, I was just simply asking if we're holding it over, what additional information are you looking for? We certainly are not withdrawing the application.

Chairman Boxer stated I think you should go back to the Planning Board and tell them we can't give you the parking spaces and tell them to do something with the greenspace. Not get rid of all of it but we can compromise on some of it.

Mr. Salomone stated and Ralph, how many, if we were able to compromise on the greenspace, how many additional spaces are available?

Mr. Alfonzetti stated I know we can at least get two, possibly up to four but I'd have to double check it.

Mr. Salomone stated so we're, I mean if we can reduce it to needing six spaces or four spaces, I mean, would that make it more palatable to the Board?

Mr. Spector stated it would to me.

Mr. Weise stated it is the big factor here, is parking. Do we want to have more green or sacrifice green for parking? Of course, I'm not sure if that's possible with this situation.

Mr. Alfano stated Anthony, you're on mute if you're trying to say something.

Mr. Crecco stated oh yeah, Ralph, correct me if I'm wrong but I think the Planning Board was pretty adamant about the greenspace. You know, adding the four spaces, I don't think any member was for it, you know two, we may be able to squeeze away but I don't know, am I correct on that?

Mr. Alfonzetti stated you are correct. I mean, we did have more parking spaces and they kept pushing us towards getting rid of them and increasing the greenspace.

Mr. Weise stated is it possible to have some kind of a joint session to work this out?

Mr. Crecco stated I don't know, is that possible? Peter?

Mr. Miley stated there's a workshop before every Planning Board meeting, if... well we have a resolution from the Planning Board and the number one condition is prior to signing the approved plans, the applicant's responsibility is to seek and obtain variances. So it would have to go back for amended site plan approval, therefore opening the meeting. I don't see why we can't have a workshop, we do have a workshop and hour before every meeting. Whitney, any legalities to that? I don't see Whitney online. I'm sure you can participate...

Whitney Singleton stated sorry about that. There's no problem doing a joint meeting, it doesn't have to be a workshop, so that we can even have members of the public participate to the extent that they want. Usually the work sessions we don't allow the applicants to speak, it's just discussion amongst the Board. But there's no problem with that, I think the key would be to do it in the near future because you're going to get into summer agendas of the Planning Board and the Zoning Board, so you want to do it as soon as possible.

Mr. Spector stated would it not be better at this point for this Board to come to its own place or consensus as to the minimum number of parking spaces that we feel comfortable with? And then have the Planning Board make a decision on how they would handle that or have the applicant work with the Planning Board to figure out how to get those spaces onto this. It comes down to the mix of units and commercial and how and what numbers there are and what the parking, you know, how many parking spaces for this particular development that's proposed, I personally feel that reducing it by eight spaces is too many. You know, there might, I'm not saying to you that we need 100% of the required spaces but I'm saying an eight space deficit, given the fact that there are really no on-street viable options for any kind of overflow around here, it just seems like its too much for me. But if we come to a conclusion as to what we would be comfortable, then we just basically, just like the Planning Board gave this, basically passed this to us, I think we pass it back to them. That's my opinion.

Mr. Weise stated and that's why I think a joint meeting would be the way to solve the problem because I think that, otherwise we're just, there's no resolution.

Mr. Spector stated well I believe in a situation like this, like I said, I would have done it differently, I think I would have had the variances come first. Because once you know what this Board is going to agree to, then the design of the new project, a lot of money and effort has been spent on a site plan which is why I think we all feel so terrible here. Now coming to us and we feel kind of boxed in unfortunately because of that. And now, I like the project, I think it's a very attractive project but I think we, as we go around and around on this, I think we all have come to the conclusion that the parking is a real problem. And you know we've tried to come up with some ways to make us feel better about it, basically by including off-

street parking which we're really not supposed to do, which doesn't really exist at the location. So that is my opinion.

Mr. Weise stated I agree, I think that's where we are. I think that, I would be more comfortable with more spaces, don't need eight but if, two, three, four, I think that would make a big difference.

Chairman Boxer stated okay then, who, Whitney, who can set up the meeting?

Whitney Singleton stated Peter, Jan and myself can set it up.

Chairman Boxer stated okay.

Mr. Miley stated I can have Michelle reach out to everybody and setup a Zoom meeting, that's no problem.

Chairman Boxer stated okay, so...

Mr. Miley stated what are you looking at as far as timing?

Chairman Boxer stated so then we do have to keep...

Whitney Singleton stated my only question though on that Peter and if Kory wants to jump in on this, that's fine with me. To the extent that the Zoning Board is convening to discuss this application, there is going to be a continued public hearing, so we can't just pick a date maybe in the future. We have to pick a date certain.

Mr. Salomone stated I agree.

Whitney Singleton stated so my suggestion would be, the next Planning Board meeting is a week from today, the next Zoning Board meeting is probably a month from today.

Mr. Miley stated June 15<sup>th</sup> is the next ZBA meeting.

Whitney Singleton stated that might be a better context to have participation by the Planning Board. Because the Planning Board's agenda, you know better than me, what's coming up on the Planning Board agenda next week.

Mr. Miley stated well it's only a week away, it's four applications, it's kind of light we have Sarles Street and cell tower and solar farm, so it could get pretty...

Whitney Singleton stated you want to adjourn this for one meeting, the Zoning Board could visit the site, see what is out there, see what is available as far as off, and well it can't count to the site. The Zoning Board members can certainly evaluate what public parking is available in the vicinity, whether it is on street or elsewhere and the Planning Board could participate at the next Zoning Board meeting.

Mr. Miley stated so that's June 15<sup>th</sup>, so hold it over, in the meantime, I'll get the information that the Board requested and Chairman, I can also send around the resolution of approval from the Planning Board, if that's helpful.

Mr. Salomone stated I think that's included in my submission package, the resolution of approval.

Mr. Miley stated okay, thank you, Kory.

Mr. Spector stated can the Planning Board be informed so maybe if they wish to have a discussion at the next meeting about this.

Whitney Singleton stated yes.

Mr. Spector stated thank you.

Mr. Salomone stated and Whitney, if the Planning Board does want to have a discussion, I assume you would like us present.

Whitney Singleton stated of course.

Mr. Miley stated can they have a discussion? The agenda is already set.



Whitney Singleton stated no, no, what I'm saying is we can relay to them at the meeting that the Zoning Board would like to have a joint session with them, that it would be June 15<sup>th</sup> and that, relate to them the nature of why the Zoning Board wants to meet with them.

Mr. Spector stated okay.

Whitney Singleton stated so when they meet, obviously the applicant will be here next month and will participate, as will anyone else who wants to.

Mr. Miley stated Chairman, do you want to start that meeting a half hour earlier, so we can post it?

Chairman Boxer stated I'm okay with that, anybody have any objections?

Mr. Spector stated no.

Mr. Weise stated no.

Chairman Boxer stated okay.

Mr. Miley stated June 15<sup>th</sup> 6:30, we'll post it on the website, we'll get everybody a notification.

Chairman Boxer stated okay. And I still need a motion to keep the public hearing open.

**Mr. Weise stated I'll make the motion to keep the public hearing open. Seconded by Mr. Spector.**

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

Mr. Miley stated to June 15<sup>th</sup>, correct?

Chairman Boxer stated okay, so then we'll go from here and see what happens.

Mr. Salomone stated as always thank you very much for your time, greatly appreciate it.

Mr. Crecco stated thank you.

Mr. Alfonzetti stated okay, thank you.

Chairman Boxer stated okay, Whitney is it better to take 383 and 333 together?

Whitney Singleton stated well they're separate properties and separate owners, so...

Chairman Boxer stated okay, so we can't do that.

Whitney Singleton stated I don't mind if there's a presentation of them together, who is presenting on their behalf, I don't know.

**2. DP 21, LLC (Jim Diamond)  
383 N. Bedford Road  
Mount Kisco, NY 10549  
(SBL 69.43-1-2/3)**

**ZBA#21-9  
Area**

**3. DP 21, LLC (Jim Diamond)  
333 N. Bedford Road  
Mount Kisco, NY 10549  
(SBL 69.50-2-1)**

**ZBA#21-10  
Area**

Mr. Jay Black of Diamond Properties and Ms. Teresa Marboe of Gallin Beeler Design Group.

Mr. Black stated good evening, Jay Black with Diamond Properties. I am going to be presenting tonight on behalf of the owners Diamond Properties for 333 and as the tenant/applicant for 383. I also have Teresa Marboe, our architect who is with us tonight, she was actually going to request controls for screen share to show the presentation, actually again, if you're okay with this yes, we developed a presentation that really kind of brought it both projects together, given the relationship to one another. And just as a quick backdrop to this, as part of these applications, they're aligned and associated with the ShopRite application that had been presented for and received site variances back in December. So this an additional, these are two sign permit applications related to the monument signage at the complex entrances. So again, is that okay to combine the presentation?

Chairman Boxer stated I'm okay with that.

Mr. Black stated excellent, thank you. So it's a pleasure to be speaking tonight, and tonight I already kind of gave a quick refresher that this project is associated with ShopRite but both of the sign permit applications are tied to the entrance of 333 North Bedford. As was already described, we broke up one of the applications for 383, as we'll describe in the presentation which while the sign is physically located on the property, it is really meant for and intended as the primary northern entrance for 333 located in the easement that is setup on 383. Both applications share four specific variances that we're requesting in association with the monument signage. Each monument sign is to have a maximum structure height of 16 feet and therefore we're looking for an 8 foot height variance required for each sign. In addition, the proposed ShopRite sign face has a face area of 32 square feet, so we're requesting a 12 square foot variances for each ShopRite sign face on the monument signs. Additionally, the letter height for ShopRite is at 16 inches and we're requesting a 10 inch variances for the letter height of that. And then finally the address 333, which has a proposed height of 18 inches, is requesting a 12 inch variance. The only additional variance that's being requesting is part of 383 North Bedford Road and that is because it's requesting an off premises variance given it is supporting 333. Before we talk about the specifics of the site, the relationship of the monument signage and the variance details, I just wanted to quickly highlight that the design of the monument signage was developed really to achieve key goals. First, was the significance of the setback complex, as you may know 333 North Bedford Road, is a setback 38-acre site which is set within the light manufacturing commercial districts, currently the site has approximately 20 tenants and businesses within the site of various scale. Obviously, with ShopRite intended to move in as the anchor tenant, it had really continued to expand the significance and growth and success of the tenants within the portfolio mix of this site and we're looking to create an important visual feature to mark the entrances of each site. Teresa, do you have the ability to bring up the presentation?

Ms. Marboe stated yeah, sure.

Mr. Black stated and Teresa is going to be taking us specifically through the locations, as it relates to each of the site. But, just the other aspect that I want to talk about is the basis for these signs is to really enhance the vehicular experience for tenants' customers that are coming to the site, creating an important way-finding feature as they're traveling down North Bedford Road both in a north and south direction, to highlight their destination and provide access. We were also trying to balance that with a reasonable approach, limiting the impact and the number of variances and the first step was really to consolidate this into a single sign. As I just mentioned, we have 20 businesses within the complex, however, we decided that we were only choosing to represent 5 of these tenants which was really based on the volume of business and clout to be represented on the sign. However, it is really important for us as a company to try to represent and support of all our tenants' business, which is why we added the enhanced scale of the 333 lettering each sign face, to provide another level of way-finding for when customers are looking for their destination. And Teresa, do you want to take us now through the specifics?

Ms. Marboe stated sure, just to point out some of the things Jay was saying. You can see here, this is the general outline of the site, where the bulk of the site, including the main building is setback from Bedford Road, so there is virtually no street presence except for these two existing entrance drives. And as you can see here, these entrance drives don't align with the existing intersections or traffic lights on Bedford Road, which creates both challenges in the flow of traffic and really limits the opportunity to provide signage and advertise this building as no building mounted signage is available. So, in the next slide you can see the location of the proposed ShopRite, as part of the change of use to allow that ShopRite to go into the building, we took the opportunity to reconfigure these entrance drives so that they aligned with the intersections on Bedford Road. This both helps the traffic flow down the street and provides some enhanced opportunity for monuments signs to provide way-finding and advertise tenants in the complex. So here you can just see an image of the north entrance and in the distance here you can see the existing north entrance drive and the existing roadway...

Mr. Black stated and Teresa, actually, I would just like to point out in the previous image, it's hard to see but there actually is the existing monument signage within the park, which currently at 7 feet in height is really hidden amongst the landscaping, other signs on the street and other complex visual aspects of North Bedford Road.

Ms. Marboe stated and here you can just see that those two roads are not aligned and here is the existing condition where we have an existing building on a 383 property which in the proposed reconfiguration of the roadway, will get demolished the rebuilt in a smaller building, allowing the opportunity for a monument sign on this corner of this new entry drive, visible from the entire intersection. And then very similarly, at the south entrance, you can see the entry drive here, some existing signage although there's signs on both sides of the road here and then the road which misaligns over here. You can see a visual and then a comparison of the existing condition, a portion of the building on the 309 property will be demolished and this road will be rerouted, again providing a connection to the intersection and the opportunity for a more

prominent monument sign, it has visibility from this intersection. So here on our overall site plan, you can see the two applications that we're presenting today at the 383 property with the one monument sign and the 333 property south entrance with the second monument sign. And then these are just some photos with the existing conditions, I don't know, Jay, do you have any other comments about the existing signage at this location?

Mr. Black stated sure, I mean just to reemphasize you know, the point would be the proposed monument signage again, it's really trying to mark the, create that significant marking for the entrance into this site, create great visual way-finding and really trying to enhance those entries, which you know really the pictures of the existing signage you can see are really obscured and lost within the context of the surrounding area.

Ms. Marboe stated and then similarly are the south entrance, you can see these existing signs on either side of the entrance, again getting obscured by the landscaping and just the general scale of vehicles coming in and out of that entrance. And then you can see the proposed design for the signage, there's a low portion that's 5 feet high made out of brick, to tie into the existing building material that has that 333 address in lettering than the 16 foot portion which is about 8 feet wide which has the signage panels for each of the properties, a double space for the anchor tenant ShopRite, as well as four slots for other tenant but just again, to note, this not the complete tenants of the building, so that's why we need the 333 sign here and just to point out the variances that we're requesting, its that height variance for the 16 feet, the lettering variance for the 333 which I believe is a 12 inch variance, a variance for the overall square footage of the ShopRite sign which is 32 square feet, which requires a 12 foot square feet area variance and then the text height for the ShopRite lettering which is shown here at 16 inches, requiring a 10 inch text height variance. So I think with that, Jay, if you have anything else to add, otherwise I think we can open it up to some question.

Mr. Black stated no, thank you. I'd love to open it up for some questions.

Mr. Alfano stated what's the current height of the sign? The height of the current sign, excuse me.

Mr. Black stated 7 feet.

Mr. Alfano stated 7 feet, okay.

Mr. Hoyt stated I was hoping that you could kind of superimpose the proposed sign into one of those pictures just to get a sense of it because I think the current sign, in my opinion is woefully small and I almost miss it daily when I try to find the entrance, so. But you don't have any renderings that show the proposed signage superimposed?

Ms. Marboe stated yeah, we don't have any included renderings in here, although you can see that if this is a 7 foot sign, we'd have the extended portion, would probably end up about here with that 333 leg sticking out here, so it would be above the height of a car traveling through that space. If we can get an indication from this side...

Mr. Alfano stated Teresa, would it be, would the height of the proposed sign be above the Enterprise building that you had in your previous screen?

Ms. Marboe stated this screen, it is...

Mr. Alfano stated yeah, the existing south entrance, I'm just trying to get a frame of reference for the...

Ms. Marboe stated I believe the existing Enterprise building, I would have to go through and look at an elevation. It is probably just a bit higher than that 16 feet but the signage would nt be significantly lower than that.

Mr. Alfano stated that's a pretty big sign.

Mr. Weise stated yes.

Ms. Marboe stated I can pull up a street view if that...

Mr. Weise stated I'm curious why you don't use the signage to help direct the traffic having ShopRite on one and the others on the south entrance because you know, practically that's what people would be doing, I would imagine.

Mr. Black stated well I think the intent was given there is, within the site there is a service road that connects the different, we'll call it the north and south ends of the complex, you know, we know that

people really access the site from both directions to get over to ShopRite, so the intent was to, and again, the scale of the tenant with ShopRite, we wanted to give them that prominence with access from both locations, north and south.

Mr. Weise stated if we could, if you can not, you know, you wouldn't need a 16 foot sign if you broke the sign up into 2 pieces and that would actually help people directionally, you know which entrance is most, which is the better one to go to.

Ms. Broth stated I think that would cause a traffic problem but I am wondering, is the sign two-sided?

Mr. Black stated yes.

Ms. Marboe stated it is two-sided but it's the same on both sides, just a mirror image basically.

Ms. Broth stated so if you're looking to push the traffic coming from the north into the north entrance and the traffic coming from the south and to the south entrance, why would the sign need to be two-sided? Because it's not for Stop & Shop, it's a one-sided sign.

Mr. Alfano stated I'm not so worried about the traffic, I mean, we talked about that a previous meeting alright, at length.

Ms. Broth stated well no, I understand but I wouldn't want to push the traffic from the south side to the north side...

Mr. Alfano stated yeah.

Ms. Broth stated because that's where the sign is.

Mr. Alfano stated that's a fair point.

Mr. Hoyt stated I think my concern when I saw it was I agree the sign right now is inadequate, the project is immense and it deserves probably something a little bit more substantial but the height kind of bothered me, I was noticing the height of it.

Mr. Alfano stated I think, I mean I think that, my take on that is the sign seems like, it doesn't seem enough because of the current configuration of the buildings around it. Whereas in the new configuration you're aligning the streets, the entrances and exits with the existing streets on the opposite side of Bedford Road. I think there is a way to make the appearance cleaner while keeping the same height of the sign.

Mr. Black stated part of the scale, when you look at the existing condition pictures, the current sign at 7 feet, is really pressed up against some of the extra, some of the adjacent buildings and when you look at the way the reconfiguration of the site is being setup, there's a lot more breathing room if you will be creating creating some separation space between the immediate buildings in the surrounding area so you don't have as much impact on the scale aspect.

Mr. Alfano stated right, that's where I was going with my comment, exactly.

Mr. Spector stated yeah, my only thought is that given the nature of this, of how set back this particular project is and how the way traffic can be on that road. Anything to make people's visuals easier to know where they're going and where they have to turn is really what we should be looking at. And I have, I think a prominent sign is actually called for because of the scale of the project and the fact that it is set back, I think it is necessary for drivers to be able to clearly know where they're going and what's there. But I think whether it can be cleaned up and made more attractive, that's another issue. I'm not upset by the size of it necessarily, given the nature and scale of the project.

Mr. Alfano stated I understand that perspective, I don't know if I agree if the sign should be 16 feet high.

Mr. Spector stated yeah, I mean, again I'm also, that is definitely high.

Mr. Hoyt stated how tall is the current sign, I'm sure it's here...

Mr. Alfano stated 7 feet.

Mr. Hoyt stated so 7, if you told me, 7 feet sounds tall and right now the 7 feet is almost nonexistent right. You drive on that road, it's busy, you eye does not catch that sign. Even though I do share that concern about the height, if 7 feet is almost nonexistent, well maybe the height is needed.

Mr. Alfano stated it seems nonexistent because of the way, the proximity of the current signs to existing buildings, it's not a clean line of sight.

Mr. Hoyt stated it's very busy there, right, visually busy.

Chairman Boxer stated is there a way you can put something that is 16 feet tall that we can get a reference for, even just a thin pole?

Mr. Alfano stated that's why I asked what the height of the Enterprise building was in one of the pictures because that a...

Ms. Marboe stated I could try to pull up a screen view or a street view and see if that, see what I can do there.

Mr. Hoyt stated we've gotten other applicants in the past have gotten, have imposed kind of visually, have a made a visual presentation of what the proposal is, to me it feels like that would be useful here.

Mr. Spector stated I agree, it would be.

Ms. Broth stated how is that sign to be lit?

Mr. Black stated the faces of the sign would be backlit, so the surface area of the sign, as well as there would be backlighting behind the 333 lettering.

Chairman Boxer stated the [inaudible] are they going to be white?

Mr. Black stated yes.

Chairman Boxer stated how much glare are you going to put into the street with a sign at 16 feet in the area and it's backlit?

Ms. Marboe stated it would only be backlit in the areas of these logos and the text, is that correct Jay?

Ms. Broth stated but there are homes that are right, the back of the houses and bedrooms are facing that sign. Across Bedford Road.

Whitney Singleton stated Board, would like to see the existing signage?

Ms. Broth stated there's no lighting on the existing signage outside of maybe a spotlight on top.

Whitney Singleton stated no, what I'm saying is as far as height and where it's oriented, I think it will help you to ascertain that 7 feet may not seem that much because of where the base is. Okay, there it is. Actually those are pretty representations of what's there.

Ms. Marboe stated and keep in mind that because of the way the signs are facing, you wouldn't get directly from across the street if the lighting is just behind the lettering on the sign, you wouldn't be getting, it wouldn't be directly facing you across the street. It would be primarily facing across these two entrances and the parking lots for some of these buildings.

Mr. Alfano stated Teresa, would it be possible to generate a rendering, a photo rendering of what the sign would look like, the proposed sign.

Ms. Marboe stated yes, yes, that would definitely be possible for us to do.

Mr. Spector stated that would be helpful.

Mr. Weise stated do we know how big the signage is in the Stop & Shop/Target process.

Mr. Black stated it's approximately 12 feet.

Mr. Weise stated 12 feet, okay.

Mr. Black stated correct.

Whitney Singleton stated this was an issue when Target went in, they wanted a prominent sign on North Bedford Road because they're set so far back and the Zoning Board at that time said no because they were worried about the fallout effect that they would have with every applicant that came along.

Ms. Broth stated to that point, how big is the 5 Guys sign, since that was voted and it's set back...

Whitney Singleton stated I can tell you in a second.

Ms. Broth stated I mean, I wonder if that's 4 foot.

Mr. Spector stated what about the HomeGoods sign also, isn't that one that required a variance.

Mr. Miley stated yup.

Ms. Broth stated and Peter do you know that they changed all that signage in that 5 Guys shopping center.

Mr. Miley stated yes.

Ms. Broth stated okay because that's all really big now.

Mr. Miley stated yes, it was all approved.

Ms. Broth stated okay.

Mr. Miley stated I'm not sure if you were on the Board at that time.

Ms. Broth stated I was not.

Mr. Miley stated yeah, Planning Board approval and they also received variances.

Mr. Weise stated so this proposal is the same height as what is in front of Stop & Shop/Target.

Mr. Alfano stated a little taller.

Mr. Spector stated no, it's 4 feet taller, I believe.

Chairman Boxer stated right.

Mr. Weise stated oh, it's 16 feet versus 12.

Mr. Alfano stated it's the 16 feet.

Mr. Weise stated that makes a difference.

Mr. Hoyt stated again, I think it's the context, right, that sign you're talking about it kind of standing free. Granted, to Ralph's point, this new sign is just going to be a different, look different than it does now, the area around it. But I have to imagine its still going to feel fairly busy along that stretch of road.

Mr. Spector stated I also don't think it's a good comparison to Stop & Shop because Stop & Shop is actually visible from the road, as it Target.

Mr. Weise stated yup.

Mr. Spector stated you can see the stores. Here, there really is an issue that you know, you have a line of commercial buildings actually blocking your vision of this shopping center to a degree.

Mr. Weise stated absolutely, that's absolutely correct.

Ms. Broth stated is the monument is in front of Enterprise, aren't we blocking the view of Enterprise if you're coming from the north? You won't be able to see the sign until your right on top of it.

Mr. Alfano stated is Enterprise being demolished though?

Ms. Broth stated no.

Mr. Alfano stated okay, it's not.

Mr. Black stated but the sign is actually located now further to the north from its existing location based on the reconfiguration to align the drives so it's being pulled away from the current, being pulled further away from Enterprise.

Ms. Broth stated will you be able to see the Enterprise sign past that sign? It's the height.

Mr. Alfano stated so Wayne, I... go ahead Jacquie.

Ms. Broth stated just people renting cars need as much advance warning as possible to find the entrance to it.

Mr. Alfano stated yeah. Wayne, I agree with you that there needs to be, I agree with everything being setback you need a, a good visual but I don't think it should be 16 feet.

Mr. Spector stated that's fair.

Mr. Weise stated I agree with that, I think that 16 feet is very large. I mean, I think, certainly bigger than 7, I would propose possibly 12 but you know I'm open to discussion.

Mr. Alfano stated that's why I requested a photo rendering, if we could get that.

Mr. Spector stated I'm going to defer making that decision until I see that photo rendering, actually. I don't know if anybody else feels the same way?

Chairman Boxer stated I feel the same way.

Mr. Alfano stated I do too.

Mr. Spector stated just to give them a fair opportunity.

Mr. Weise stated sounds good.

Whitney Singleton stated the sign at the burger place is actually complaint, it's a roof sign, right?

Mr. Alfano stated it is a roof sign.

Whitney Singleton stated that one is actually complaint. There are variances for other items but not for the size. What's the address for HomeGoods?

Mr. Miley stated 3 Main Street.

Whitney Singleton stated not 3 Main Street, The Chase [Bank].

Mr. Miley stated that's 4. One or three. They received significant variance for the size of lettering, HomeGoods, that I recall.

Whitney Singleton stated okay, here it is.

Mr. Miley stated 5 Guys got a variance for an extra sign over not over an entrance.

Whitney Singleton stated I can provide the Board...

Mr. Miley stated it was 2 foot variance, 2 foot allowed, they proposed 3 feet, a 2 foot variance or something, I'm shooting from the hip...

Whitney Singleton stated for what?

Mr. Miley stated for HomeGoods.

Whitney Singleton stated for HomeGoods, I have it setup a little bit differently. The maximum letter height for HomeGoods because it was downtown, it was in a different district, is 1 foot and they proposed 6 feet but it was only, but remember it was only letters H and G, so it was pretty limited. Maximum sign length, you know what, the maximum sign length was 16 feet, they proposed 19 feet but I don't think that any of these are, I don't think that any of these are indicative or dispositive of what should be done on North Bedford Road because the concept was he wanted smaller signage downtown.

Mr. Spector stated right.

Whitney Singleton stated what's the square footage of the proposed sign now?

Mr. Miley stated I think it's 32 feet.

Whitney Singleton stated okay, the total square footage of HomeGoods is 28 feet.

Mr. Miley stated each monument is 32 feet, seeking a 12 foot, square foot variance.

Mr. Hoyt stated I agree with Wayne that 16 feet may be appropriate, if we see it visually but we have to you know, there's a concern that we're making an amusement park sign on Bedford Road but given the scale of that project and the fact that again that the road and the busyness, 16 feet may be appropriate in my mind but I think we need to see it.

Mr. Spector stated yeah.

Mr. Miley stated so a photo rendering and a comparison to the existing 7 foot sign, that's what I have jotted down so far. Will that do it?

Mr. Hoyt stated again, I think if possible, not if possible, it really needs to be in the context of the new entrance ways, right. So I don't know if that's going to be possible, that's really the key or a key.

Ms. Marboe stated yeah, um, that would be possible, I think I can incorporate the site as the new plan and try to get, would you rather see, I could possibly do it both ways, I could get the surrounding buildings to scale and then signage to scale and kind of new model showing the rendering, I could try to manipulate the photo to get the new drive aisle through. Particularly this one, there's so much change there, it may not be able to be an exact total rendering but I think we can get enough of a comparison that you'll be able to see that 16 feet and how it relates to the surrounding buildings and existing signage.

Mr. Alfano stated I think that will be the key.

Ms. Broth stated can you also include lighting?

Ms. Marboe stated yes.

Whitney Singleton stated Peter, has this been to the ARB yet?

Mr. Miley stated not yet.

Whitney Singleton stated okay, I just want to raise something and I don't think it's going to be something that can necessarily be addressed given the nature of these tenants but usually when they go for signage, there is a uniformity in the presentation. Between the color selection, the font, the layout of the sign and each of these has their own corporate logo and I don't know what this Board or the applicant thinks about that but it might be something that should be considered now rather than later on.

Mr. Weise stated that's an excellent point, isn't Saw Mill grey and Rockin' Jump is that green?

Mr. Black stated the frog is green or the text is green, I can't remember which direction is oriented. Yes, right now the intent is to have the individual logos for the tenants, as they are currently colored and branded.

Mr. Hoyt stated I'm not offended by the current scheme, personally.

Mr. Alfano stated I would leave that decision to the ARB, I wouldn't really have an opinion either way.

Mr. Spector stated it doesn't bother me having the logos but I would leave it to the ARB.

Mr. Miley stated Chairman, are you frozen?

Chairman Boxer stated nope, I'm just listening.

Mr. Miley stated oh, you looked frozen there for a second.

Chairman Boxer stated I just think at this point we pretty much, is there anybody else that wants to request something, if not we can just put this over. So, I'll need a motion to keep the public hearing opening, public hearing open.

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

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



Mr. Miley stated so it's held over to the June 15<sup>th</sup> meeting.

Chairman Boxer stated correct.

Mr. Black stated thank you for the time to present tonight, I appreciate it.

Mr. Weise stated I have to grab a cord, I'll be right back.

Whitney Singleton stated for purposes of clarity while we're all sitting here doing nothing, this was adjourned to the meeting of June 15<sup>th</sup>, correct?

Chairman Boxer stated correct.

Mr. Miley stated yes.

Mr. Spector stated that's the two applications?

Mr. Miley stated that is correct.

Chairman Boxer stated yes.

Whitney Singleton stated and Jay, can you just check on one thing...

Mr. Black stated yes.

Whitney Singleton stated one of the first things that was supposed to be done before anyone signed the plat approval, the site plan approval for the site, was you're supposed to be recording cross easements between the two properties, I checked tonight, that has not been done.

Mr. Black stated I will touch base tomorrow with Neil [Alexander] and Jim [Diamond] on that.

Whitney Singleton stated and I also believe there was some stormwater agreements that needed to be recorded as well.

Mr. Miley stated yeah, Whitney, we haven't signed off on the site plans yet.

Whitney Singleton stated okay.

Mr. Black stated I know those were still open items, we were you know, working through this as well as the other conditions for the final site plan sign off.

Chairman Boxer stated okay, um, and we will see you on June 15<sup>th</sup>.

Mr. Black stated great, thank you again.

Chairman Boxer stated okay, take care.

Ms. Marboe stated thank you.

Mr. Miley stated goodnight.

Chairman Boxer stated okay, the next case is the Estate of Anny Nyitray.

Mr. Miley stated yes, 14 Smith Street, excuse me, Avenue.

**4. Estate of Anna Nyitray c/o Peter Nyitray, Executor  
14 Smith Avenue  
Mount Kisco, NY 10549  
(SBL 80.41-3-8)**

**ZBA#21-6  
Use**

Mr. Kory Salomone of Zarin & Steinmetz and Mr. Ralph Alfonzetti, P.E. were present.

Mr. Salomone stated yes, Mr. Chair.

Chairman Boxer stated oh you're back again.

Mr. Salomone stated Kory Salomone, back with 14 Smith.

Chairman Boxer stated okay.

Mr. Salomone stated as you will recall, we were here for a use variance to allow the second story to be used for a residential apartment and when we last appeared before you on April 20<sup>th</sup>, we were requested to provide two additional pieces of information, the first was the anticipated rent for the second floor, so we submitted a letter from the listing agent, Karen Heller, and she anticipated it would rent for between 225 and 265 per square foot. It's approximately 900 square feet, so we would anticipate we would get a rent between 2,000 and 2300 per month.

Chairman Boxer stated okay.

Mr. Salomone stated the second piece of information we were asked for was to kind of provide an itemized list of the yearly expensive but due to the health and mental capacity of the brother who was handling that, became more difficult than we had anticipated. However, through finding some bills and cancelled checks, Dr. Peter Nyitray from New Jersey was able to put those numbers together, he provided for you in an affidavit. And what we showed was that the taxes are approximately \$33,000 per year, lawn care, landscaping, snow removal, was about 4,500, so that is about \$375 a month. ConEd was 2800 for the year, about 233 per month. Insurance was 3400 a year, 283 per month and the repairs that they've done for some plumbing issues were about \$2,000. So that totals to roughly about \$45,000 over the last, you know per year over the last two years that they've been expending on the property. With that, back to any questions that you have, we're more than happy to answer but you know that was the information we were asked to provide and that's what I was able to get from the estate.

Chairman Boxer stated okay. Questions anybody? Whitney, have you drafted anything on this?

Whitney Singleton stated yes, I have an updated draft from the last meeting, if you'd like me to share my screen.

Chairman Boxer stated okay, thank you.

Whitney Singleton stated that okay?

Chairman Boxer stated yup.

Whitney Singleton stated okay, so just going through it, the property address, the request, it's a single variance for a use that is currently prohibited, they're seeking to have it allowed. The public hearing dates, presumably if you take action tonight, it will be here. These are the documents which have submitted to date, including letters of support from neighbors. I have to put some additional information in here relative to the new submissions that were made, I don't have them in here yet. This is the SEQRA determination, presuming you vote to approve it, these are the findings that you need to make and here are the conditions of approval which will be standard for you. I had this in last time, your Board seemed to indicate or at least the majority of your Board indicated that occupancy and use by the property owner was not necessary and this is everything that I have, obviously subject to any additional conditions or requirements that your Board may have. One of, well that's, that's what I've got so far. The yellow would be the information that your Board would need to consider and this is only a draft resolution and it's not something that [inaudible] on your Board unless you adopt it. I've set forth the conditions right here, the only difference is that with regard to the, item number four, the self-creation, this needs to be changed, I'm sorry. This is fatal to the application, so we would need to make sure that as the applicant has pointed out, they used to have an apartment upstairs. The conditions have changed over a period of time and they would need to, your Board would need to find that this hardship is not self-created by the applicant. Sorry? That is essentially it, if you want me to circulate it to the Board members right now so they can take a look, I'd be more than happy to. Am I still sharing, Harold or no?

Chairman Boxer stated no, you're not.

Mr. Weise stated I think that we were wondering whether or not having an apartment upstairs was economically viable and it sounds like your findings suggest that it is. I think that was the one item outstanding unless anyone else had some other thoughts.

Mr. Spector stated well the real question for the Use Variance is not whether the proposed use is economically viable but whether or not any allowed use, whether there are any allowed uses that economically viable for the premises and that's what the economic analysis is supposed to be about, is to provide a fair amount of financial details so that you can actually determine that there really is no other viable use for the property, at least from a financial standpoint. I do believe the affidavit is helpful, it's kind of weak on this issue but I understand the difficulties given the explanation regarding the family

circumstances and I think you know, as far as the other circumstances go, you know I, it's a difficult hill to climb on a Use Variance but I'm leaning toward agreeing that it's probably a good use for the property and at least there's enough here to justify it, that's my feeling.

Chairman Boxer stated I would concur with that.

Mr. Weise stated I agree.

Chairman Boxer stated any other questions?

Whitney Singleton stated how about the conditions of approval that you would consider?

Chairman Boxer stated did you send them to us?

Whitney Singleton stated yeah, I sent them to you but let me put them back up on the screen, if that's easier.

Chairman Boxer stated yeah, because then I have to split the screen.

Whitney Singleton stated so I changed this to properly reflect the use standards, I can supplement that a little given the submissions of the applicant in the final resolution. But these were the conditions that were and they are by no means binding whatsoever, I just trying to brush some things out there.

Chairman Boxer stated how many bedrooms is there upstairs?

Mr. Salomone stated right now I think it,s Ralph, may know better than me but I think there's about, there's two rooms up there and there's going to have to be, we're going to have to get building permits and do some work up there to make it a habitable area.

Mr. Alfonzetti stated yeah, I mean right now it's not setup as an apartment, it's setup as more some offices. There are probably five separate, five and a half separate rooms.

Chairman Boxer stated what do you propose to do as far as the number of bedrooms because we need to make a determination as to the maximum number of residents.

Mr. Alfonzetti stated well its only going to be one residence but the number of bedrooms, I have to see how it lays out but definitely two, maybe two and a very small office if possible.

Mr. Miley stated Chairman?

Chairman Boxer stated yes?

Mr. Miley stated the number of residents, excuse me, the number of tenants would be based on the Code, based on square footage of bedrooms and the amount of square footage. It would [inaudible] to the size of the apartment anyway.

Chairman Boxer stated so for number seven you can calculate that and we can put that in.

Mr. Miley stated yeah, based on his presentation, sorry Ralph. It would be based on his presentation, number of bedrooms, living space, it's all predicated on New York State Code, how many people could actually live in the apartment.

Whitney Singleton stated the purpose of number seven though was for you to consider whether you wish to put a limitation on the number of bedrooms and the number residents...

Chairman Boxer stated right.

Whitney Singleton stated or whether you simply want to restrict it to one dwelling unit. I assume that you don't want multiple dwelling units upstairs.

Mr. Salomone stated one dwelling unit.

Mr. Miley stated one dwelling it, consistent or complies with the New York State Building Code.

Mr. Salomone stated correct.

Whitney Singleton stated Ralph...

Mr. Alfonzetti stated yes?

Whitney Singleton stated or Kory, is there anything that you're proposing to do to the existing parking lot, you have a lot spaces there or would you like to leave it that way.

Mr. Alfonzetti stated I would like to leave it that way right now as we know from other applications, you can never have enough parking. So I would kind of like to leave it because I don't know what the future holds.

Mr. Spector stated maybe you can rent some to your other client.

Mr. Alfonzetti stated duly noted.

Whitney Singleton stated so would you guys like me to take out number six. I figured this would not be going to the Planning Board for site plan but I didn't know whether or not you wanted any landscaping.

Mr. Miley stated it's not going to the Planning Board, Whitney?

Whitney Singleton stated is he going to physically change the exterior of the premises?

Mr. Miley stated he has the change of use aspect that would trigger it.

Whitney Singleton stated if, I mean it could still be handled administratively, his parking count is going to go down, correct?

Mr. Miley stated yeah.

Whitney Singleton stated I put the landscaping being reviewed by you, thinking they weren't going to want this to go to Planning Board.

Mr. Salomone stated I would think with the parking count going down, that we wouldn't have to, for the Change of Use, we would only have to go if it went up.

Whitney Singleton stated well actually it does beg another question which came up at the last meeting and its not coming up at this meeting and that was with ingress to the dwelling unit, is it going to be from the interior or is it going to be a new exterior entrance? Because that would trigger Planning Board review.

Mr. Miley stated and Whitney, also there's not guarantee it's going to be done administratively, I have to prepare an administrative Change of Use which the Chairman of the Planning Board will review.

Whitney Singleton stated right. Okay, I'm taking that sixth step, if the Planning Board wants to do landscaping and there's any review by them, this is, I'm putting this thing because its already a Code requirement anyway. This is out based upon what you told me at the last meeting. Everything else is pretty standard. I don't know what your Board's thoughts were with regard or what the applicant's proposal is with regard to ingress and egress to the dwelling unit.

Chairman Boxer stated I think I'd like to see a plan that shows the ingress and egress. Any other thoughts?

Mr. Alfonzetti stated well Peter, correct me if I'm wrong, is it Code that it has two separate ingress and egress or it can be single?

Mr. Miley stated is what Code? For the residence? You need two means...

Mr. Alfonzetti stated you need two, no, I mean for the office and the residence.

Mr. Miley stated well the office, I've never been in the building, so it's hard to shoot from the hip, I mean the office space, depending on the occupancy, depending on the distance, depending on how long, I couldn't answer that Ralph. I can guarantee the residence above does need two means [of egress]. But you're saying two, you're saying one entrance to two different occupancies?

Mr. Alfonzetti stated correct.

Mr. Miley stated you could do a protected stairwell, there's a lot of ways to skin a cat here. So the answer to you is it would have to be a separate stairwell, so you could have one stairwell that's protected, you know we're shooting from the hip with regard to you know, Code references, you could sprinkler the building, there's a lot of ways...

Mr. Alfonzetti stated okay, so it will be per Code.

Mr. Miley stated per Code.

Mr. Alfonzetti stated yup, okay.

Mr. Miley stated but I think the issue was whether you're going to create a new entryway thereby triggering Planning Board automatically. A separate, a separate entryway from the outside.

Mr. Alfonzetti stated okay.

Mr. Miley stated but that is something that I can work with you, if you're not opposed to creating on or the existing and then create one area to the business and one area, excuse me, one entrance to the business, one entrance to the apartment. We can get it to comply with Code, it may cost you a little bit of coin to get it there but it can be done.

Mr. Alfonzetti stated okay.

Whitney Singleton stated the pertinent question for tonight is does the Zoning Board care?

Mr. Miley stated that is true, it's on you Chairman.

Chairman Boxer stated I would like to ask the rest of the Board whether they want to see what it would look, whether they want that determined before we vote on this.

Mr. Spector stated I don't think I need it.

Mr. Weise stated I don't need it, no.

Mr. Alfano stated no.

Chairman Boxer stated okay, then we don't need it.

Whitney Singleton stated okay.

Chairman Boxer stated then we can vote on this tonight then.

Whitney Singleton stated yup.

Mr. Alfonzetti stated I have one question, if I could, on one of the conditions, I believe it's number two. I don't know if it's going to happen but there's a strange little corner of the building on the upstairs that just looking at it very quickly, I may want to just fill it in, it's not, it's just a strange little corner. Does that mean I would have to come back to this Board for that based on number two?

Whitney Singleton stated no, I think what they're saying is that we wouldn't want you to expand, by virtue of granting you a variance, your use is no longer noncompliant and we don't want you saying well we're going to take that use now and put another story on or we're going to bump it out in the back. This is limited just to the existing footprint and if you're altering it to fill in an area, that would be a field call from Peter.

Mr. Miley stated I don't see it triggering it. I think the expansion of the use is really the intent there.

Mr. Alfonzetti stated okay, alright, just curious.

Chairman Boxer stated okay, I think we can use Whitney's proposal. Does anybody want to make a motion to approve this?

**Mr. Spector introduced a motion to approve the resolution. Seconded by Mr. Weise.**

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

Whitney Singleton stated congratulations, first Use Variance I've seen approved in many, many years.

Mr. Salomone stated it's the second one I've ever gotten in 17 years of doing this. Thank you very much, appreciate it.

Chairman Boxer stated no problem, I mean it's, the property itself is conducive to doing what you want to do.

Mr. Alfonzetti stated correct.

Mr. Salomone stated yeah, sometimes it just makes sense.

Chairman Boxer stated the whole street has things like that, up and down.

Mr. Salomone stated great, well thanks again very much for your time, really appreciate it, have a wonderful evening.

Mr. Alfonzetti stated thank you guys.

Chairman Boxer stated thank you. Okay, Angelina Mendes. Hello?

**5. Angelina Mendes  
121 St. Marks Place  
Mount Kisco, NY 10549  
(SBL 80.49-2-20)**

**ZBA# 21-4  
Area**

Ms. Angelina Mendes was present.

Ms. Mendes stated hi, I'm sorry, I'm trying to turn my video on, the host has, there we go. Hello, good evening.

Chairman Boxer stated do you want to tell us what you and Peter [Miley] discussed?

Ms. Mendes stated yes, so Peter had come by and I actually have a presentation that I'd like to share just because and I'll make it as quick as I can just because of the nature of what happened with the last meeting and I came down, I felt very unprepared. I'd like permission to share my screen for a few moments, if possible.

Chairman Boxer stated sure.

Ms. Mendes stated thank you. Okay, so yes the request for a variance, the rationale, I'll make this quick for my presentation, was because I wasn't expecting for there to be a dispute and I also felt unprepared for the meeting because I couldn't get onto Zoom and for a variety of different reasons, I had to drive down to Town Hall, I didn't have my documents with me. I also wanted an opportunity to share my five factors and provide large color pictures for everybody to see the fences which I thought were not really aesthetically pleasing or visible even with the print outs and I also wanted to provide other related information. So the responses to the five factors, the first one being the most lengthy but probably the most important, neither and undesirable change in the character of the neighborhood has been produced, nor a detriment to nearby properties has been created by the granting of the variance. Before the fence was erected, there existing unruly bushes which were well above 8 feet, the base of these bushes were not filled in and had before a receptacle for litter, they also did not create privacy. I purchased the property in 2018 and in preparation of the birth of my son in September of 2019, I added the fence to create privacy and safety for my family. I added a second fence after a permit for the deck and a remodel extension was denied. I was told that the 48 inch fence along my neighbors' property was not high enough because the elevation of the earth was slightly at certain points, I added the additional fence at 6 feet to provide the required safety feature, to protect children and others from entering the property and risking drowning in the hot tub, which was also part of the remodel project. The fences are therefore helping to beautify the property and neighborhood while also adding safety to the neighborhood children and others in the neighborhood as well, in fact several neighbors have remarked as to how aesthetically pleasing the additions have been to not only my property by the neighborhood. It has also stopped locals from littering from the formerly unkempt property. And the rest of the of the factors, the benefit of safety above all else cannot be achieved by any feasible method other than a variance. A 4 foot fence could potentially and easily be mounted, a 6 foot non-chain link fence which also deter visibility and temptation for children, also proves to be a benefit which is not achievable by any other method other than a variance. The requested variance is not substantial because the safety benefits alone outweigh any other benefit including beautification, the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or districts [inaudible] as aforementioned will only provide safety and beautification to the neighborhood and the alleged was self-created to meet the requirements for safety for the hot tub to help beautify the property and neighborhood. I just wanted to provide some photographs of the property beforehand because I really felt it was difficult to see what it looked like before I had moved in. As you can see in the photographs, the bushes, the fence that was there was falling apart and the bushes themselves were very thick and high providing probably about 8 inches of obstructed, 8 feet of obstruction there. Here

is a fence from the other view, on Woodland Street facing towards St. Marks Place, so this is the view from my neighbor's property, kind of on their corner, by their driveway. And you can see the bushes that were there, you can't even see their chain link fence because the bushes were so full and again you can see how the fence that was there was falling apart and again how thick the bushes were and how high. Mid-project, this is a view from the back of my house, taken from the deck, this past winter, the fence can be seen on the left hand side and my neighbor's house and chain link fence can be seen directly behind it. My mother and neighbor had spoken about whether or not the bushes should be removed, the neighbor preferred that they stay since they help to create privacy for his house. We were also extremely concerned about his other plantings and were super careful not to damage them when we tried to dig out the two inches requires for the 48-inch fence as instructed by one of the Town Inspectors, which was later rejected as possible solution. And this is just to provide some text communication to affirm that we really did try to work with everyone, so this is from Monday, December 7<sup>th</sup>, I'm in the blue, it says if I dig right next to the fence, that's fine right? Before I pay someone to go start that, I want to make sure that's what needs to be done. The inspector said yes, that is fine. I wrote a couple of inches, just so you can place the tape measure there, correct? And he wrote yes, I'll be measuring in a few areas along the fence. I wrote but right next to the fence and he said yes.

Chairman Boxer stated who is this? There's several people in the Building Department, who is that you talked with?

Ms. Mendes stated Bill Seegmuller.

Mr. Miley stated Chairman, he's the assistant. I measured the fence, it only came out to 46 inches, 48 is required for a pool or spa. It sounds innocuous but its required, 48 inches is 48 inches.

Ms. Mendes stated which is why I placed the 6 foot fence but I'll get to that in my presentation, I'll try to be as quick as possible. So on a separate occasion the Building Inspector, myself and my neighbor all spoke regarding the height of the existing fence and spoke about several possible solutions. The easiest, although the most expensive, I felt was to add a higher fence, I did not ask the neighbor if he wanted me to remove his fence, because I know we discussed that at the last meeting, I honestly, I did not know it was my place to ask to remove it since it was his fence. Had I known, I would have done so because it would have been a lot easier to remove the old fence and add a new one than working around it. I also did not want to harm his plantings and it was also the dead of winter, I just wanted to complete the project and satisfy everyone which is why I erected the second white fence, and that's the truth. After, so the new fence aligned and connected both the other white fence as well as the adjacent neighbor's 6 foot high chain link fence, as you can see, if you look along the property lines there, it all lines 6 feet on all sides and here. I just wanted to provide some support indicating communication with my neighbor, because I know that that was an issue for the Board las time, they were almost shocked and unconformable with the fact as they assumed that I had not communicated with my neighbor. So I just wanted to provide some and I blacked out their names, because I'm not here to embarrass or to, I just wanted to affirm that I did make contact with my neighbors and I also don't want this to impact my relationship and my interactions with them because I felt that they've been positive up until this point, we have a nice relationship but I did feel blindsided as the Board questioned why I hadn't communicated with them prior to erecting the fence, so I just wanted to show here that as you can see there was communication that went back and I won't you know, read all of this in its entirety and my rationale behind the fence and said it all makes total sense, it will look great, thank you for being so open and then again on January 24<sup>th</sup> it said you know, the fence looks great, thank you for trying to save the bushes but totally do whatever you wish with them and they also alluded, they said they don't create much privacy, I told your mom I'd plant a tree if we felt we needed to. So again, just to support that I was trying to you know, communicate throughout this entire process. And then this e-mail here and I'm just reading word for word and I didn't want to leave anything out and I did want to be as quick as possible. While I don't feel comfortable reintroducing this e-mail, as my neighbor intended it for it to be shared publicly, there are some important points that the e-mail, from the e-mail that I'd like to bring to your attention, so the next couple of slides will just briefly highlight that detailed information. So here it says this e-mail indicates and supports that both my neighbor and I were given the incorrect information regarding the fence height. She writes the person who called me back said that there was nothing in the Code that stipulated anything about the height of a fence specifically and these documents were shared at the last meeting, so if anybody would like to see the e-mail in its entirety, it was shared in the last meeting. But she had also called about the height of the existing fence, I was not aware of that conversation but again, she was doing her due diligence as a neighbor and a property owner to make sure that it wasn't against Code but they did also give her the incorrect information. E-mail to Mr. Miley from the neighbor continued, it says here my neighbor also stated that the Town visited the property at 121 St. Marks when the fence for their hot tub was mandated, I'm sure the issue was clear at that time as the Village's fence height requirements are well understood. Contrary to my neighbor's assumption, that was never mentioned to me, in fact the inspector knew that if the existing 48-inch fence was not satisfactory, that I was going to replace it with something higher. Why would I replace a 48-inch fence with another 48-inch fence? And there aren't 46-inch fences, so perhaps it was a 48-inch fence that was maybe dipped a little bit lower than it should but they don't make 46-inch fences, it was a 48-inch fence, that just didn't

satisfy the Code. I do want to make it very clear that I never explicitly discussed the exact type of the proposed new fence with my neighbor for no other reason that I thought it was understood that I would be adding a new fence at a higher level to meet the height requirement. In addition, I also didn't think it was out of Code. Furthermore, as Mr. Miley indicated in an e-mail which I will share, the corner is fine and there is no obstruction. So again, that support here, he wrote following his site visit after last month's meeting, Mr. Miley deemed that the corner is fine, no obstruction as is highlighted in his e-mail below and there are several other fences in the neighborhood that are 6 feet in height, dividing the properties. In fact, on the St. Marks side of my house, the other neighbors chain link fence is also 6 feet in height and runs along the other side of my property and I'll share that information as well. But this was after the winter and mind you this was in the dead winter, so this is not the greatest picture, so I took another one yesterday morning, as you can see there is along the property there, the white fence, that meets at that corner but then later in the day I found from my neighbor, we had had a conversation that her husband had removed the other fence during the day. And I feel bad because I, honestly, it's later in my presentation, I was going to offer to do that for them which is why I had taken the pictures because I wanted to present this to the Board tonight to let you know that this was going to be a potential solution on my behalf, in order to rectify the situation as well. And I just want to provide a before and after situation here, the photographs side by side, just so you can visualize what it looked like well before I purchased the house, there had been a fire here, the house had been abandoned and I really was trying to make the property look better and also for my own, my own aesthetic purposes as well and for my family. As you can see on the right hand side, that's the, in the center of the photograph, a little bit higher is where the deck, there is a deck there, you can't see it on the left hand side, there was an existing deck there because the bushes are so high. So all I did was change the materials on that deck and then I put a subdeck below it, a lower deck with a hot tub and that's what you can't see from this photograph. And then it was an expensive cost to provide that fence in the rear, it was \$2,240 and I'm including this invoice only because they had asked me if it had been legal, if I had just kind of hired somebody in the neighborhood off the street but I do have an invoice to support that I had hired a company to do this and the cost of it as well and I can also provide further information, should you need that as well. In addition just to support that as my, as a layperson I did do my duty by the calling the Town several times to inquire about each project I completed at my house before I did so. I even inquired if I needed a permit to remove my bushes before I did so, that were along that fence. And I know this is Spanish but I will happily translate for anybody who doesn't understand but it had said like Mount Kisco said that there isn't a problem and we can begin to remove the little trees, when can you begin and that is dated June 7<sup>th</sup> of 2019. I also paid an architect to design the plans and complete the paperwork for the deck because I knew that I might make a mistake, as this is not my realm of expertise. The fence along Woodland has been there well before the deck project commenced and despite several visits, I was never informed this would be the one issue holding up the closing out of the permit, especially at the very end of the project, that's when I found out that that fence was out of compliance.

Mr. Miley stated let me [inaudible – echo].

Ms. Mendes stated sure.

Mr. Miley stated that was brought to your attention before the spa was even in.

Ms. Mendes stated I'm sorry?

Mr. Miley stated the fence was brought to your attention well before the spa was even entered into the equation.

Ms. Mendes stated I'm sorry, is that Mr. Miley? I'm sorry, I don't recall that conversation.

Mr. Miley stated the fence, the fence was brought to your attention on the first day that we went to your property that it was too high and you were probably going to need a variance for it.

Ms. Mendes stated I'm sorry, it's been a long process, so I don't recall that conversation.

Mr. Miley stated I feel like this is a trial and you're making some inaccurate statements. I want to make it clear that...

Ms. Mendes stated I'm sorry, it's not a trial, this is like two years, three years...

Mr. Miley stated I just want to correct a couple things. Number one, the 46-inch fence measured 46 inches, we were trying to at the time, my assistant tried to help you avoid any unnecessary cost by digging down some of the grade to get you to the 48-inches but it was not achievable because there was just too much.

Ms. Mendes stated Mr. Miley, do they make, because I have never seen a 46-inch fence.

Mr. Miley stated I have no idea if they make it but that's what's there, it's an old fence that is there...



Ms. Mendes stated okay.

Mr. Miley stated that didn't meet the criteria.

Ms. Mendes stated because I was told that it was at 48 inches at some points but at other it was not and that's why we were asked to dig out and we did dig it out and then it was not...

Mr. Miley stated it didn't meet the 48-inch requirement to project people from climbing the fence and potentially drowning. The State requires 48 and that's pretty much what we abide by.

Ms. Mendes stated I understand. Understood and that's why I wanted to put the six foot fence there. And I again, this is uncomfortable but at the same time I wanted to provide images of similar fences in the neighborhood. And I am only sharing these images of other properties in order to support the granting of the variance. At the meeting last month, I was told that if I were to be granted a variance it might set a precedent for the neighborhood when I feel that the precedent has already been set, there are other properties with similar structures. And I also believe and support that these neighbors have a right to a backyard and privacy despite their own property on a corner lot. So here is a property, somewhere in the neighborhood nearby, on the left hand side you can clearly see this is the before picture, that there was probably a three or four foot fence there initially and it was replaced by, and this is right on the corner because I will show you that my house is, where the fence is situated is not even near like the stop sign at the corner, replaced with a six foot fence. Here is a side view of that corner and as you can see from the top photograph by the stop sign, that is clearly a corner there and on the bottom, and of course yes, it is a little bit lower on the front end because it is within that 50 foot compliance from the corner, where the stop sign is, that it can't be higher than 4 feet but that's not where I have my fence. My fence is on the rear portion of my property. Here is a view of another home that has very high fence along the edge there and it's also a corner structure, so it should be considered as well as front, right, another front. But they also have, um, which is part of their backyard but if we're going to abide by the corner with 2 fronts, than this is, should either be out of compliance or approved but I'm just asking for the same courtesy. Here is a view of my home, panoramic kind of shot, if you will, on the Woodland side and its running perpendicular to the St. Mark's side and as you can see from the corner on the right hand side, and then my house is completely centered in the middle, the fence is on the left hand side, very far away from where the corner is, so it's not obstructing any sort of traffic. And this is the view from the St. Mark's side running perpendicular with the Woodland side, so the other side of the home. And there is not existing fence here because I think there was some confusion here last time where people thought that the fence was along this corner, so I just wanted to provide photographs to support that it is not in fact, the fence is not on the corner. And I just wanted to provide an additional photo here, zoomed in, where the existing fence that is here and these again are fences that I see throughout the neighborhood dividing properties that are 6 feet in height, just separating one property from the next. So this is just right on my own property, dividing my lot from the lot next door and that is a 6 foot fence that is very close to the road as well. And I do just have a quick additional question because I have a shed that's been sitting under my deck for over a year now and I have no idea where, if I can even put it anywhere, I know square footage wise it's okay but I would like that question answered either by e-mail or publicly somehow because I really would like to put it up, it's just been sitting under my deck, so that is an additional question I would like addressed, if possible. It doesn't have to be this evening but in the future, either through e-mail or publicly. And in closing, corner lots are very unique in rules and regulations, as a tax paying resident in the Town, I feel I should afforded an opportunity to have privacy and a place to call my backyard. I would be more than happy to have my neighbor's 4 foot chain link fence removed, so that it is more slightly as the Board had indicated last month and welcome any other ideas, although Mr. Miley, in his e-mail deemed that the fence was no an obstruction and then I just added this note because I had put this together before today's meeting, I just added a quick note that said the neighbor removed the fence yesterday. I know that sometimes people can offer misinformation, especially during this unprecedented time of Covid, but I should not be financially responsible for being given the incorrect information from the Town. I spent quite a bit of money ensuring that the process was done to Code and I hope the Board of Appeals will understand my position and honor my request for a variance and I think you for your time. Oh, that was not the before and after I wanted to share, but anyway, you get the idea, I'm going to stop my share and come back to you.

Mr. Miley stated Chairman, I have one item. The line of sight was for the corner, the obstruction at the corner.

Chairman Boxer stated say that again?

Mr. Miley stated what I was referring to in the obstruction was for the line of sight, with regard to the corner, the triangle, if you recall you asked, the Board asked, I did a 50-foot dimension from the corner, each way.

Chairman Boxer stated right.

Ms. Mendes stated I can go back to that photo, if you need Peter.

Mr. Miley stated no, they have it.

Chairman Boxer stated there is no obstruction then.

Mr. Miley stated yeah, it sounded like there was no obstruction at all, the way it was presented, I just want to make that clear that the obstruction was referring to the corner that the Board requested I take a look at.

Chairman Boxer stated any comments?

Mr. Hoyt stated excuse me?

Whitney Singleton stated Harold?

Chairman Boxer stated yes?

Whitney Singleton stated I didn't hear what you said, when there was silence, I thought maybe you were asking my name.

Chairman Boxer stated no, did you draft a resolution?

Whitney Singleton stated I have a formatted resolution, I just want to say one or two things.

Chairman Boxer stated sure.

Whitney Singleton stated it's not your Board's job to find a place to put a shed on the property for the applicant. She can want a resolution or determination from your Board but you are not, you're required to review applications, you're not required to design sites for people, the Board's not going to issue that.

Chairman Boxer stated right.

Whitney Singleton stated with regard to the application, I just want to make one thing clear that isn't clear and that, that wasn't clear, you're allowed to have a 6 foot or 6 ½ foot fences, you're allowed to have them on your property but what we're talking about is not whether or not you can have it along a common property line, the question is whether you can have it along your front yard. And many of the fences that she pointed out, were common property lines not front yard fences. The front yard...

Ms. Mendes stated I believe both had been addressed but I know that both are in question right now.

Whitney Singleton stated well I don't know that they are in question, your rear yard fence or your side yard fence, technically, is a 6 foot fence, that's allowed.

Ms. Mendes stated I think that they were questioning whether that was a point of obstruction, I think that's what Mr. Miley had to come out [inaudible].

Whitney Singleton stated yeah and I think what Mr. Miley said was you're conflating two different things, the 6 foot fence along your neighbor's property on Woodland is not the focal point of where he was looking at. He was looking at the intersection of St Marks and Woodland, is that correct, Peter?

Ms. Mendes stated there's no fence along St Marks and Woodland.

Mr. Miley stated right.

Whitney Singleton stated right, that's...

Mr. Miley stated that was the purpose of me going to the property and reviewing. They didn't know there was no fence extended to the property, excuse me, the corner.

Whitney Singleton stated I just want to be clear that there is some degree of and I'm not saying its intentional, there's some degree of conflating the issue of a 4 foot fence and 6 foot fence as being you know, interchangeable wherever they are on the lot. The point of the regulations relative to 4 foot fence in the front yard, is so that it doesn't look like [inaudible] 17 throughout Mount Kisco.

Ms. Mendes stated I understand which is why I had contacted the Town. As my neighbor had also received the incorrect information which I cited in the presentation, I had also when I called the Town. And maybe

it was my error in not having sent a formal e-mail and having the written communication. As you can see with text messages, I had tried to contact the Town, I don't have the phone, the date I made the phone call to the Town asking about whether or not I could have permission to put up a fence but if I'm calling about the bushes being taken down, I guarantee you that I also called about whether or not I can put up a fence. And if my neighbor also called about it and she got the incorrect information as well, that's all I'm trying to say.

Whitney Singleton stated ultimately Ms. Mendes, the question is whether or not its compliant and whether or not the requested relief that you are seeking creates an impact on the neighborhood which is not outweighed by the benefit to you.

Ms. Mendes stated right.

Whitney Singleton stated and that's going to be what the Zoning Board, whether or not you were given incorrect information or not, that really weighs very little into their decision making process. Ultimately they have to weigh the five factors as to whether or not it adversely effects the character of the neighborhood.

Ms. Mendes stated right. And also with the addition of the hot tub, honestly if it was 46 inches versus 48 inches versus 50 inches, I feel that the 6 feet really is probably in the best benefit to provide safety and I really feel that is a very valid argument despite the fact that I did call. And I know I don't have proof of that except for the fact that I called if I could even remove my bushes. I don't have that proof from two years, three years ago but I did call and ask if I was allowed to remove my bushes and put up a new fence and I was told I did not need a permit for that, so that's why I initiated that process.

Mr. Miley stated [inaudible] you don't need a permit for a fence, I want to be clear. You can put a fence anywhere on your property that's code compliant without a permit, 4 foot located in the front yard, 6 foot side and rear yard.

Ms. Mendes stated right.

Mr. Miley stated each property is unique, yours is a corner property, therefore you have 2 fronts.

Ms. Mendes stated and I guess that's the part I was negligent and you know didn't...

Mr. Miley stated I doubt very much that receipt of improper information, incorrect information, I would challenge that because I'm not even sure what you're talking about.

Ms. Mendes stated well I, as I, I'm sorry, I don't want to be contradictory but even my neighbor contacted you, not you but the department and somebody had given her the same information that I was given and it was fine, that there was no height requirement. That was not shared, we both received the same information and that's somebody that is not happy that you know, essentially that the fence is that height but she also received the same information when she called to inquire about it, as you can see on the e-mail that was shared last month and that's my only argument with it, I never would have put it up if I knew it was going to lead this kind of uncomfortableness with the neighbors and with the Town. Like, I'm new here, I've only been here for three years, I was just trying to create some privacy and a beautiful backyard.

Mr. Miley stated [inaudible] the illusion of my department giving inaccurate information, that's why I'm trying to bring it to your attention. And Chairman, before you pursue, I don't know what direction, there is a few people who would like to speak on this.

Chairman Boxer stated okay.

Mr. Miley stated if you want to allow them now or what's the next move?

Chairman Boxer stated we can listen the neighbors.

Mr. Miley stated okay, so the first speaker is Lucia Pons, you're welcome to speak whenever you're ready.

Chairman Boxer stated okay.

**Ms. Pons** stated hi how are you.

Ms. Mendes stated hi, good evening.

**Ms. Pons** stated good evening. I do have a question but before I get to my question, I just want to make a little comment...

Chairman Boxer stated can you, before you start, can you tell us your address.

**Ms. Pons** stated I live at 205 St Marks, I'm directly across from Ms. Mendes' home, I am at the corner of St Marks and Woodland. I have been living here for about, actually 8 years and I have to say before, when we first moved in, we did know the previous owner of that home who kept that home very well. And yes, the shrubs were probably very tall by the time Ms. Mendes moved in because there was a fire, the lady that was living there, an elderly lady, very nice lady, could no longer live on her own and had to move out. But the property was very well kept, so I don't want, everything is for the record, I want to make sure that people understand that everyone who lives in this section of the Mount Kisco is very much in tuned of their property and their neighbors and are aware of what's going on and yes, there were times when there was some garage that was thrown in the corner because there are teenagers or kids, et cetera, et cetera, it's an abandoned property or its not clean, there's no one living there. I'm not sure that the fencing that is there now would prevent all of that, maybe its reduced because someone is living there, I'm not sure that the fence is that issue, that resulted in the cure for that scenario. But I do have a question because obviously my home and like most of the homes in the neighborhood, are older homes, we've done some work, my husband has done some work on the property, we've hired people, existing people who are already known to our property, that are known to the Town and every time that we were going to do something, there was some gentleman, older gentleman, would always drive by and would always remind us of what the policies are and what we had to adhere to. But what I do want to know and I do want to have confirmation, I don't think that only issue is the height of the fence and I need this for my own clarification. I think the issue, if I'm not mistaken and I'm putting this to the Board, from my understanding is that you cannot have a 6 foot fence that is not flush with that house. Because we ourselves looked at that and I do think that aesthetically there would be an issue if everybody in the neighborhood who had a corner house or whatever had fences that were not flush with the home and then all of a sudden you have a very different dynamic in the neighborhood. I just want to know what the regulation is and if there's going to be consistency. I understand if things have been grandfathered in, I understand that, I own a business and I understand when things are grandfathered in but if we're moving forward and things are going to be different, I would just like clarity for that. Because I think there's two issues here, the 6 foot fence and where it's actually located in terms of, in referce to the home itself, if I'm not mistaken and I appreciate your time.

Ms. Mendes stated I don't know if that was for me or for the Board.

**Ms. Pons** stated it was for the Board.

Chairman Boxer stated Peter, the problem here is that it's a front yard and the Code says 4 foot max for a front yard, correct?

Mr. Miley stated yeah, it's going to differ a little bit for each property and we have different lots, we have through lots, you have interior lots and you have corner lots and then you have different setback requirements, maybe 20 foot, maybe 30 foot, it's all predicated on the distance from the property line defining your front yard and delineating the area and then from that point to the rear of the home, depending on the type of lot, in this case it's a two front lot with no rear yard, with two fronts and two sides. It's going differ, one, we're treating every application the same, consistent with our Code review. Second, there are a lot of fences that do not comply with today's Code because they were there presently prior to the Code change, so those are legally nonconforming. So you can't provide one answer, so there are multiple answers to the questions that Ms. Pons has, we can certainly look at her place and make a determination and it depends on the zoning district. Different zoning districts have different front yard setbacks, side yard, there is a lot that goes into it. Again, a 6 foot fence is permitted on the side and rear of your home, just not permitted anywhere, in any residential district, in the front of your home.

Ms. Mendes stated but there have been some homes in the neighborhood that have been constructed in the past few, where fences that have been constructed in the past few years where they had been 4 foot fences because its available on google maps and then they were replaced with fences that were 6 feet in height and its also considered the front yard and I understand why they're there and I support that they're there and I feel that those people also need to have and I feel, I know Lucia lives right across the street, I feel that she should have a backyard and be able to, at the rear of her house, have a separate section that she can, I think they use some kind of shade there to create privacy when they need it but I don't understand why if she did need a or want a fence there in height in order to have that privacy, why she can't have that there when there are other people in the neighborhood who have those fence heights as well.

Chairman Boxer stated because the, just because there are people that are violating the Code, doesn't mean that you can violate the Code. You have the right if you want to call the Village up and make a compliant about the other neighbors.

Ms. Mendes stated I'm going to do that.

Chairman Boxer stated but it's the whole thing, its like your mother always said, if everybody jumps off the bridge, do you jump off the bridge? You have a Code and the Code has to be complied with.

Ms. Mendes stated right but you also had mentioned that I would be the one setting the precedent in the neighborhood but I'm not because the precedent exists and that's my only argument and I did call the Town and I did ask about if I could put up a fence and they didn't tell me yes or no, they didn't say yes you can but it can't be this or it can't be that, they just said you don't need a permit for it, you know and I can't say who that was because it was 3 years ago and I didn't think I would have to take such detailed notes back then.

Chairman Boxer stated right but you also, the question is, what information did you give them? So they're answer was predicated on your...

Ms. Mendes stated well I gave them my address, I told them where I was located.

Chairman Boxer stated it is what it is, there a Code, it says 4 feet. I don't know how the rest of the Board wants to go.

Mr. Miley stated there's another speaker waiting, before the Board decides a direction.

Chairman Boxer stated okay.

**Ms. Finn** stated hi, I thought it was important to speak up because my e-mail was mentioned and Peter, as you know, you know I didn't realize that that means it could be public record, so just like Angelina has spoken to it, so it was important. You know, I will just say when the first fence was constructed along Woodland Street, not the one that is along the perimeter of my yard. I did make a call to the Town, I wasn't specific, I said the property, I asked the question about Code because I knew from my own inquiry, just like Lucia, that there is a Code, that is a 4 foot requirement if the fence extends the front of your house and you know the information I was given again, incomplete answer based on an incomplete question, I will just say that I didn't mention it extended the front of the house, I didn't get into specifics because at the time, I don't think I really understood what the specifics were, just that that fence was a violation of the Code. I just want to mention on the plane of precedent, the homes that were just shown, there is maybe one set of photos in those examples where there's a 6 foot fence that goes beyond the front of the home that is not a corner lot. The corner lots all showed a dip in the fence, to Code, from my understanding. So I do think it's a precedent issue and I just wanted to be able to speak you know for the sake that my e-mails had been shared, my e-mail also addressed the pedestrian concern. There is a significant difference between shrubbery and fencing that is solid, so the chain link fence that was along my property until yesterday, that was something we had purchased with the former owner because as you saw in the photos, she did have an older fence, she needed to replace it, we offered to do that with her. When pedestrians, which I'm sure you're all familiar with this neighborhood behind the hospital, is it a very highly trafficked pedestrian neighborhood. There is a very big difference between them being able to see me exiting my driveway and me being able to see them, particularly when there is shrubbery and a chain link fence versus a solid vinyl fence. That's all I have to say, thank you so much for your time.

Chairman Boxer stated thank you. Peter, is there anybody else?

Ms. Mendes stated you're muted.

Chairman Boxer stated Peter, you're muted.

Mr. Miley stated sorry about that, nobody on Facebook, no hands raised. I'll just read the call in number one more time before we proceed. 1-646-558-8656 and if you just give it a couple seconds and nobody's in Village Hall.

Chairman Boxer stated okay.

Mr. Miley stated you're all clear.

Chairman Boxer stated I think its clear from that once fence that you showed up, corner fences have to dip...

Ms. Mendes stated it dips by the stop sign where it's actually on the corner, this is almost like a second lot and I can go back and show you that photo again.

Chairman Boxer stated no, because what you don't understand is that corners lots have different rules than a non-corner lot and the problem with the corner lot is that both sides are considered a front yard.

Ms. Mendes stated right.

Chairman Boxer stated and front yards can't be more than 4 feet.

Ms. Mendes stated right but they still have a 6 foot fence along the corner front, the front of the their property and mine is 50 feet set back, 56 actually.

Chairman Boxer stated again, you can't have a fence that high in a front yard and you have two front yards.

Ms. Mendes stated right, others in the neighborhood have 6 feet in their front yard.

Chairman Boxer stated then...

Ms. Mendes stated I won't do that to my neighbors, that's fine.

Chairman Boxer stated I mean just because they did it wrong, doesn't mean you can do it wrong.

Ms. Mendes stated I didn't think it was wrong.

Chairman Boxer stated I understand.

Ms. Mendes stated and I did call about it

Chairman Boxer stated I understand that there might be a way to correct it without having to put a whole new fence in.

Ms. Mendes stated right, that's a couple thousand dollars. And then I have to put up trees that will create privacy for my yard and its still not address the hot tub safety issues.

Chairman Boxer stated well the hot tub only requires 4 feet.

Ms. Mendes stated but if I go an inch above 4 feet.

Unknown Speaker stated and your hot tub is elevated too.

Ms. Mendes stated and you're right, the hot tub is slightly elevated on the property as well. I just don't think it's as simple as you know a 48-inch rule along the property...

Unknown Speaker stated Peter would come look at it...

Mr. Miley stated it just requires a 48-inch barrier around the property.

Ms. Mendes stated to me that 48 inches exactly because that's what I thought we had in the back.

Mr. Miley stated I'm referring to the height, it doesn't matter, it's irrelevant that the hot tub is elevated. It's just protecting from people entering the yard.

Mr. Weise stated it sounds to me like the original installer, who installed a 46 inch fence, didn't do it correctly and you corrected it in a way that you thought would solve the problem but it created another problem that may be even worse than the first problem.

Ms. Mendes stated I don't even think that's the fence that they're having issue with, it's the one along the Woodland Street side. Honestly, that's all I tried to do was to avoid any issues and to comply.

Mr. Weise stated but I really think this is a matter of what do you want your neighborhood to look like and there is a very big difference between a 4 foot fence and 6 foot fence and we want to maintain a character of this Town that is 4 feet.

Mr. Spector stated I think we're ready to vote.

Chairman Boxer stated anybody have any other comments? Alright then...

Mr. Alfano stated Peter, I have a question. Is the, how is the front versus side yard determined or differentiated on a corner lot, if there is a differentiation.

Mr. Miley stated well there's only two fronts and two sides, so it's determined based on the setback from the property line, it may even be nonconforming, I didn't go that far as to look into the setback or the offset

from the property line on Woodland to the home, this particular home was predicated and the front yard area is also predicated on where the setback lies and I can't even tell you that because I don't have a survey in front of me...

Whitney Singleton stated it's in...

Ms. Mendes stated the survey is in the packet from last month.

Mr. Miley stated I don't have it in front of me, Angelina. Thank you. Ralph, just to get back to your question, so its determined based on the front yard, I believe the home is encroaching into the front yard setback, nonconforming, previously nonconforming, so therefore reducing, unfortunately the amount of front yard on Woodland.

Mr. Alfano stated okay.

Ms. Mendes stated because where the fence is, doesn't even begin to touch where my house is.

Mr. Miley stated that has nothing do with it.

Whitney Singleton stated can I expand upon that a little bit, Peter?

Mr. Miley stated sure, sure.

Whitney Singleton stated correct me if I'm wrong, I just want to go through a couple of terms. The setback, the 4 foot limitation is not only for along the street, it is for anywhere in the front yard and the front yard is defined in the Code as being an unoccupied area, fully open to the sky between the front lot line, and not the front lot line because an operative term...

Mr. Miley stated right.

Whitney Singleton stated and the front building setback line.

Mr. Miley stated correct.

Whitney Singleton stated so the front building setback line is not necessarily where the building is but where the setback line is.

Mr. Miley stated right.

Whitney Singleton stated because the building is, where the building is, is the front setback.

Mr. Miley stated exactly.

Whitney Singleton stated the front setback line is where the setback ins pursuant to the Code and that's 30 feet from the front yard property line. So the 4 foot fence is supposed to be maintained not only along the entirety of Woodland and/or the entirety of St Marks but 30 feet when you go back from that along any common property lines.

Mr. Miley stated correct, so exactly. So if you take that section that's adjacent to Ms. Finn's home, from that post, assuming that's the property line, 30 feet back, if you were to grand a variance, it would also include that area as well.

Whitney Singleton stated correct.

Ms. Mendes stated that...

Mr. Alfano stated so what you're saying is the house, the fence along the property line between Ms. Mendes and Ms. Finn, it should be 30 feet back from Woodland...

Mr. Miley stated to start 6 foot.

Mr. Alfano stated to start 6 foot, exactly.

Mr. Miley stated correct. That's considered the front yard.

Mr. Alfano stated I have a stupid question, is it based on street address, determining front versus side?

Mr. Miley stated it's on a corner, it's on a corner lot.

Mr. Alfano stated I understand but what I'm asking is if the address is 121 St Marks Place, is that considered the front versus the backyard...

Whitney Singleton stated she doesn't have a back yard.

Mr. Miley stated yeah.

Ms. Mendes stated I don't.

Whitney Singleton stated and that's part of the frustration of having a corner lot.

Mr. Alfano stated that's why I'm asking the question.

Whitney Singleton stated and usually that's why corner lots are generally larger in size, I don't know if Ms. Mendes' is or not.

Ms. Mendes stated I'm sorry.

Whitney Singleton stated I said because corner lots only have a front and side yard, two front yards and two side yards, it makes it difficult to create privacy and that's why when subdivisions are usually created, the corner lots are usually larger in size. I don't know whether your lot is large in size than other lots on the street.

Ms. Mendes stated it's like double, pretty much.

Mr. Miley stated and the last thing Ralph, I'm not sure if this was even part of your question. So I'm not sure because I don't have the survey in front of me, whether the front yard along Woodland, the front wall of the home encroaches into the front yard setback, so. One of the statements made by, I think it was Ms. Pons, said to start from the corner of the home, that's not necessarily true, it depends on where the front yard setback is. So if the home is, I'm just going to hypothetically say if its at 20 feet and the requirement is 30 feet, so that fence would need to be further pushed back to start outside the front yard area.

Mr. Alfano stated so in this case, the side yards are the property lines between Ms. Finn and Ms. Mendes and between Ms. Mendes and that other house on St Marks Place, is that correct?

Mr. Miley stated yes, the front yards would be next to Ms. Finn and I'm not sure who the neighbor is to the right along St Marks but yes, those are both side yards.

Mr. Alfano stated okay, thank you.

Mr. Miley stated you're welcome.

**Chairman Boxer stated any other questions? Okay, then let's take a vote, all in favor of granting the variance? All opposed to granting the variance? Okay, so we have 4 against. Okay, so it's 6 to nothing, the variance is not granted.**

Ms. Mendes stated so what's the solution? Am I allowed to put up 15 foot trees along my property.

Chairman Boxer stated talk to Peter. Peter will, we don't make the Code.

Ms. Mendes stated I know, I know I'm sorry. I'm just at a standstill here because I really did try to do everything to Code and especially with the hot tub and if I don't get it right at that 48 inch, I'm going to be out of Code.

Chairman Boxer stated well work closely with the Building Department when you do anything.

Ms. Mendes stated I've been trying.

Chairman Boxer stated alright then, thank you very much.

Ms. Mendes stated so what's my next step?

Chairman Boxer stated contact Peter tomorrow.



Whitney Singleton stated can I weigh-in a little bit on this. Your options are to make the fence compliant in some fashion, which would be to get it down to 48 inches in the front yard. Or, you're always entitled, I don't encourage this but you're always entitled to challenge a determination of this Board in an article 78 proceeding which would mean filing a lawsuit in Supreme Court. I assume that that's not an expense that you're looking to incur but it is incumbent upon me to make sure that you're aware of your options. I think what the Board is telling you is they appreciate the fact that you're trying to improve your home but its creating an impact on the character of the neighborhood that they would rather not see and I think that Peter was trying to be somewhat conciliatory in trying to find the cheapest way possible for you to come into compliance. And I don't know how much it costs and I know you said you had an estimate but to bring the fence into compliance without removing it, I think that that would be certainly your easiest way of proceeding and I'm sure Peter would help with that. Is that an accurate statement from everyone's perspective? I didn't mean to put words in anyone's mouth.

Chairman Boxer stated that's accurate.

Whitney Singleton stated can I just get, for the purposes of the written motion. Who made the motion?

Mr. Miley stated Chairman Harold did.

Chairman Boxer stated I called for a vote.

Whitney Singleton stated Harold made it, okay.

Mr. Miley stated yes.

Whitney Singleton stated who made the second?

Mr. Miley stated Ralph Alfano made the second.

Whitney Singleton stated thanks, sorry about that.

Chairman Boxer stated alright, thank you very much for coming before us.

Ms. Mendes stated thank you.

Chairman Boxer stated okay, the next case is Martin Rivera Ramirez, anybody here for that?

**6. Martin Rivera Ramirez  
17 Lenox Place  
Mount Kisco, NY 10549  
(SBL 80.33-2-6)**

**ZBA# 21-3  
Area**

Fernando was present.

Chairman Boxer stated 17 Lenox Place?

Mr. Miley stated still working? You're on mute, Fernando, you're on mute. You're all set, you're ready to go. Fernando, you're ready to go. Make me a steak well done while you're doing it.

Inaudible.

Chairman Boxer stated just explain what the problem is what you're looking for. Peter, do you want to tell us what the denial was?

Mr. Miley stated yeah, the application was, hold on one second. I'm going to mute him and explain to you and we'll bring them back. I think they were washing dishes and we were getting the background. So the, if you'll recall, the gentleman purchased the home with a rear deck in the back of his home, located on top of an existing patio and he wanted to change that deck and update it with some new materials at the same size, of course, right up to the property line. So the Board asked that I go over and so some elevations and I believe I sent that to you a couple months ago with regard to the steps in the side yard and what's located in the rear yard, if you recall, there is a commercial garage, not a residence, located directly behind the residence. So they are before you today for a rear yard setback variance of zero.

Chairman Boxer stated okay.

Mr. Miley stated so I think I will try and turn on the applicant's microphone again, to see if, unmute him?

Chairman Boxer stated okay. So what we have then is the existing deck was always at the property line and they're trying to improve it and in order to improve it, they need a variance to keep it where it was, correct?

Mr. Miley stated Chairman, there was an existing patio prior to the deck. The former owner just prior to this owner, they installed a deck on top of the concrete patio. They now want to remove some of those materials and replace it with some new framing and some new flooring but the original wood deck was not legalized, hence the reason they are before your Board to seek a variance.

Chairman Boxer stated okay.

Whitney Singleton stated is this 17 Lenox?

Mr. Miley stated correct, yes, 17 Lenox.

Whitney Singleton stated what I'm going to do is, so the Board has something in front of them, I'll share with the Board. Again, just for your Board's consideration, not to determinative of anything, I just shared with you a draft resolution.

Chairman Boxer stated it's not being shared yet.

Whitney Singleton stated oh, I just e-mailed it to all of you. If you want me to share it on the screen, I'm happy to. Do you want me to share my screen, Harold?

Mr. Alfano stated it might be a little easier, Whitney.

Whitney Singleton stated I just don't want to put any pressure one you, I know...

Chairman Boxer stated there's no pressure, can't even read it anyway, it's too small. Okay.

Whitney Singleton stated so what you have before you is essentially these, these are the requested relief. This is an existing condition but...

Chairman Boxer stated right.

Mr. Miley stated correct.

Whitney Singleton stated it would exceed building coverage, it would exceed development coverage and it would result in a zero, it would result in no setback from the lot line, so they would need full relief of the entire 20 foot setback.

Chairman Boxer stated okay but you said the rear line was a commercial garage, so it's not a residence.

Mr. Miley stated directly behind, I don't have the package with me, I sent you guys an e-mail with a picture of the commercial garage directly behind the home. Off to the northeast, there is a home but not directly behind the deck.

Chairman Boxer stated okay.

Whitney Singleton stated so what I've just drafted is that the contents of the application, since its an area variance for a 1, 2, or 3 family home, it's deemed to be a Type II action. If you approve it, obviously you would deem it not to have an adverse impact on the character of the neighborhood and your standard conditions. But you know that's only, depends on what you guys deem the appropriateness of it. I haven't been to the site, I don't know if you have, Peter had provided pictures, its just a format for you to use to go either way.

Chairman Boxer stated okay, any thoughts?

Mr. Hoyt stated this has been in front of us for a while, right?

Whitney Singleton stated would you like me to provide an aerial of this property, for anyone who hasn't seen it?

Chairman Boxer stated sure.

Whitney Singleton stated what is it Peter, 17 Lenox...

Mr. Miley stated 17 Lenox.

Mr. Hoyt stated wasn't the issue that we talked about a while back, the height of the deck, right? Whether it was going to be, so its preexisting on an existing back patio but they're going to raise it 9 inches or something?

Mr. Miley stated it was a two by six and whatever the dimension of the lumber, I'd say about inch and half, so I would say 7 ½ inches above the concrete patio but its already at that dimension and then we took an elevation for the stairs located on the side, I'm just shooting from the hip because I don't have it in front of me. It was about 3 foot elevation, if I recall 6, no 5 stairs at approximately 6 to 7 inches each, at max 8. It's pretty much what's there now, it's really not going to be any different. I think that, and obviously I'm not here to present the applicant's application but the rear patio has been there a long time. So if anything its been utilized as outdoor living space for a long period of time.

Whitney Singleton stated sorry, I put the wrong address in. 17 Lenox.

Mr. Miley stated 17 Lenox, correct.

Chairman Boxer stated not Lundy.

Mr. Miley stated right, correct, you were on Lundy, you were right near Cambareri's property.

Chairman Boxer stated we don't want to go near that.

Whitney Singleton stated so it's behind TD Bank by 2 buildings, is this it Peter?

Mr. Hoyt stated yeah, that's it.

Whitney Singleton stated okay, I can't really see behind it, is that the commercial garage? Peter, that's the garage you're talking about?

Mr. Miley stated that's the garage directly behind it.

Whitney Singleton stated so there's screening on this side and the deck is on this side?

Mr. Miley stated the deck essentially starts at the corner of the home, the northwest corner of the home.

Whitney Singleton stated so it would be in here, maybe I can get a better view from here. So right in here. I don't know that that's any better a view, 2007, so it's going to go right up to the property line.

Mr. Miley stated Whitney, I'm going to send you, if you don't mind sharing, I'm going to forward the pictures I sent to the Board, I'm just on my personal laptop and I don't have my file. So it had 17 pictures in it, to give a better idea. I just sent them to you. If you don't mind sharing, that would be great. I know you like to share.

Chairman Boxer stated he plays well with other people.

Mr. Miley stated yeah.

Mr. Hoyt stated sharing is caring.

Whitney Singleton stated okay, so I'm going to go back.

Mr. Miley stated so I'll make that correction, I just looked at my dimension, it's actually 16 inches and not three foot. It's only 16 inches, I'm glad I looked back at the dimension, the elevation George.

Mr. Hoyt stated yup.

*Multiple speakers – inaudible.*

Mr. Miley stated did you get that e-mail, Whitney?

Whitney Singleton stated yeah, it's on...

Mr. Miley stated it's not shared.

Whitney Singleton stated yeah, let me just. So this is where its going.

Mr. Miley stated yes, that's the location. See the home right directly behind it but off to the northeast? See the red home? It's not directly behind it, it starts at approximately that wall, that real small retaining wall.

Chairman Boxer stated right.

Mr. Miley stated the deck will be located right in the vicinity of where that commercial garage is.

Chairman Boxer stated which is in front of that retaining wall?

Mr. Miley stated right behind where the wooden fence is, the 6 foot fence, the code compliant fence.

Whitney Singleton stated the deck is going to be here Peter?

Mr. Miley stated no, no, it's going to be located on the concrete pad.

Whitney Singleton stated here.

Mr. Miley stated correct.

Chairman Boxer stated okay.

Whitney Singleton stated but it's going to be elevated?

Mr. Miley stated its going to be elevated about 7 ½ inches total.

Whitney Singleton stated so if its going to be elevated...

Mr. Miley stated that's the original height, 16 inches.

Chairman Boxer stated so it's going to be lower than the original?

Mr. Miley stated well that 16 that's currently there today up to the concrete pad.

Mr. Alfano stated is the concrete pad remaining?

Mr. Miley stated yes, they're going over it.

Mr. Alfano stated okay.

Whitney Singleton stated so it basically would be right about here.

Mr. Miley stated that's accurate.

Chairman Boxer stated okay.

Whitney Singleton stated it would go back to the fence?

Mr. Miley stated it would go to the fence, correct.

Whitney Singleton stated anybody want to guess the height on that fence?

Mr. Miley stated I just said the code compliant fence, earlier.

Whitney Singleton stated I'm joking, I'm joking.

Mr. Miley stated I know but I'm not.

Whitney Singleton stated so if this is a 6 foot fence...

Mr. Miley stated it is.

Whitney Singleton stated then they're going to come up to about there.

Mr. Miley stated it won't even reach the first bar, that's probably about a one foot mark, probably a little bit taller.

Whitney Singleton stated and then you have more pictures.

Mr. Miley stated that's the actual commercial garage directly behind the property.

Whitney Singleton stated let me do these views.

Mr. Miley stated that's the garage, and then the next picture, if I remember correctly, yeah, so the elevation is significantly lower in the rear of the property because the obvious, the property pitches forward. So at that location its only the height of the new deck and maybe 2 inches of concrete, I couldn't really get a totally accurate dimension, there's too much debris there and that's the furthest, the most front portion of the deck that you're seeing here or where it would be located...

Chairman Boxer stated okay.

Mr. Miley stated so those old steps would come out and they would create new steps.

Whitney Singleton stated Peter...

Mr. Miley stated yeah.

Whitney Singleton stated and this is all screening in here?

Mr. Miley stated yeah, it's all large arborvitaes and screening, correct.

Whitney Singleton stated do we know who's property that's on.

Mr. Miley stated I don't know, I have a survey though, I can make that determination.

Whitney Singleton stated so if the Board approves something and they want maintenance of the screening as a condition of approval, we can verify that it is on their property.

Mr. Miley stated and if it's not, we'll just make sure that they provide some screening, if this screening deteriorates.

Chairman Boxer stated okay.

Whitney Singleton stated and Peter, is the fence on the property line?

Mr. Miley stated it's on their property, correct.

Whitney Singleton stated okay. So this is on their property as well?

Mr. Miley stated yes, that's the concrete patio that's been there for some time.

Whitney Singleton stated yeah but I'm talking about this accessory shed.

Mr. Miley stated oh, I didn't know you were talking about that. Repeat the question.

Whitney Singleton stated is the accessory shed on their property?

Mr. Miley stated it is, yeah.

Whitney Singleton stated and that's proposing to stay or go?

Mr. Miley stated that's a good question, I'm not sure if it is or it isn't.

Whitney Singleton stated alright.

Mr. Miley stated want to try to unmute them? I think they're having some sort of issue with, we can't even unmute them, we can only send them a message to unmute. Can you hear us, guys? Can you unmute and talk to us? I'm not sure if they can hear us. Can you put your thumb up if you can hear us? Chairman, I'm not sure if they even hear what we're saying.

Chairman Boxer stated okay. Well the question is, does anybody object to this? Because if nobody objects to it, we'll just along with the resolution in front of us. So if somebody wants to make a motion?

Mr. Hoyt stated Whitney, I don't know if you drafted any conditions but I do like the screening condition, assuming the arborvitaes or the current screening diminishes someday, it seems if we're going to approve something to the property line, there should be some screening.

Chairman Boxer stated right.

Whitney Singleton stated is that okay? I'm shooting from the hip. I don't know, do you want anything on the other side, on the eastern side of the property?

Chairman Boxer stated where the red house is?

Whitney Singleton stated existing screening shall remain or in the event of deterioration, be replaced so as to screen, sufficiently screen the deck from the properties to the east and west along the deck and property line.

Mr. Miley stated what about the rear? What if the fence falls apart?

Whitney Singleton stated well the fence, okay...

Mr. Miley stated the north property line.

Whitney Singleton stated rear yard fence shall also be maintained along the entirety of the rear deck. Okay?

Chairman Boxer stated okay.

Whitney Singleton stated I just didn't know, if I go back to this picture and I don't mean to be imposing anything on you guys but just kind of putting it out there. You have this shed here, I don't know that there's any screening on this side, do you want some...?

Chairman Boxer stated the deck is going to be below the shed.

Whitney Singleton stated I understand that but I guess what I'm saying is...

Mr. Miley stated if it's not compliant...

Whitney Singleton stated if you got rid of the deck, would you be compliant with the building coverage? I mean if you got rid of the accessory shed or is that going in a direction you don't want to go.

Mr. Hoyt stated I personally feel that's too much.

Whitney Singleton stated okay

Mr. Alfano stated I am a little concerned that the applicant doesn't have a chance to provide some input to you, to these questions.

Whitney Singleton stated okay and that's fine, we'll just leave that out. I just thought that all of a sudden, you know this could come out and the screening put, that might be a nice add on. But I presume that he uses the shed.

Chairman Boxer stated makes sense.

Mr. Miley stated yeah, let me see. Martin or Fernando, can you hear us? Is there a possibility that you could un mute yourself? The Board has some questions.

Mr. Ramirez stated yeah.

Mr. Miley stated so the Board has some questions that they want to ask you.

Mr. Ramirez stated alright.

Chairman Boxer stated does the shed that you have in the rear of your property, are you going to keep that shed there?

Mr. Ramirez stated yes.

Chairman Boxer stated and what we're going to...

Whitney Singleton stated Martin? Is the landscaping on your property, to the west of you, is that on your property, the arborvitaes?

Fernando stated the landscaping from here to there, its like [inaudible] yeah, you can see the green over there.

Mr. Miley stated I have the survey in front of me, it's not on his property.

Whitney Singleton stated is he looking at the screen? I'm talking about this.

Mr. Miley stated it's called a pine row on the survey, its at least, believe it or not from the pine tree heading west, he probably has another three feet of his property.

Whitney Singleton stated well that's good.

Chairman Boxer stated okay.

Fernando stated the plantings on our property.

Mr. Miley stated yeah.

Whitney Singleton stated okay, does the Board have anything else?

Chairman Boxer stated anybody have any questions?

Mr. Alfano stated no, I just think it was important for Martin to have some input on the shed.

Whitney Singleton stated if he's doing the screen, is he okay with that?

Mr. Miley stated Martin, can you see that?

Mr. Ramirez stated yeah. The screen, yes.

Mr. Miley stated they're asking you to maintain the screening, the fencing in the rear.

Mr. Ramirez stated yes.

Mr. Miley stated so if it falls apart, you have to replace it.

Fernando stated the screening, which one is the screening?

Mr. Miley stated they're calling it screening but it's the actual landscaping on your property. The pine trees, the arborvitaes, is they die, you need to replace them. If the fence falls apart, they want to make sure in consideration of granting a variance that you're providing screening into perpetuity. So in other words, it would have to stay there forever.

Mr. Ramirez stated oh yes.

**Chairman Boxer stated okay, I think if there's no more questions we can take a vote based upon what's on the screen. Can I have a second?**

**Mr. Alfano seconded the motion.**

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

**Chairman Boxer asked or any opposition. Hearing none.**

Chairman Boxer stated okay, it's been granted.

Fernando stated thank you very much.

Chairman Boxer stated you're welcome.

Mr. Miley stated have a good evening Martin and Fernando.

Mr. Ramirez stated thank you Peter.

Mr. Miley stated you're welcome. Okay.

Chairman Boxer stated okay, so I don't think we have anything else because there's no minutes to approve.

Whitney Singleton stated three and a half hour meeting of Zoning Board, wow.

**Chairman Boxer stated not bad, huh. Okay, I'll make a motion to adjourn. Do I have a second.**

**Seconded by Mr. Hoyt.**

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

The meeting adjourned at 10:21 pm.