

1 Minutes of the *Joint Meeting* of the Planning Board and Zoning Board of Appeals of the Village/Town of
2 Mount Kisco held on *Thursday, October 8, 2020 at 7:00 pm* via Zoom Teleconference

3
4 Planning Present: Douglas Hertz, Chairman
5 John Bainlardi, Vice Chair
6 Ralph Vigliotti
7 Michael Bonforte
8 William Polese
9 Crystal Pickard
10 John Hochstein

11
12 Zoning Present: Harold Boxer, Chairman
13 Wayne Spector
14 Arthur Weise
15 George Hoyt
16 Jacqueline Broth

17
18 Staff Present: Jan K. Johannessen, Village Planner
19 Anthony Oliveri, Village Engineer
20 Whitney Singleton, Village Attorney
21 Peter J. Miley, Building Inspector
22

23 Chairman Hertz stated so welcome everyone, this is a joint meeting, actually today is, let's identify, it is
24 October 8, 2020, this is a joint meeting of the Mount Kisco Planning Board and Zoning Board of Appeals.
25 This meeting has been called to discuss 333 North Bedford Road, the ShopRite application and we thought
26 it would be wise to have a joint meeting of both Boards to answer the questions that I think both Boards
27 have and to take the temperature of Board members and have all those questions answered in one forum.
28 We have with us aside from Board members from both Boards, we have the Village Planner, Village
29 Engineer, we have Georges Jacquemart who is the special consultant, traffic consultant that the Village has
30 hired for this and we have the, our applicant. So let's start with, if you will, the, so Steve Spina, do you
31 want to give a brief, and I do mean brief discussion of you know what has changed most recently and
32 where we are to date in particular with how we got here with regards to, let's focus on traffic first. The
33 changes mostly that the DOT has required and where you started on the roadways and how the discussions
34 have gone with DOT and why you've gotten to where you are. Steve, we're not hearing you. You don't
35 appear to be muted but I'm...

36
37 Mr. Petrero stated I guess I can talk on Steve's behalf, since I've doing a lot with DOT. My name is Marc
38 Petrero from JMC, I work with Stephen Spina at JMC. As far as the traffic goes, so we have done an
39 extensive traffic study on the corridor, it was reviewed by Bedford, it was reviewed by Mount Kisco, it was
40 reviewed by New York State DOT and everyone's consultants. When we did the improvements at the
41 driveways the initial time, we actually, we had the driveways actually wider designed than what they are
42 currently proposed to be to accommodate the WB-67 tractor trailer trucks turning right from the nearest
43 adjacent lane, so it wouldn't encroaching into opposing lanes, so that's how it was original designed.
44 When we did submit that to DOT, they subsequently told us that we need to shorten the width of the
45 intersection to not be so wide and one of the suggestions and recommendations by the DOT was due to the,
46 the majority of the truck trips associated with this ShopRite are actually single unit box trucks, there are
47 tractor trailers that come there but the majority of them are single unit box trucks. So they said due to the
48 less frequent deliveries of the tractor trailers, they told us to utilize the far adjacent lane, so if you're
49 coming south on 117, they told us to utilize, if a tractor trailer is turning right into the property to turn left,
50 turn right from the left lane on southbound 117. Similarly, if you're heading north on 117 to turn left into
51 the site, they told us to use the thru lane and not left turn lane. What that did was, yes, it made a wider turn
52 for the trucks but it reduced the width of the intersection and actually reduces the pedestrian crossing width
53 over there too and that's one of the focuses that DOT had with this too was short the crossing distance that
54 pedestrians would have crossing the site driveway. And that is one of their main concerns with this and
55 they did approved that and they actually sent an e-mail, I believe actually the e-mail was dated September
56 18th, they were in receipt of our submission back in August and we addressed all their comments and they
57 told us to go the Stage Two of the Highway Work Permit application which would be the actual design of
58 the improvements for construction. So we've been working on the construction drawings to progress the
59 Highway Work Permit for this project.

60
61 Chairman Hertz stated alright, thank you Marc.

62
63 Mr. Petrero stated no problem.

64
65 Chairman Hertz stated so I listened in to the Zoning meeting where you guys were discussing the width of
66 the drives and the fact that vehicles would be or these, the longer tractor trailers would have to jog right to
67 turn left, crossing both lanes. We had these same discussions at the Planning Board when the change of

1 design from the wider driveways was brought to us, so I thought it would be wise to hear what the, you
2 know, how this all came down and to get our consultants take on this. So we have Georges Jacquemart,
3 Georges is consulting with the Village, specifically on all traffic related actions so, width of aisles and how
4 that affects things is part of that. So one of the questions I have and this is both for George and for the
5 applicant is, so Marc, you just mentioned that because most of the tractor trailer type deliveries are fairly
6 minimal, I don't recall in the business plan, when those, how many deliveries were tractor trailers versus
7 box trucks, the timing of those, when those things were... Do we have that information?

8

9 Mr. Petrero stated I don't recall but I believe we got something from ShopRite that showed their
10 anticipated delivery schedule which the tractor trailers aren't coming during the rush hour times, a lot of
11 them are coming more in the early mid-day, as far as the tractor trailers so that's when they're anticipated
12 to be arriving. So yeah, like you said, due to the less frequent large tractor trailer deliveries, the DOT told
13 us we could use that type of turning maneuver. If it was a facility that had a lot more truck traffic, they did
14 say, like a warehouse, if it had a warehouse use if it was distribution center or something like that that
15 anticipates large tractor trailers, then at that point they would say to design it how we originally designed
16 essentially but due to the less frequent occurrences of this, they told us and directed us to do this approach
17 of the turning maneuvers of the tractor trailers.

18

19 Chairman Hertz stated alright, Georges, you've reviewed this I know. Can you give us your opinion as to,
20 is this, I know this is what the DOT says they want, is this what Mount, you know, is this in your opinion
21 good and proper for the Village.

22

23 Chairman Boxer stated does anybody have a diagram to follow on this?

24

25 Mr. Petrero stated I can share my screen to show you what the layout of the driveways would be.

26

27 Chairman Hertz stated and please, I don't all mean to monopolize this, I just want to start the conversation.
28 So I would encourage everyone here to ask your questions, that's why we're doing this because we do have
29 all our consultants here and the applicant.

30

31 Mr. Jacquemart stated so while Marc is getting the drawings up. Yes, we did review that and it is a
32 compromised solution. It's a compromised solution that DOT suggested and they are the ones, the owners,
33 they are the ones who take the liability, if you're worried about liability issues. And as I said, it's a
34 compromise obviously, ideally that turn would be made. If you look at the drawing here on the lower right,
35 you know we have this thru lane southbound and then we have a left turn lane also in the same direction.
36 So what DOT is saying, design this assume that the very large and again it's only the very large semi-
37 trailers, it's not even the smaller semi-trailers. You know we have what's called WB-40, we have WB-55
38 and we have WB-67, this is for the WB-67, so it's a truck with a large tractor in the front and a 53 foot
39 trailer in the back. But that truck will drive into the left turn lane as they go southbound to make the right
40 turn into the projects driveway and it's...

41

42 Chairman Boxer stated can someone use a pointer to show what you're talking about.

43

44 Mr. Jacquemart stated Marc, can you show how the truck will be driving. Maybe enlarge...

45

46 Mr. Petrero stated that's the southern, hold on. So this is the northern driveway...

47

48 Chairman Hertz stated yeah, let's start with that.

49

50 Mr. Jacquemart stated so here you can see...

51

52 Mr. Petrero stated the northern driveway we're restricting it so the trucks can't make the right turn here.

53

54 Mr. Jacquemart stated correct, for the northern driveway there will be no right turn for large trucks, so there
55 will have to be a sign that says no right turns and the large trucks will go to the southerly driveway. Now,
56 here you can see for the truck coming from the south on Route 117 and making a left turn into the driveway
57 and here was DOT is saying a lot of that assume that that truck will make the move from the north thru lane
58 instead of using the left turn lane. And so what happens, we see you know not frequently but we do see that
59 happening those large trucks, what they do is they turn on their flashing lights to alert cars behind them and
60 they do this at slow speed and then make the left turn into the driveway. You can see the marks of the tires
61 here in this drawing you know, these lines with the shading in the middle, so it does allow us to reduce the
62 width of that driveway. So if you look at it, the disadvantages of the truck is making it kind of, if you want
63 non-caution maneuver, on the other hand we have narrower driveway, we have a narrower pedestrian
64 crossing and it's also, given that the driveway will be tighten in the sense, it should encourage an
65 overweight vehicle to slow down.

66

1 Chairman Boxer stated let me ask a question.

2

3 Mr. Jacquemart stated yeah.

4

5 Chairman Boxer stated someone that's going southbound, actually as far as, someone that's going, I'm
6 getting my north and south mixed up. The truck has to go into a lane of oncoming traffic without any
7 traffic control.

8

9 Mr. Jacquemart stated no.

10

11 Chairman Boxer stated no?

12

13 Mr. Jacquemart stated no, no, no, not oncoming traffic. In this case, if we look at the drawing on the left,
14 south is on the left, north is on the right. So in this case we have a truck coming in the northbound lane,
15 you know where you see the Route 117, it's the thru lane and instead of a normal course, that want to make
16 a left turn, will use the left turn that you see in the drawing. That's what normal cars, most cars and the
17 small trucks will do and they make that turn in there but the big trucks, they will stay in the right hand lane,
18 which is the thru lane and then make the left turn from the thru lane...

19

20 Chairman Boxer stated are they going to [inaudible] northbound cars.

21

22 Mr. Jacquemart stated no, well they have the wait for a gap in the southbound traffic and they will do that
23 you know, like if they were in the left hand lane, that's the same thing and they will make the turn from the
24 thru lane, the northbound thru lane.

25

26 Chairman Boxer stated has there been a study to show how much traffic we get all hours on 117.

27

28 Mr. Jacquemart stated yeah, it takes that into consideration.

29

30 Chairman Boxer stated this will be impossible in the morning and the afternoon rush now starts around 3
31 o'clock and especially if they're going to be making deliveries around holidays, it's going to be a lot more
32 traffic going shopping on holidays and I still have some, I'm still not completely satisfied that you're doing
33 this with no traffic controls. You know...

34

35 Mr. Jacquemart stated there will be gaps in the...

36

37 Chairman Boxer stated but you're saying gaps, someone coming zooming up, which they do a lot like this
38 afternoon I was driving and some idiot in a Mercedes was going from a stop to about 40 and then stopping
39 and 40, so he could end up, trying to show off and trying to scoot in front of the truck before the truck
40 finishes its turn because he has no control.

41

42 Mr. Petrero stated this is a signalized intersection, there will be left turn arrows on 117 for making lefts
43 onto Foxwood, as well as lefts into the site. So they do have a protected movement at certain times during
44 the cycle of the operation of the traffic signal.

45

46 Mr. Hoyt stated hey Marc...

47

48 Chairman Boxer stated can you, go ahead.

49

50 Mr. Hoyt stated sorry, I'm just wondering if this is an issue that's theoretically. So I'm a truck driver, I'm
51 driving northbound, I'm in the left hand lane because that's where you normally turn, is the average truck
52 driver going to know I mean, is there going to be signage to say, hey you're a large truck you must be in the
53 right lane to take left to turn left or is he simply going to cut off the driver a little bit of the, you know,
54 coming out of the center trying who's trying to go north. We've all be in that situation right, where a truck
55 is trying to make a turn, you've got to back up a little bit. How do we know that the average truck driver is
56 going to follow what the DOT thinks they're going to do.

57

58 Mr. Petrero stated sure.

59

60 Mr. Jacquemart stated I think it's a good question, I would say in this case, you know these large trucks are
61 related to the supermarket and the supermarket and they know who is going to make the deliveries and the
62 supermarket will have to inform the companies that do the delivery that this is where they turn, that if they
63 come from the north they will also make the right turn at the southerly driveway as opposed to the northerly
64 driveway, if they come from the south that they can make the left turn, if they drive a very large truck, they
65 make the left turn out of the thru lane and you know the truck drivers, they have a [inaudible].

66

1 Chairman Boxer stated maybe we can, can you restrict deliveries until after hours so that during the day,
2 none of this is going to happen?
3

4 Mr. Jacquemart stated well in theory, yes. In practice it's very difficult to control that and generally you
5 know, the truck drivers they try to avoid those peak hours anyway, they try to come either earlier before
6 those peak hours or after the peak hours, so they don't want to be driving during those most congested
7 hours anyway and you know we...
8

9 Chairman Boxer stated is there anything written to show the count of the cars that, you know from morning
10 until night, is there a written study that we can look at? To show the number of cars?
11

12 Chairman Hertz stated yes, so Harold, we did do and Georges' firm, I'm sorry, the applicant did a very
13 detailed set of traffic studies with car counts at different, a number of times.
14

15 Chairman Boxer stated okay.
16

17 Chairman Hertz stated we have that information and then our consultant and Georges' company then
18 reviewed all that information and gave feedback, they added some and revised some and he concurred
19 ultimately with after some work was done back and forth, they did end up concurring on the conclusion
20 about the levels of service at each and every intersection up and down, you know North Bedford Road.
21 And maybe George you can, maybe you can summarize some of what those results were, if you remember
22 them or [inaudible].
23

24 Mr. Jacquemart stated yeah, I don't remember the detailed results but in general what happens is, here is a
25 new intersection that will be signalized. Today, that access point is not signalized into the site, so that's a
26 major improvement along, in addition the signalized intersections, the one that we're looking at and the
27 ones further south will be synchronized which you don't have today, so that's an improvement in terms of
28 the general flow along Route 117. And in general, the results are, you know and the applicant used fairly
29 what we would call worst case assumptions in terms of the traffic generator rate, you know in terms of
30 estimating how many vehicles would go in and out. They, in other words, partially due to the policies and
31 regulations that DOT has, you know, we kind of argued with DOT to some degree because they are very,
32 very conservative when it comes to that and as an example DOT wanted to use traffic generation rate for
33 this supermarket and for the other supermarkets on the corridor that are much higher than what the
34 applicant actually counted at some of the other supermarkets. And we assumed or the applicant assume
35 that the existing site, where the supermarket is currently located would continue to be a supermarket so that
36 according to those assumptions, we would have three supermarkets in the corridor. So that obviously is a
37 very worst case assumption and as I said, they used a fairly high traffic generation rate. So those, you
38 know and then the other more detailed technical questions that came into play, where we feel that the traffic
39 study that was undertaken and presented to the Village and Town and was presented to DOT is a fairly
40 worse case kind of analysis of the conditions and that's why we feel comfortable that this will work, will be
41 safe because they're going to be another signalized intersection, there will be significantly better pedestrian
42 conditions and that was one of the main criteria, the main reasons why DOT wanted to make this, turn this
43 way as we look at it because it allows us to have a shorter pedestrian crossing and as I mentioned earlier, it
44 kind of forces the, imagine now the cars coming from the north making right turn, they will have to slow
45 down, so it slows down traffic at this signalized intersection which in itself will improve safety.
46

47 Mr., Hoyt stated hey George, I'm assuming if the DOT has suggested this that they must have suggested it
48 elsewhere. So there must be data to suggest that this has worked appropriately in other areas or am I
49 wrong?
50

51 Mr. Jacquemart stated I think, I don't know of any specific locations where they have authorized this but
52 you see it when you drive out there, you see this happening occasionally, I've seen it. You know where
53 very large semi-trailers they turn onto a side street where they use another lane and so that is happening, it
54 generally happens at low speed with flashing lights and so it is accepted as a safe maneuver. So that's why
55 we felt that was acceptable, obviously it's not ideal but I think from the point of view of the width of this
56 access drive and the pedestrian conditions, it's an acceptable compromise.
57

58 Vice Chair Bainlardi stated if I could add...
59

60 Chairman Hertz stated while we're talking about this, Marc, can you just maybe go down to the south drive
61 as well, just so we can see the other drive because I think they're relative discussion, they're similar
62 discussion. And John, I apologize, I didn't mean to cut you off, I just thought maybe we can look at that
63 while we're talking about this.
64

65 Mr. Jacquemart stated so here is...
66

1 Chairman Hertz stated I'm sorry, let's let John finish your question and then...

2

3 Vice Chair Bainlardi stated sure, and what I wanted to add for some context is, one of the things that we
4 tried to achieve and that the applicant worked hard to make a reality, was the realignment of the north and
5 south driveways so that they're aligned with the developments, the residential developments that are across
6 the street. One of the big comments that we heard from a number of the residents is that they have
7 difficulty now getting in and out of the driveways. So, when we looked at this as a whole, we recognize
8 that if we could get those two intersections aligned with, with signalized intersection that that was going to
9 help the overall corridor and I think that the data proves that out.

10

11 Chairman Hertz stated thank you, John.

12

13 Ms. Broth stated if I could ask a question about the signalized intersections. If we are looking at the tractor
14 trailers potentially putting on their flashers to make the turn from the passing lane and waiting for the other
15 cars to get out their way, chances are they're going to be making that turn on a red light. Which means that
16 the cross traffic coming out of 333 and out of the housing developments is going to be stalled and/or stuck
17 or trying to make a turn on a green light that they will not be able to utilize so that it will potentially block
18 traffic coming in and out of 333 and will not alleviate the problems coming out of Foxwoods or out of
19 Brookside.

20

21 Vice Chair Bainlardi stated we should remember too that we're only talking about a couple of trucks day...

22

23 Ms. Broth stated that could be five minutes at a traffic light, remember 177's light is significantly longer
24 than the lights coming out of the development at 333 or out of the homes. So if you're trying to get out to
25 get your kid to school or to go to work or whatever and a tractor trailer, I mean we see it now with the Tesla
26 trucks when they're trying to pull in and you'll miss an entire light cycle because they're trying to make the
27 turn and they can't, so I don't know if there's a way to deal with the lights, the traffic signals in order to be
28 able to alleviate potential traffic jams.

29

30 Mr. Jacquemart stated well I think one point to remember is that there will be separate phases for the left
31 turns so the trucks do not have to wait for the, to wait to make the turn during the red light phase. There
32 will be phases that will provide what we call a protected left turn so that, that does not mean there won't be
33 moments where you have a truck that will end up his turn during the red phase, we see that on a regular
34 basis, we time the lights for that kind of condition. There is something called the all red phase, that
35 generally 3 to 5 seconds where all the lights are red to allow those particular movements that don't
36 necessarily make at the intersection. So its again, something that happens rarely and we have seen it at
37 other locations where you know, these maneuvers can happen and they're safe because they happen at low
38 speed.

39

40 Chairman Hertz stated let me just say I don't think, so I'll generalize for the Planning Board and Planning
41 Board members, tell me if I'm wrong if I'm overgeneralized. We were pleased with the earlier plan which
42 had the wider driveways and did not require this. This is not something that the Planning Board wanted in
43 the least, this is something that the DOT sort of foisted on everyone and we pushed back a bit and we do
44 not seem to have prevailed in this discussion. So, I wanted everyone to understand this is, this did not
45 come at the request of anybody other than the DOT and the DOT from what we understand, the DOT's
46 primary motivation was to narrow the pedestrian crossing length.

47

48 Chairman Boxer stated and you're saying it's been approved by the DOT this way, we can't do anything.

49

50 Chairman Hertz stated well I don't know that sure but that is the impression we are getting and I would ask
51 Georges and Whitney and our consultants to opine on that.

52

53 Mr. Jacquemart stated DOT did approve it and I would say DOT, the engineers that we met with, these are
54 very capable people, that is all they do for many years and they you know, they recommend this design and
55 again they preferred to see, we can call it a compromised truck movement rather than having a very wide
56 opening where you have, pedestrians have to walk, I forgot what it was before we had like over 100 feet
57 that pedestrians had to cross to get from one curb to the other...

58

59 Mr. Petroro stated this was the previous design just so you can see the driveway.

60

61 Mr. Jacquemart stated and I understand the concern that DOT raised and it is something we have to
62 remember. This area will be significantly improved for pedestrians for crossing, there will be new
63 crossing, there will be simple push buttons for pedestrians to cross, there would be protected pedestrian
64 phases, so it will be more pedestrian friendly and we will see more pedestrians. Here you can see what
65 happens here, the widths that we had originally is very, very wide and there's some kind of a, what I would

1 call a mountable triangle island in the middle but its kind of no man's zone, it's not the zone for the
2 pedestrians. So that was concern that DOT raised when we presented this drawing.

3
4 Mr. Petrero stated this is the original, initial basically layout of the driveway that DOT came back and told
5 us that its needs to be a shorter distance for the crossing and the driveway needs to be a shorter width.

6
7 Mr. Hoyt stated Georges, if this moves forward and there's after a year or two it's clear that things aren't
8 working as planned, is there an appeal process for DOT, are they likely to see the error of their ways if this
9 in fact is a problem or how does that work?

10
11 Mr. Jacquemart stated if it's deemed to be dangerous after a certain time period, DOT has the responsibility
12 to fix it. They are liable especially you know the liability is high for something that's going to be a new
13 intersection. If this was an old intersection that's existing for 20 or 30 years, there's not much of a liability
14 but if there was, if this were to be unsafe, DOT would be liable and would have to change it. Because it's a
15 new improvement, it's something meant to meet all current standards and I think it meets the standards and
16 this is something that they accept you know for infrequent movements by very large trucks.

17
18 Mr. Spector stated as I understand, there are no variances that the Zoning Board is considering that impact
19 these, this ingress and egress issue. That the Zoning Board just expressed their concerned but there are no
20 variances that we are considering, this is really more of a Planning Board issue but the Zoning Board was
21 uncomfortable, it felt it was unsafe and that's why I'm assuming we're having this meeting. But I don't
22 think the Zoning Board is acting on this particular aspect of the plan.

23
24 Vice Chair Bainlardi stated I think that's correct.

25
26 Chairman Hertz stated I believe that's...

27
28 Chairman Boxer stated there's got to be some, aren't there variances for the roadways themselves on the, in
29 the project?

30
31 Ms. Broth stated yes.

32
33 Mr. Spina stated yes, there are.

34
35 Chairman Boxer stated we're not responsible for 117 but it does, our variances will impact on the access to
36 this development.

37
38 Whitney Singleton stated that's correct too.

39
40 Ms. Broth stated I have a question about the signal itself. For the folks coming out of 333, when they have
41 choice to make a right, a left, or go straight into both, whether it's 117 or into the private complexes, what
42 will the signal be? Is it going to have a left hand turn signal on top of a regular?

43
44 Mr. Petrero stated I can go through the signal operations with you. So...

45
46 Ms. Broth stated thank you.

47
48 Mr. Petrero stated so the signal at the south here, there's, at both signals, at the north and the south, the, on
49 117, they'll have a dedicated left turn phase and then the separate green ball indication for the through
50 movements to 117. The side streets, this is also the same at the northern driveway too, the side streets go
51 separately so the Park 333 driveway goes by itself and in this case Park Drive would be stopped and then
52 Park 333 would stop and then Park Drive goes by itself. So the side streets under what we call split
53 phasing where they're protected movements. So only Park 333 will go and then will stop, then Park Drive
54 will go and stop but there will be vehicle detection on the side streets as well as the main line from 117 to
55 detect that there are vehicles there, if there are no vehicles on those approaches, it will be given back to
56 117, the additional time.

57
58 Ms. Broth stated so we will have three phases, if I understand you correctly, on the Park Drive end where it
59 currently has four phases, so we would be losing one? And it would add phases on the Foxwood end.

60
61 Mr. Petrero stated so if you count the left turns, that's one phase, then you've got the through movements
62 on 117, that's another phase, then you have one phase for the driveway for the Park 333 and then another
63 one for Park Drive. Currently, it's an offset intersection, it basically that operates that under existing
64 conditions, under Foxwood Drive, if I go, I'll. Foxwood Drive technically does have a signalized approach
65 on this side but its very inactively used for the existing retail use there. The existing Park 333 is the right
66 in/right out driveway that's located in this general area here. So in that case, if you consider the retail

1 driveway as just this being a T-intersection instead of being a four-legged intersection, yes there would be
2 three phases here under existing and then four under proposed.

3
4 Mr. Jacquemart stated so having the split phases, actually makes those movements safer once you take out
5 the conflicting left turns that may come from both sides.

6
7 Mr. Petraro stated again, that was actually dictated a lot by the New York State DOT because originally
8 when we had this design, the signal phasing, we had them going concurrently, so concurrently on the side
9 roads. So basically the Park 333 Driveway and the Foxwood Circle would go at the same time, there would
10 probably be a left turn phase separately for it but the DOT said that they wanted the safer condition of
11 having the split phasing on the side streets and that was actually one of their comments as well.

12
13 Chairman Hertz stated so one of things that's worth understanding and I think maybe and I don't want to
14 cut anyone off but I do want to discuss the other issues that are going to have more substance I think for
15 Zoning Board. But when they review or when we all reviewed the final traffic study and looked at the level
16 service for each intersection, there was no, all intersections were either improved or equal but none of them
17 went down in the level of service. I think that's an accurate statement Georges?

18
19 Mr. Jacquemart stated yes, that is correct.

20
21 Chairman Hertz stated okay, so um, that's primarily because you know the applicant aligned both of those
22 driveways, right? Because they're, because we have right now two driveways that are not aligned, so you
23 have roads coming from the two, the two condo developments that don't line up with the two exits off of
24 333, right so they're offset. You know, they did a great deal of work to reach, to purchase or lease or
25 whatever they did to accumulate the property and realign this. I think that's ultimately going to be a very
26 successful thing that they did and it was a significant undertaking that will, that is underway and will
27 continue to be underway so, I think on the largest view of things, I think we can expect a better level of
28 service than we see today which is what we're all going for I'm sure, if you've ever driven up there and
29 everyone has. So let me, before we go too much deeper, let me just bring up two other subjects so we
30 know what's in front of us for the rest of the meeting. There are two other large, there are a lot of variances
31 obviously but the thing that I think is worth having everyone discuss together is the retaining wall because
32 the retaining wall variance is on paper, absurdly large, our regulations suggest that a retaining wall should
33 be no longer than 60 feet and the proposed is 1,100 feet. So it's a rather significant variance. And then the
34 other is parking spaces and those fall in both zones but largely it's a discussion on what the appropriate
35 parking count should be for the site and how that was arrived at.

36
37 Jan Johannessen stated hey Doug?

38
39 Chairman Hertz stated yeah?

40
41 Jan Johannessen stated on those two issues, the retaining wall is not a variance, it's a standard that the
42 Planning Board can waive during it's, in its steep slopes regulations. That's not something that they
43 typically appeal to the ZBA for...

44
45 Chairman Hertz stated okay because that's specifically called out and has been called out from the
46 beginning as a variance that they would be going for. It's called out in Peter's...

47
48 Jan Johannessen stated I thought the steep slope regulations allowed the Planning Board to waive any
49 requirements of the steep slopes ordinance.

50
51 Chairman Hertz stated you tell me.

52
53 Anthony Oliveri stated I don't think I, I don't recall it being a variance in the past, I think it's a guideline,
54 it's a criteria, it's a hold to, I think there's also a 6' height, maximum height guideline, so it wouldn't
55 comply with that either but those things are prohibitions they're...

56
57 Jan Johannessen stated more recommendations.

58
59 Anthony Oliveri stated right, right.

60
61 Jan Johannessen stated and the parking space was not going to be a variance, the applicant went through an
62 exercise to demonstrate that the joint use of parking spaces, I thought that the Planning Board was going to
63 be handling the parking short fall through avenues in the Zoning Code that allowed for the joint use of
64 parking spaces based on different hours of peak demand and they had done a complete analysis on that. I
65 think George has some recommendations about certain things that can become conditions but I didn't think

1 that was, the parking space was going to be a variance as much as something that the Planning Board was
2 going to deal with different avenues and tools in the Zoning Code.

3
4 Chairman Hertz stated so there are, so it's your understanding that there are no parking space variances
5 being requested?

6
7 Mr. Miley stated I think Doug, if I could just touch on two things before I have to go. One, the retaining
8 wall, it's my understanding, my original objection and letter or memo indicated that they didn't require a
9 variance and it is a Planning Board issue but we have issued variances in the past, I have to do some
10 research on that, I don't know specifically, I think one 12 Laurel or 40 Laurel or 112 Laurel, I can't recall.
11 We did issue a variance for the wall but it was part of the steep slopes provision, so I just need to touch
12 back on that, we could always remove that from the request. But we did, I didn't recognize that in my
13 memo but the applicant did put it into the application, so I left it as is. The second thing parking, it is my
14 understanding that the shortfall is going to be predicated on the ITE study and then the balance what's
15 leftover, what's acceptable as far as the number of parking spaces and then taking that number and then
16 taking the overall number and just you know, minusing out what's acceptable and what we're left with was
17 I believe 254 spaces, I don't have it in front of me, as a shortfall based on the recommendation by the ITE
18 study.

19
20 Jan Johannessen stated yeah, there was a whole section of the traffic study that dealt with parking. I
21 thought, there was definitely a shortfall when we compare all the different uses and their parking
22 requirements, the number of parking spaces that were provided but I thought there was an analysis that was
23 done that would allow the joint use of parking spaces based on different hours of operation and peak
24 demand. I thought that was [inaudible].

25
26 Vice Chair Bainlardi stated that was my recollection for 333 North Bedford Road site, I don't know where
27 the fallout was on parking spaces variances being required for 309 and 383...

28
29 Mr. Miley stated 333. The new Code indicates that the Board can accept the ITE study and call it a day.
30 The reason we made reference to the number is predicated on the square footage of the uses, just so they
31 know and they understand so if the Board indicated that they don't agree with the ITE study, excuse me,
32 the parking study, then they would have to go for a variance but if they can demonstrate that its adequate
33 through the ITE study and parking study then that also would be a variance that would be removed.

34
35 Jan Johannessen stated I think the only variance was going to be, is 309 the southern property at Ice House
36 Road, that one was...

37
38 Mr. Miley stated it was 11 space, correct.

39
40 Jan Johannessen stated and there was no availability of the joint use of parking spaces because...

41
42 Mr. Miley stated correct.

43
44 Jan Johannessen stated that analysis didn't work but 309 was going to be the site that had the parking space
45 variance.

46
47 Mr. Miley stated one required 11 spaces, the other had in excess of one or three spaces...

48
49 Jan Johannessen stated 383 was compliant and then 333 we're going to deal with, with the joint use of
50 parking spaces.

51
52 Mr. Miley stated correct.

53
54 Chairman Hertz stated okay. So I think what's I'd, so let's talk about you know, in our, in this joint
55 meeting, let's focus for a moment what variances the Zoning Board is going to have to grant and any
56 questions that that Board may have of the Planning Board and these consultants that would inform of those
57 decisions. So Jan, do you want to just take us through the variances and let's just see if there are questions
58 regarding those things.

59
60 Mr. Weise stated I think one of our biggest concerns was a safety and the retaining wall, the original plan
61 was for it to be, I think it was 13 feet tall at the highest, it's very high and some of this change was because
62 of that concern, the safety issues.

63
64 Mr. Spina stated the original plan was, I think 23 feet at its worst. The new plan reduces it to 14 feet.

65
66 Mr. Weise stated thank you.

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Mr. Spector stated I also recall that Zoning Board major concerns were safety at the road, the retaining wall which is no off the table for the ZBA, I guess at this point and that parking which is also apparently off the table potentially. So I'm not sure that there are that many issues left that the ZBA was really all that concerned about with the other variances but I don't want to speak for everybody.

Mr. Miley stated I don't think that the variances are off the table yet until we have one more discussion. I think myself, Whitney, Jan and Anthony should have a discussion and ensure that the Planning Board does accept that ITE study that indicated that's adequate parking, if that's the case, then yes, that would be removed. With regard to the wall, same issue. There is a maximum allowable you know retaining wall in our Code and I just, I'm not 100% certain whether the Planning Board has jurisdiction to grant that for the steep slopes ordinance, again, they're before the Board, we can simply remove those two variances if that's case and then we can have an answer on that next week.

Anthony Oliveri stated Peter, as you mentioned, I think in the past it's kind of been looked at both ways actually but I, it's certainly Peter's interpretation of the Code, it's under the Zoning Code...

Mr. Miley stated it is under the Zoning, Code, correct.

Anthony Oliveri stated so it's something that Peter has to make a determination on, it might be a little fuzzy in the steep slope ordinance.

Mr. Miley stated I'm going to take a look at some of our past practices to see, I know just recently in the last year we did issue a variance for length of wall with regard to steep slopes.

Mr. Hoyt stated I agree with Wayne, I think in the last ZBA, the wall, the improved wall was a big improvement and I thought, I can't speak for everything but I agree with Wayne, I thought that the wall was satisfactory in my memory.

Chairman Boxer stated I concur with that.

Vice Chair Bainlardi stated as it relates to that, I'm sorry...

Mr. Weise stated this is Arthur Weise, I think that's correct, what George has said. We were happy with the new wall design and they were going to have a fence at the top of the wall even though it was a lot smaller and that seemed to have been a good resolution.

Vice Chair Bainlardi stated whether the parking variance for the shopping center has to come before the Zoning Board or not to be determined but one thing I recall for sure is there's quite a bit of attention paid to the existing parking counts and uses in the shopping center and there were charts that were done to demonstrate how many parking spaces were being utilized by each one of the users and the general consensus by the Planning Board is that there is more than adequate parking to serve the shopping center with the introduction of the supermarket and particularly with the supermarket being on the northern end of the shopping center and really having it's own dedicated parking, it's really quite a distance from the southern side of the center where the health and fitness center is located and some of the other uses.

Jan Johannessen stated I think there was mitigation items that were discussed maybe by BFJ, with certain maybe holidays or peak demand times where there might need to be some folks from the supermarket that direct customers to available parking spaces when parking is tight. I think that was one of the items that Georges had identified as a potential mitigation measure.

Vice Chair Bainlardi stated I'm sorry to jump around but going back to one comment that was earlier, it may be Jacquie, is I've seen on other shopping center developments, in approval resolutions in other towns where the Planning Board has made a condition that those truck deliveries cannot take plan during the peak hours. Now I recognize you know, to try to enforce that is not always easy, there should be no reason why we couldn't make the condition to that effect.

Mr. Vigliotti stated John...

Vice Chair Bainlardi stated I think the reality though is most of these supermarkets try to get their product in before people are in the stores. They're not looking to be there and taking up traffic lanes and causing issues for customers. I know with ShopRite, they did indicate that their dairy is typically coming in smaller box trucks, their bread comes in smaller box trucks and they're not having multiple large truck traffic on any given day.

1 Chairman Hertz stated well, let's do this, let me ask this because we don't need to make this meeting any
2 longer than it needs to be. Are there, the primary reason that I thought this would be useful is I don't want
3 one Board in this Village to feel that another Board is doing something in a position that's difficult. So,
4 when we have a project of this size and scale, it's worth collaborating and understanding everyone's
5 positions and concerns but that, so with that statement, what I will ask is, are there any questions, so the
6 variances that are being asked for by the applicant include maximum allowable building area, they've
7 increased that, the maximum development coverage, 70% where 72.3% is proposed. We talked about the
8 parking spaces, there is a lot width variance that's required, front yard buffer, side yard buffer, we
9 discussed the retaining wall. And then on the 309 site, we did talk about what likely will be a parking
10 variance, minimum lot width, front yard buffer, side yard buffer and minimum building setback. Do
11 Zoning Board members have questions of either the Planning Board or the consultants that they want to
12 address at this moment or at this joint session?

13
14 Chairman Boxer stated I want to ask a question. A bunch of the buffers are being taken down to 0. What
15 abuts those buffers that having a 0 is okay?

16
17 Mr. Spina stated I think most of the buffers have 0 feet because the buffer, for instance, like the front yard
18 buffer or the side yard buffer, goes into parking spaces. And in most of the cases the buffers either are
19 already 0 or increasing the greenspace between the parking lot.

20
21 Jan Johannessen stated I think the most extreme case is probably, I get 383 and 309 mixed up but where the
22 proposed [inaudible] building is, the northern parcel on North Bedford Road, adjacent to Sleepy's, where
23 that buffer is going down close to 0, with proposed parking where there's an existing buffer already in
24 place.

25
26 Mr. Spector stated what's in the existing buffers currently, is it landscaping, plantings or anything?

27
28 Jan Johannessen stated Stephen, can you bring up that plan for 383...

29
30 Mr. Spina stated yes, I am going to that now. So these are the slides that we presented originally in July
31 and the red lines just indicate that, those are the five yard setbacks, I guess from parking, where there's also
32 a 10 yard setback for building but what Jan is alluding to is currently there's a strip of grass on, I guess the
33 southerly portion of the lot and in order to meet the parking code, we are proposing parking but then it
34 forced a variance, the setback is reduced to essentially 0. So what's like Jan was saying, is probably the
35 most egregious one.

36
37 Chairman Boxer stated and that's near the loading zone where not a lot of people park normally.

38
39 Mr. Spina stated I mean right now, there's no parking at all in this sort of finger lot between the existing
40 Christian book store and the automotive repair. It's just a road, two lanes, it goes from about this wide and
41 then there's grass on this side. So we think people would probably park here because it's close to the front
42 of building but maybe you're right, more towards the back here probably would not be used too much.

43
44 Whitney Singleton stated Steve, we talked about that before and I've had an opportunity to look at those
45 deeds, other people have right to use that road who's access is going to be cut off by what you're
46 proposing...

47
48 Mr. Spina stated well we still allow for the access, that...

49
50 Whitney Singleton stated and our minimum access is 50 feet and you're cutting off 18 1/2, you're cutting off
51 25 feet of it.

52
53 Mr. Spina stated the entire lot line is 50 feet from line to line...

54
55 Whitney Singleton stated it's a 50 foot right of way that's been reserved for other property owners.

56
57 Chairman Boxer stated which owners, Whitney?

58
59 Whitney Singleton stated what's that?

60
61 Chairman Boxer stated which owns have that right?

62
63 Whitney Singleton stated 383 and the two properties, and at least the two properties to the south.

64
65 Chairman Boxer stated now are all those properties within the development or not?

66

1 Whitney Singleton stated no, they're separate developments, separate owners.

2

3 Chairman Boxer stated right.

4

5 Whitney Singleton stated 383 is in the back there.

6

7 Chairman Boxer stated we could, I don't know if it's a Zoning Board issue but can't you require those
8 benefitted lots to waive their rights to that portion that's being taken away?

9

10 Whitney Singleton stated no, that's a private land use matter. They've attempted to re-do it back in 2018
11 through an amended indenture agreement but it does not sufficiently address the properties that are
12 benefitted. As a matter of fact, they're agreement in 2018 specifically says that the requisite site plans need
13 to keep it open.

14

15 Mr. Spina stated okay, so even though we're still providing access for vehicles...

16

17 Whitney Singleton stated yeah but Steve, these are issues that you're going to have to address. One of the
18 things that you're doing is, this is road number three or easement number three and you're 2018 easement
19 modification attempted to address road number two and road number three and it does not have any
20 benefitting property owners sign off on them. It purports to have other people sign-off on it that had no
21 authority to sign-off on it. With regard to road number two, you're relocating the easement area for
22 benefitting property owners and I don't know whether that's in your ability to do, generally speaking a
23 servient property owner has the right to relocate an access but that's for you to demonstrate, not for us to
24 review and quite frankly, I shouldn't have to go out and find all the other deed owners that have a right to
25 these accessways, this should have been provided as part of title report by you guys.

26

27 Mr. Spina stated right, I know you guys...

28

29 Whitney Singleton stated I mean, I just happen to know about it from prior site plans but you're essentially
30 extinguishing rights of people that have them without telling us they have those rights.

31

32 Mr. Spina stated as far as I know, the project attorney is coordinating that with those property owners.

33

34 Whitney Singleton stated the John A. Martabano Trust, immediately to the south of this, has a 50 foot
35 easement across your property. The William T. Martabano property to the south of that has a 50 foot
36 easement across this property and the John A. Martabano property in the back there, which is 383 North
37 Bedford Road, also has a 50 foot right of way. So you have three people that did not sign-off on this
38 waiver of easement.

39

40 Chairman Hertz stated alright well, Whitney, I suggest that, I think those are matters properly brought up
41 between, to be worked out with Staff and the applicant until such time as you're satisfied. I don't think
42 either of our Boards need to dig into this right now but I understand your discussion with regards to this
43 variance.

44

45 Whitney Singleton stated right, with regard to the variance though, the Zoning Board has asked me to draft
46 resolutions of approvals which I've done and it's going to impact based upon a subdivision, you have a
47 subdivision right here that is supposed, granted its within your Board's authority to waive this requirement
48 as to the Zoning Board's requirement but the variance, the 0 setback variance over there on the northern
49 side of that retail building is for a road that doesn't meet our Code requirements, our Code requirements for
50 streets even private streets require that they be at a 90° angle to the street on which they front for a setback
51 of at least 100 feet and that does not exist here. So that is something that your Board is going to have to
52 waive but its going to impact whatever variance that the Zoning Board might be granting.

53

54 Jan Johannessen stated doesn't the parking in the right of way, if that ends up being something that's not
55 allowable, those [inaudible] parking spaces that's going to potentially impact the...

56

57 Whitney Singleton stated the whole site plan...

58

59 Jan Johannessen stated parking for this whole lot.

60

61 Whitney Singleton stated correct. To be fair to me and to your Board but mainly to me, this is something
62 we've been asking about for years.

63

64 Mr. Miley stated hey Chairman, while it's quiet, I apologize that I have to jump off. I will follow up with
65 those two items with regard to the retaining wall and the parking study just to confirm and I will confer

1 with Whitney and Jan, you know at the beginning of the week and have answer for you. Other than that,
2 everybody have a good evening and I apologize I have to leave.

3
4 Vice Chair Bainlardi stated take care Peter.

5
6 Mr. Miley stated bye.

7
8 Chairman Hertz stated alright, so it seems like there is work, information that has to be provided by the
9 applicant to resolve these issues and without resolution you have to change your site plan to meet these
10 conditions and until such time it doesn't seem like the Planning Board or the Zoning Board can properly
11 act.

12
13 Vice Chair Bainlardi stated unless you wanted to make it a condition.

14
15 Chairman Hertz stated I'm not sure what condition we would make this. It seems like rather a large
16 condition to change the entire parking. Parking counts...

17
18 Vice Chair Bainlardi stated then they'd have to come back if they can't achieve what they need to achieve.
19 These are private agreements right?

20
21 Chairman Hertz stated so I think we're going to, I think Whitney and Jan and Anthony, you guys are going
22 to need to help get this to the finish line with the applicant and see what resolution they can provide for us.

23
24 Chairman Boxer stated Whitney, who did the title report?

25
26 Whitney Singleton stated there is none.

27
28 Chairman Boxer stated there's not title report? It's not a bad idea that they get a title report done on this
29 private road.

30
31 Vice Chair Bainlardi stated said the man in the title report business.

32
33 Chairman Boxer stated well I'm retired now, so it doesn't matter. We've been asked many times to tell the
34 property who has the rights and either side of roads.

35
36 Vice Chair Bainlardi stated Harold, I think a title report should be require for every application and I think
37 a title report should be required for every broker who wants to list a property for sale. How can you sell
38 something when you don't know what you're selling.

39
40 Chairman Boxer stated I agree, that's when the deals fall apart, when you get the title reports.

41
42 Chairman Hertz stated well it looks like Stephen and whoever is here, Marc, sorry. I'm like looking at my
43 grid of applicants, or faces, it looks like you guys have a little bit of work to do to get through...

44
45 Whitney Singleton stated Doug?

46
47 Chairman Hertz stated to get this resolved. Are there other questions on any of the other actions that the
48 Zoning Board may need or the Planning Board for that matter, will need to take that we want to get more
49 informed on and share information on. Any of the other variances that the Zoning Board is going to need
50 to work on? Anything else...

51
52 Mr. Vigliotti stated Doug, this is Ralph...

53
54 Chairman Hertz stated yes?

55
56 Mr. Vigliotti stated this may seem like its out of left field and I'm sorry, my apologies for arriving late.
57 Earlier there was discussion on the ingress/egress for trucks at both the south and north entrances, we
58 certainly need to take into consideration the misuse of car carriers that are parking on North Bedford Road
59 and how that may play into the trucks. If the car carriers are in place and there are several dealers just
60 south of the south entrance, how does that play with during the day when deliveries are being made to
61 ShopRite? I'm not asking answer an tonight but I would like our consultants to take that into consideration.
62 Literally placing a car carrier in the middle of the road and trying to figure out the queueing for the trucks
63 going into the south entrance. John Bainlardi earlier mentioned something about adding into the resolution
64 that trucks not make deliveries during the daytime retail hours and that may be an answer but we need to
65 address that, it's a serious problem. I had an issue today even, just my own car getting around a car carrier
66 when there were some problems with the traffic light on Barker.

1
2 Vice Chair Bainlardi stated just to clarify, I said that during the peak hours.

3
4 Mr. Vigliotti stated it seems like every hour is a peak hour on North Bedford Road in all honesty.

5
6 Chairman Hertz stated but Ralph, I agree with you and this something that's been going on for years and
7 years and years, you and I have both documented it, we've sent photos in. This is, I think this is primarily
8 an enforcement issue and how we get this enforced is a really good question, I mean I think we're going to
9 need to start to work with you know, I think our Code Enforcement needs to start to work with police on
10 this because we see this over and over and over again and no matter how well designed the traffic and
11 turning and all this. I agree, if there are semi's or car carriers parked in the middle of the street, none of
12 this works. So, I think we're going to, I think maybe this is a discussion that we need to bring to the
13 Village Board and they need to involve the local policy because they're going to have jurisdiction over the,
14 I mean we can write, Code Enforcement can write violations until the cows, but this is really a combination
15 of traffic violations as well as Code violations. So I think this is something we should probably bring up to
16 the Village Board.

17
18 Mr. Vigliotti stated okay. Just as I said, my concern was the tractor trailers trying to make deliveries into
19 ShopRite, trying to queue up around these trucks that are in the middle of the road. And it's not 5 minutes,
20 they're unloading 6 or 8 or 10 cars, how to do they queue up, they may just have to bypass the south
21 entrance or the north entrance if that's the case and figure out a way to get in or get around and make the
22 left.

23
24 Chairman Hertz stated yeah.

25
26 Mr. Vigliotti stated so it's something I'd like our traffic planner to actually put a tractor trailer in the middle
27 of the road where Toyota is and their vacant car dealerships that looks like a couple are going into place.
28 How does that work for a tractor trailer trying to queue up to make a wide left hand turn when these trucks
29 are in the way?

30
31 Vice Chair Bainlardi stated I don't think its fair to ask an applicant to plan for illegal activities that may be
32 occurring throughout the Village. Currently, there are no car dealers between these two entrances. So I'm
33 not sure why there would be car carriers in the middle of the street...

34
35 Chairman Boxer stated I think there's storage behind them.

36
37 Vice Chair Bainlardi stated well that's a different question.

38
39 Mr. Vigliotti stated I just want to make sure we're covering all our bases.

40
41 Chairman Hertz stated I hear you Ralph, I think it's...

42
43 Mr. Spina stated they unload cars in the middle of North Bedford Road...

44
45 Chairman Hertz stated I'm sorry Stephen, your audio has been cutting in and out all night, so can you just
46 repeat yourself.

47
48 Mr. Spina stated sure, what I said was, Ralph are you saying that car carriers are unloading in the middle of
49 North Bedford Road in the shoulder?

50
51 Mr. Polese stated no, they usually park in the middle of the roadway, various places along 117, just a park,
52 the carrier will put their hazards on and unload. But I think what the Chairman said before, it's an
53 enforcement issue if we're spending all this time and effort trying to make The Park a better place that this
54 is just another item added to make it more punitive to violate the rules but I...

55
56 Chairman Hertz stated and I just, yeah, so I think this something that we will have to bring past our Code
57 Enforcement, bring to the Village and bring to our local police because this has been an ongoing issue and
58 obviously Ralph, it sounds like you experienced it continuing once again today. So, I think we're all
59 looking to make this as successful a project as possible and if we have other people messing up 117 which
60 is already a traffic challenge, whatever improvements we make, if we have illegal activity going that's not
61 going to help. So yeah, so let's think of that as an enforcement issue and not burden the applicant with
62 trying to come up with ways to enforce something off their site. But with that said, are there other and
63 Ralph, I appreciate you bringing up the issue because it is a very important issue and something we've been
64 dealing with for years on the corridor. Are there other Zoning or Planning related questions that we can
65 make use of our time with? With regards to any of the variances being discussed? Chairman Boxer, do you
66 have...?

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Chairman Boxer stated I'm just interested in all of the buffers and setbacks and who they're going to impact on the other side. I mean, if they're up against property that's not used or property that doesn't really need to have the buffer, that's fine. I don't think there's going to be a problem, I'm just curious that, if you could just put on a plan with all the buffers that you need reduced and if they butt up against land not in the project, just indicate that.

Mr. Spina stated okay, can we submit something formally similar to the slides we've previously presented where we sort of just highlighted those buffers?

Chairman Boxer stated yeah.

Mr. Spina stated and then we can organize it so that we can arrange it like the Chairman has asked, you know which buffers impact, you know a vacant lot or a lot that is occupied. You know, we can...

Chairman Boxer stated its just that there's, I was just, I've gone through it many times but when you see it on one piece of paper and they're all requesting 0 foot variances, it kind of hits you all of a sudden.

Mr. Spina stated right, like this one here on the screen, is an example of a 0 feet, where I guess there's a 20 foot setback for parking and you know the parking lot is in the setback. The existing 309 lot has the parking and curbing for instance even closer to the lot, so we're improving it but we still have a, it still doesn't meet it, if that makes any sense. There's quite a few like that.

Vice Chair Bainlardi stated Stephen, I think you need to spell it out in a very clear way. When the Planning Board was looking at these items we were taking into consideration what the existing condition was. So for instance it was impervious coverage and the existing condition was 90% and you're bringing it down to 85% but still needed a 5% variance, that's relevant and we're also looking at what the final improved condition or revised condition would result in as far as planting areas or you know approved appearance on the street. So these are all factors you know, make the case.

Mr. Spina stated right, I think we've presented a lot of this stuff but I understand it's quick in a meeting and its hard to really digest it. So it sounds like we need to formalize it a little better and make a resubmission so you know, you guys can really put the variance we're asking for next to a graphic, right? It seems like that's probably what...

Mr. Boxer stated try to get that submitted if you can, at least a week, if not two weeks before the meeting so the Town can distribute it to all the members of the Board.

Mr. Spina stated yes.

Mr. Vigliotti stated so Doug...

Chairman Hertz stated yes.

Mr. Vigliotti stated I guess the question is, you know I'm looking at the sheet, you know all the variances that are required for buffers. Let's assume did feel we weren't comfortable with all the variances on the buffers, how would the applicant get around the variances required? Particularly this 50 foot lot width, 20 foot front yard buffer. I understand this is a commercial and industrially zoned and so on but we're giving plenty of relief but is there any relief on their part to make these buffers work or get even closer? Are we just accepting them and moving it along?

Mr. Spina stated well I think we've done what we can in terms of providing landing and improving what is currently there. You know a lot of these buffer encroachments I guess are a result of trying to meet the parking space requirement or relocation, for instance on the screen here, the driveway to align with Park Drive. You know, the new lot line in between, you can see the setback lines how we're immediately in it with sidewalks and the road and the existing building. So we sort of created our own need for a variance just in this one example. I just happened to see it on the screen.

Chairman Hertz stated and Ralph, while I don't at all mean to speak for the Zoning Board, I think from perspective of how we've worked with the applicant and moved this along. I think we've taken sort of a bigger picture view of this and kind of looking at, have we been able to improve these areas, these items, access and egress, safety. What's, I think we've always been incredibly sensitive about trying to beautify the corridor of 117 and trying to maintain that boulevard type of feel which is extraordinarily difficult, particularly in this section that's so heavily built to begin with. So places where you know we've been able to encourage greater green spaces, street trees, all of those trees, so that what I think has happened is that has, that push by this Board to move in that direction has created these issues and you know I want to be

1 clear to the Zoning Board while we never encourage anyone to be noncompliant, I think this is a question
2 of does this, do they, does this globally make a better site plan than options and therefore would the
3 Planning Board feel this is in the Village's best interest. And then of course it's going to be up to the
4 Zoning Board to decide on each of the specifics but I think from an approach perspective, I think that's
5 how this application is perceived through its various steps. And I'm not going to say its perfect and
6 finished but I think its close, which is why this meeting is happening now. But I am absolutely open and
7 willing to listen to response to that both from I think the Planning Board and the Zoning Board members,
8 where anyone feels we haven't pushed the applicant far enough and gotten the results that everyone feels
9 we should have. This needs to be a collaborative process and we need to get to the best result here.

10
11 Mr. Vigliotti stated Doug, your point is well taken. At the end of the day, we've aligned the south and
12 north entrance to make it much easier for the residents along that corridor to get in and out of their condos
13 and so on and so I can appreciate that, I really can. I just have one more comment and I'll just sit back. It's
14 15, 12 or 15 years now, we're still waiting for this field house and I just want a little discussion on when
15 are we going to break ground on the field house?

16
17 Mr. Spina stated we've been asked to make that part of the application, which it is and it's schedule for the
18 first phase of construction,

19
20 Mr. Vigliotti stated okay, thank you.

21
22 Jan Johannessen stated I can confirm that, Ralph, it's right up front in phase one.

23
24 Mr. Vigliotti stated thanks.

25
26 Mr. Spector stated I would like to say as a Zoning Board member and a former Planning Board member in
27 another municipality for 15 years. When you have a site plan that is this detailed and complex, I personally
28 feel very comfortable deferring much of these types of decisions to the expertise of the Planning Board,
29 who are looking at a more global picture of the site itself. And I'm not saying that the Zoning Board is
30 rubber stamping anything but I do believe in the collaboration approach and I also believe that the Planning
31 Board has specific and special expertise in dealing with this type of site, these type of site issues. I am
32 personally very comfortable in adhering to recommendations in a situation like by the Planning Board to,
33 most of the variance issues.

34
35 Mr. Vigliotti stated thank you.

36
37 Chairman Boxer stated just a quick question because I, you know I don't want to, we can't nitpick, when
38 you held your meetings, did you have any public input as to any of the issues we brought up?

39
40 Chairman Hertz stated there was definitely [inaudible] for the public hearings, there was public input. The
41 biggest part of the public input that we got had to do with what Jacquie brought up earlier which was access
42 and egress from the two residential developments how that's always been problematic and to make sure
43 that that really was, was dealt with in this and I think I will, I'm not going to. I will give the applicant
44 credit where credit is due, they've heard this compliant for many, many years and I think they're fairly
45 aware of their site. I think Diamond Properties office is in the site so they see this on a daily basis but I
46 think they really did a wonderful job, you know spending the years and the money and the time to amass
47 the properties and come up with a master plan. We're just trying, they've done the heavy lifting, we've
48 given opinions and we've conducted a little but of the wand but they and their professionals have done the
49 heavy lifting here and I think, we're very, very close what I think will be an excellent project. And that's
50 also why I would encourage everyone to speak up and to give the input now because this is really close to
51 the end of our opportunities to make this the best project we can. We're all going to be living with this for
52 a very long time and this is, this is one the major projects that will define the face of Mount Kisco, along
53 with what's probably going to happen in the Moger lots, assuming that that moves forward. So I think this
54 ia very valuable process and exercise.

55
56 Mr. Hoyt stated I agree with Wayne and what Wayne said and I think on the issue of the DOT entrance
57 issue that we've spent so much time talking about, I do think I have to defer to the experts. And while it
58 doesn't make a whole lot of sense in isolation, I've heard enough to make it seem like it's likely not going
59 to be an issue and again the professionals have weighed in and my two cents on that is taken holistically,
60 they've done a lot of work and I agree with Wayne's statement.

61
62 Chairman Hertz stated anyone else have questions or input or want to get anything answered before we
63 conclude?

64
65 Chairman Boxer stated I just want to say you did a great job.

66

1 Chairman Hertz stated I would like to congratulate the applicant on all the work they've done to get this to
2 the point at which it is, so I think we're going to have a very successful project, we just need to get to the
3 end here. Obviously, they have to do a little bit of legal homework and figure out some of these issues with
4 Whitney but assuming that that can be achieved, I think we're very, very close, so.

5
6 Mr. Spina stated thank you.

7
8 Chairman Hertz stated so with that, it sounds like there are no more questions and/or input from Board
9 members. So I'd like to thank Chairman Boxer and the Zoning Board members for taking the time and the
10 applicant for having this special meeting. So with that, I'd like someone to make a motion to conclude this
11 special joint meeting of the Mount Kisco Planning Board and Zoning Board of Appeals.

12
13 Chairman Boxer stated so moved.

14
15 Chairman Hertz stated and it sounds like everyone is seconding, they're echoing. So everyone in
16 agreement raise your hand or say aye. With that, this concludes the joint meeting and we'll see you again
17 at our regularly scheduled times.

18
19 The meeting adjourned at 8:25 pm.