

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, September 15, 2020 at 7:05 pm** via Zoom Teleconference

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

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

Chairman Boxer stated good evening this is the September 15th meeting of the Zoning Board of Appeals. Some changes to the agenda, number one is off, Sunrise Community Solar, number two is off, DP-21, LLC.

The Secretary stated no, it's not.

Mr. Miley stated Harold, ShopRite is still on the agenda. Stephen Spina is with us, logging in now. ShopRite, that's number two, DP 22, LLC The Park, they are still on.

Chairman Boxer stated they're on?

Mr. Miley stated that's correct.

Chairman Boxer stated okay, then the other two that are supposed to be 6 and 7.

Mr. Miley stated 6 and 7 are still with us. Do you want me to go through the agenda?

Chairman Boxer stated I have it in front of me.

Mr. Miley stated that's not correct, we have, its my understanding that number four, 85 West Hyatt, is going to adjourn, I believe Whitney has additional information on that.

Whitney Singleton stated let's just go through one at a time, I don't mean to backup on you. Sunrise Community Solar has requested to have their public hearing adjourned until the October meeting. So your Board needs to make a motion to adjourn them to October...

Mr. Spector stated that's number one?

Chairman Boxer stated right.

Whitney Singleton stated that's number one, do you want to just handle that one right now?

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| 1. Sunrise Community Solar, LLC | ZBA# 20-5 |
| 180 S. Bedford Road | Area |
| Mount Kisco, NY 10549 | |
| (SBL) 80.44-1-1 | |

Chairman Boxer stated sure, can I have a motion please?

Mr. Weise stated motion to adjourn Sunrise until October.

Mr. Miley stated October 20th.

Mr. Spector second the motion.

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

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| 2. Lisa Abzun | ZBA# 20-8 |
| 85 West Hyatt | Interpretation |
| Mount Kisco, NY 10549 | |
| (SBL) 80.32-2-7.1 | |

Whitney Singleton stated the next item that is going to be adjourned is item number four.

Chairman Boxer stated right.

Whitney Singleton stated there's still come discussions going on between the Building Department and the applicant, so they're requesting to be adjourned until the November meeting, which would be I believe the 17th of November, is that correct?

Mr. Miley stated I'm confirming right now, just bear with me, we're looking at the calendar. That's correct Whitney.

Whitney Singleton stated so we need a motion for that.

Chairman Boxer stated I'll make a motion to adjourn number four until the November meeting.

Mr. Weise seconded the motion.

Whitney Singleton stated I believe, sorry... **all in favor?**

The motion carried by a vote of 5 to 0.

Whitney Singleton stated and with regard to the additional cases that you have on tonight, I think there's confusion, DP 21, LLC they're on the agenda tonight because you're incapable of taking action on that tonight because there is coordinated review between you and the Planning Board under SEQRA and because the Planning Board as lead agency has not concluded their SEQRA process, any action by your Board would have to be deferred. So you can continue to entertain the application, you just can't vote on it.

Chairman Boxer stated okay.

Mr. Miley stated Whitney, just let me interject for a second, I believe a neg. dec. was issued on that.

Whitney Singleton stated oh, it was issued, okay, I retract my statement then. Your Board is in a position to take action.

Chairman Boxer stated okay, and what about the other two? PL Property Management?

Whitney Singleton stated PL Property Management, and again I'm subject to being corrected again. But 77 Smith Avenue, your Board is allowed to take action on that, it's a Type II Action under SEQRA irrespective of what the Planning Board has done, you're allowed to take action on that one.

Chairman Boxer stated okay.

Whitney Singleton stated and with regard to items six and seven, your Board can certainly get feedback but right now there is a subdivision application going on for those two properties. So we can certainly give feedback to the applicant as to whether or not your view their proposal as favorable but because of the subdivision, we're going to have to wait. And because one of them is a five family residence, we're going to have to wait until the Planning Board takes action and Peter, I don't believe the Planning Board has taken action yet with regard to anything on that since they require subdivision.

Mr. Miley stated correct.

Whitney Singleton stated okay.

Chairman Boxer stated okay, then we will begin, DP 21, LLC is first on the agenda. Is the representative from DP 21, LLC here?

**3. DP 21, LLC (The Park)
333, 383, & 309 North Bedford Road
Mount Kisco, NY 10549
(SBL) 69.50-2-1, 69.51-1-3, 69.43-1- 2 & 3**

**ZBA# 20-6
Area**

Mr. Stephen Spina of JMC was present.

Mr. Miley stated yeah, we have Stephen Spina speaking on behalf of the applicant. Stephen, you're on.

Mr. Spina stated hello everyone.

Chairman Boxer stated hi, I don't see you on Zoom.

Mr. Miley stated there's no video, just voice.

Chairman Boxer stated okay, we'll listen.

Mr. Weise stated Stephen just muted himself.

Whitney Singleton stated he's there.

Mr. Spina stated sorry, I have an unexpected visitor. Alright, good evening everyone, Steve Spina from JMC...

Chairman Boxer stated Steve, put your whole face in the camera please.

Mr. Spina stated here we go.

Chairman Boxer stated yup, good, thank you.

Mr. Spina stated alright, hi everyone. We were here before the Board in July, we've been adjourned until tonight. I believe the first meeting went pretty well, we went through all the variances we were requesting, I believe the primary comments I believe from the Board were regarding traffic and truck circulation and the retaining wall in terms of aesthetics, the height, what it would look like you know, from the lower parking lot and some other angles. And I had mentioned at the time that we requested also by the Planning Board to create 3D images of the retaining wall so I have that tonight to review with your guys, I can share my screen, we can go over some slides that we have. I don't know if there was any other comments between that July meeting and now that anybody had or came up with. We did make a resubmission to the Planning Board twice, we've addressed some comments from the Planner and the Engineer, resubmitted to the DOT, we've coordinated with Bedford's traffic consultant. So few things have happened since July when we last met. The plans really haven't changed in terms of you know, the layout design of the site. I guess the changes were really just some landscaping, lighting, housekeeping items since we changed development coverage and impervious areas and stuff like that. We had to update some narratives and figures that we had previously prepared for the Planning Board and as far as the DOT, it was a few comments addressed in terms of traffic signal timing and with Bedford as well, their traffic consultant. So really, since the last time we were before the Board, the design of the project hasn't really changed, we maybe just have a little more information to show you tonight in terms of 3D images.

Chairman Boxer stated okay. Whenever you're ready. I'm just wiping up a spill, so don't mind me.

Mr. Spina stated can everybody see?

Chairman Boxer stated mmhmm.

Mr. Spector stated yes.

Mr. Spina stated okay, I'll just click through, this is an aerial image of the site, we went through this last time with the property boundary and the Town line in red there. So this is what we developed since the last meeting where basically we were trying to explain the retaining wall last time and we have images of it, so hopefully this helps. This is a view kind of over the building, looking this would be northeast towards North Bedford Road, here is the existing driveway up here, so this just shows several locations. This just shows several locations of where we made 3D images and I'll go through those now but you can see, you know there's some proposed landscaping on the uphill here, this is the sidewalk coming down that we're proposing along the roadway and then there's some landscaping in front of the wall as well and then there's a safety fence along the top of the wall. I think just a couple little things to note with this slide here, this location about right here is where the wall had previously been the highest because it really kind of went out in this alignment and we really pulled back this location. So kind of before, you know in this location kind of has stayed the same but where it kept kind of increasing, now it sort of stays the same and then decreases a little bit here and then maybe goes back up a little bit right here and then comes back down...

Mr. Weise stated so you sacrificed in parking spaces?

Mr. Spina stated well that's the highlights of the changes we made. Excuse me?

Me. Weise stated I said did you sacrifice some parking spaces or you just...?

Mr. Spina stated no, we did not. So what we ended up doing was, we did a little bit of reconfiguration of this lot here but really what helped us keep the parking is that previously we were following the Code of Bedford for the parking spaces on the Bedford side of the Town line, basically on the north side of the

building. So Bedford requires all parking spaces to be two foot, two feet longer than Mount Kisco and also the drive aisle widths between the parking were one foot wider than Mount Kisco's. So, you know we decided to basically keep everything consistent with Mount Kisco standards and we carried that across to these parking spaces, so it basically allowed us to tighten up the parking lot a little bit over there where whatever parking we lost here, we're able to gain back there. And this layout that we're showing, is the same layout that we reviewed in July, I don't know if you remember where I kind of had the plan with the red lines on it, where the red lines were the, I believe the old design that kind of show how we were pulling that wall back and we kind of reconfigured the parking. This is that same design but that was a good question, the key was we really wanted to keep the number of parking spaces, just for overall consistency with you know, all the applications and our variance that we were already asking for and all the parking analysis that we've done. So, and ShopRite requires a number of spaces so that was important. If there are no more questions, I can go through the images corresponding to each one of these numbered arrows.

Mr. Weise stated that would be great.

Mr. Spina stated okay, so this is the first image here, so we're kind of at that northeast corner of the building looking up towards the roadway where that proposed roundabout is here, North Bedford Road off in the distance. This white mass here would represent the building on the corner of the driveway here, not part of our project, it's the Martabano building behind the building along 383 North Bedford Road. So you can see, proposed landscaping here as I described, there's some proposed landscaping on top of the wall with safety fence and right now we're showing the wall as a, kind of a ready rock type wall where it's got a little bit of a decorative face, it would still be the large blocks assembled, excuse me. And then there's landscaping in front of the wall, we do have a vegetated swale there for drainage conveyance, so we're able to put some landscaping up against the wall, we chose some grasses and some ivy that would grow up along the wall, excuse me. This is just another image, so now we're looking along the wall here, you can see the little swale in the landscaping, so we thought it, lowering the wall helped a lot and then also the landscaping really helped to break up the mass of the wall.

Mr. Weise stated I would say it looks much improved from the first rendition.

Mr. Spina stated definitely. Yeah, I think we worked really hard with the retaining wall design in trying to keep the parking lot design consistent and the number of spaces, also to focus in on reducing that height. But also the additional landscaping definitely helps soften it. This is a view looking north, this is the driveway looking down, the building where ShopRite is proposed to be behind us and the wall just kind of tapers down to nothing and this grade meets. Here is another image, I think that's more towards the wall but looking north, northeast. This is farther down south, the roundabout is kind of over to your left here. This may be kind of where the ShopRite loading dock is tiered back. You can see like I had said originally, on the left side of this image, it's kind of where the wall was the worst in terms of the height it was really high before because it was far out into the slope. Now, kind of the highest area would be, you know kind of opposite where the ShopRite loading dock would be on the east end of the building. And this is again, similar location, kind of looking more south, southeast here.

Mr. Hoyt stated just refresh my memory, what's maximum height again?

Mr. Spina stated right now it's 14 feet, I think previously it was, sorry, go ahead. I was just going to say, I think previously it was like 23 feet, we were able to reduce it quite a bit. I think this is the last image we show. So this is just way down on the southern end, kind of looking more along the building here, ShopRite would be on the corner.

Mr. Weise stated were there potential drainage concerns with the 23 foot wall? I mean, is this solving many problems?

Mr. Spina stated the only concern with drainage that there was with the wall that high was we originally had piping running through the wall or underneath the wall to get from that proposed stormwater system, underneath where the roundabout is to get the water down to the parking lot where it eventually needs to go, we rerouted some drainage around the wall, now that the wall in that location is a lot smaller, it went from 23 feet to 8 feet in that kind of critical corner that I was talking about, you know we just are running the piping down the slope, you know in an easier, it would be easier to, if they ever had to get to the piping, they take apart the wall god forbid or something like that, it would be easier to do. So if helps with that, you know lowering the wall height reduce the disturbance on the steep slopes because there's just less grading that is needed, the reinforcement geogrid of the retaining wall, there's less of it because the height is lower, reduced, so it would reduce the disturbance. It reduced, you know a few trees that we previously has to remove from the slope we were able to sort of save now because we don't have to disturb as much of land, so it helped in that regarding. And I guess the biggest thing in terms of drainage, it reduced the amount of impervious area a little bit because we were, you know weren't going as far into that slope. You

know, we tightened up the parking as I said on the north side of the building in the Town of Bedford but there was still a reduction in impervious area, so it helped mitigate the drainage.

Mr. Weise stated did you add trees or does this plan just not take as many down?

Mr. Spina stated well we added trees too. The previous landscaping plans honestly never got into the detail of the design yet but we didn't have any of the landscaping in front of the wall or top of the wall, we did add some trees and shrubs on the slope, which still have, so in terms of that we didn't add any trees up there, you know we added a lot of shrubs but we added trees elsewhere on the site as well.

Chairman Boxer stated great.

Mr. Spina stated there were some comments from the Planning Board Consultant regarding the quantity of trees so some more were added between July and now. This is just the same slide showing the trees there. Are there any other questions about the wall or for what we're proposing there?

Mr. Spector stated I think the wall is much improved.

Mr. Spina stated thank you. And when we met in July, there were, we went through all the variances that we needed, a lot of them are existing nonconforming to remain, things like that. I don't recall there being too many specific comments on those variances, I'm just wondering if anything has come up since then or if anyone has any questions to comments on any of the variances we're requesting. We can try to help discuss that, if there are any.

Whitney Singleton stated Steve, I have a question, this is Whitney.

Mr. Spina stated hi.

Whitney Singleton stated have the degree of your variances or the nature of your variances changed at all by virtue of changes in your plans.

Mr. Spina stated no. The, I guess if you compare from when the project started until now, yes, we've lessened a lot of the variances or what we need for the variances. But in terms of what has been submitted to this Board from July, no. That submission, this design, what you see now is what we already submitted to this Board, you know we have the reduced parking lot with the reduced wall. I kind of went over that you know, the first meeting and kind of explained what we did from you know initial submissions with the Planning Board to now. The list variances that is before this Board has not changed.

Mr. Miley stated Stephen, the length of the wall hasn't changed by bringing it in? Should it not be shorter?

Mr. Spina stated it really didn't. What ended up happening is this piece on the left side on the north end of the wall, actually went, got a little bit longer with result of a few things we did with grading here, so. So I think it might have changed like 5 linear feet...

Mr. Miley stated increase or decrease?

Mr. Spina stated decrease.

Mr. Miley stated okay.

Mr. Spina stated it was you know, an insignificant amount. It went from maybe like 1,115 feet to 1,110 feet.

Whitney Singleton stated and you're measuring the entirety of it, not just the portion in Mount Kisco, correct?

Mr. Spina stated that's correct, that's the entire wall.

Whitney Singleton stated can you give us a length for the portion just in Mount Kisco or you don't have that?

Mr. Spina stated I can, not right this moment but let me see if I can, I can try to measure it.

Mr. Hoyt stated how are you dealing with the reduced parking on the Bedford side? Are you spacing, are you required to get a variance from that Town as well?

Mr. Spina stated I don't know the answer to that, we are trying to get before the Planning Board again over there and the thought is that the Planning Board may be able to provide waivers for what we're asking. And the only reason we think that is because that's what happened in, I think in 2007 when this site was redeveloped from the previous warehouse use where all the parking that was built today, basically they at the time, the designers utilized Mount Kisco's standards for the parking lot layout and they applied that on Bedford as well and it was acceptable and there were waivers from the Planning Board for that. So we're hoping to lean on that precedent but once we get before the Bedford Planning Board we'll know whether or not they're going to send us to their Zoning Board or not.

Mr. Hoyt stated and if they don't, if they reject it, does that mean you're back to square one with this plan or what's your plan B?

Mr. Spina stated I think our plan B would have to be just a loss of parking spaces, you know we would probably lose you know 10 or 12 parking spaces because we, I think at this point, now that we've done the, we've gone through the exercise of layout studies and revising the grading and looking at the retaining wall, it makes sense to do what we were doing with the wall. So if they don't accept the parking slight revisions, reductions in their parking we'd have to lose spaces on the Bedford side. And we discussed this with ShopRite and the applicant and you know, we feel that's, we feel fairly confident we'll get cooperation from Bedford, if not then we're prepared to lose the spaces.

Mr. Hoyt stated they do drive bigger cars over there in Bedford.

Mr. Spina stated yeah, it's just two feet longer and a little bit wider of a drive aisle, it made a bigger difference when we really looked at it.

Mr. Hoyt stated which Town is, out of curiosity, which is average, Mount Kisco standard or Bedford standard, in your dealings with the Towns?

Mr. Spina stated Mount Kisco is more typical, the 9 by 18 with the 24 foot wide drive aisle, is definitely more common.

Mr. Spector stated what's more appropriate for the proliferation of larger minivans and you know, SUV's that seem to be out there, all over the place.

Mr. Spina stated certainly, you know I can't argue that the smaller spaces are better for those cars, I mean, you know, the larger spaces is typically preferred by anybody parking a car, that is how I feel. But there's, you know, we've looked at a lot of municipalities and a lot of them go by the 9 by 18, its pretty standard. I know that the larger suburban's and pickup trucks they, those cars tend to you know, push the envelope with the 18 foot parking spaces and there end being a trend of increasing that in the future.

Mr. Spector stated what is more critical, the length of the space or the width of the aisles?

Mr. Spina stated I guess I would say the length of the space just because its two feet longer, rather than one foot of the aisle, that help more in terms of just being able to get that parking quantity.

Mr. Hoyt stated I thought you mentioned there, we had some questions about turning radius of trucks, you had something about that as well?

Mr. Spina stated I guess we could go through the truck turning plans, you know I think all I can say really about the trucks is that we, I think we kind of touched on this last time, is that when we originally designed the driveways they were wider and we were utilizing a left turn lane to turn left, you know what you would think would be normal or common sense, and you know once we submitted to the DOT for their review, they said the driveways were way too wide. They felt that the small percentage of time and maneuvers that are from large tractor trailers didn't warrant having these very wide driveways to make these maneuvers. You know both in terms of the size of the driveways, in terms of any potential traffic delays there could be, So we really don't, we really don't have much of a choice in terms of what the DOT will allow, we really went back and forth with them on this a lot and you know what we have now is basically the maximum width of the driveways they would give us. So they work but they're no ideal because as we went through last time the trucks, to make some of the turns have to turn left from a thru lane for instances, so and that's something the DOT has approved conceptually and we think if we stay with this, will approve but there is no doubt that your Board and Bedford's Planning Board and Mount Kisco's Planning Board have all not been thrilled with it in terms of you know what needs to happen for the trucks to get in and out of the site but I guess when you look at you know, the overall improvements that are being made in terms of the aligning the intersections and all the other onsite and off-site traffic mitigations, you know, the level of services and delays on the traffic signals throughout the corridor and specifically at these two intersections you know, all improve and that's with conservative analysis assuming that there's still a ShopRite where

there is one now and this new one and that would be two grocery stores and other factors that the DOT and both municipal consultants have you know weighed on us in terms of you know, being conservative looking at you know, worse case kind of scenarios. Even with all that, it's still improved. I hope that this Board would kind of feel the same way that the Planning Board does in Mount Kisco, that you know, while not ideal, it's still a vast improvement.

Mr. Alfano stated I was just going to comment. It's an improvement in the sense that you're aligning the drive into the Park and Foxwood Circle but I don't think it's right for the DOT to assume that trucks are going to turn from the through lane, that seem to me to be a poor assumption. It's nice on a piece of a paper but I don't think that's the reality.

Ms. Broth stated I'm also a little confused about this slide that you're showing us because it's showing northbound traffic going in through the northern entrance and that is not the case. Northbound traffic will be going in through the southern entrance that is my understanding from our last discussion.

Mr. Spina stated I think northbound traffic, we have it going in both, so we have it where there's not exiting out of the southern entrance, I think the northern entrance had all of the exiting maneuvers but we had them able to come in both entrances but they both have to, both maneuvers involve a truck making the turn from the through lane.

Mr. Alfano stated yeah but trucks, so it's the same issue regardless of the southbound entrance or the northbound, the trucks are not going to, as a truck driver, I'm not going to assume that I'm to turn from the through lane.

Mr. Spina stated right well, the only other thing we can show is them in the left turn lane and swinging out across the through lane and back over.

Mr. Alfano stated no, I understand, I'm not criticizing, I know, I'm not criticizing you, the DOT's assumptions...

Mr. Spina stated I see what you're saying...

Mr. Alfano stated the DOT just, right.

Mr. Spina stated we really went back and forth with them a lot on this and they basically told us we have to show it like this. You know, they said look, if a truck get in there by doing this, that's what we're going to, the driveway is wide enough, that's basically what they said.

Mr. Alfano stated I get what they're saying, I think that's the wrong way to look at the, the wrong way to propose the design though, I don't...

Mr. Spina stated we agree, I mean we,...

Mr. Alfano stated it's a weird way of making that, of coming to that conclusion.

Mr. Spina stated yeah, they've been so fixated over the last few years over narrowing driveways and that you know, focusing a lot on pedestrian safety, trying to get shorter crosswalks and more pedestrian signal time, stuff like that. You know and it, of course those are all good things but sometimes they hurt the maneuverability of the intersection and maybe even the ability of it to handle the volume.

Mr. Hoyt stated I think you...

Mr. Spina stated it's kind of been an ongoing battle we've been having with them not only on this project but on other projects.

Mr. Hoyt stated I think you mentioned this, we touched on this last time, was there any limitation on the hours trucks can go in and out? Is this is, probably they're going to come in the morning.

Mr. Spina stated I can try to look for the chart we had gotten from them but I can maybe send it to the Board after the meeting but I think there was something like, I want to say maybe twenty deliveries a week from the big tractor trailers and they're all in the mornings. I think there's one or two that were maybe at like noon or something like that but they're all very early, you know seven o'clock, eight o'clock, six am and then there's a few other ones that kind of come at 10, 11 or 12, something like that. They're all in the morning...

Mr. Spector stated you're talking about only the ShopRite deliveries or are you talking about because there are other business that use driveway.

Mr. Spina stated no, this would, that and I'm not 100% on those numbers in terms of the quantity, I remember the timing more than the quantity, so that quantity was just from ShopRite, so there's still, there's other tenants there now that have large trucks or maybe not quite the ones we're showing in terms of the size but the large 18 wheelers that would continue to deliver and arrive and leave from the site.

Mr. Alfano stated which happens today at all times of the day.

Mr. Spina stated right and when we did our traffic analysis, we factor in you know these truck trips, we counted you know on the traffic counts, we counted existing conditions truck trips and then we add project truck trips based on the data we've been given by ShopRite and then also data from the traffic standards per the use. So we do factor in you know, tractor trailer trips which obviously is a good thing to do, it slows down the flow of traffic, so we factor that in when we analyze all this.

Mr. Spector stated so there's going to be left hand turn signal there?

Mr. Spina stated yes, there's one today but I guess the problem is that because the intersections are offset, there's an extra phase, an extra cycle length that just slows down the through traffic more. When we align these, the cars leaving Park Drive and leaving the driveway could go at the same time, like a typical four way. That's in a nutshell, I'm not a traffic engineer...

Mr. Spector stated this is really unbelievable because the fact of the matter is the right hand lane where the trucks are going to be turning, will typically be where vehicles wanting to go straight will get queued up. So any truck that's looking to make the turn is going to get stuck behind passenger vehicles that are looking to go straight and it's going to miss the left hand turn.

Mr. Alfano stated that's why to me, its such a surprising assumption by the DOT to make that assumption that trucks would turn from the through lane.

Mr. Spina stated I mean I think...

Mr. Spector stated they're going to get stuck behind other cars.

Mr. Alfano stated right.

Mr. Spina stated right and I think reality, they'll probably be in the left turn lane and when they have to, they'll...

Mr. Spector stated they're probably swing out, is what they're going to go.

Mr. Spina stated probably swing out a little bit into this through lane here and sort of have it where the edge of the, the body of the vehicle kind of mimics a path like this so they can make that swing. I mean, I know for a fact they do it now and I'm not saying that's correct, that's what they do now and the driveway will be quite a bit wider. So we know that it can happen.

Mr. Spector stated I mean there's not going to be signage or anything that says that trucks turning into the property must use the right lane, so trucks are going to come and approach it using their best common sense which is to be in the turning lane.

Mr. Spina stated the left lane, right and then probably swing out a little bit into, right.

Mr. Alfano stated Stephen, the DOT's goal it sounds like is they want to reduce the length of the crosswalk, is that correct?

Mr. Spina stated right, that's one of their main focuses is reducing that length of the crosswalks and driveway widths.

Mr. Alfano stated okay then that's driving their assumption of trucks turning from the through lane which is not the right assumption. Because common sense would be, like Wayne said would be you turn from the left turn lane. The response to that should be, even though we should widen the pedestrian crosswalk, the distance but you know if the response is that well there's a concern about pedestrian safety, that's why you have traffic controls to mitigate that.

Mr. Hoyt stated why not put the, maybe we talked about this before. Right now trucks making the left turn are going to, if they don't swing wide enough, they're going to sideswipe the car leaving the property going straight or making a left, right? Why not move that white line for those case going straight or left out of the property, move it back?

Mr. Spector stated that's a great idea.

Mr. Spina stated no, that's a great point and we had it like that on our original designs, we had the stop bar setback and they don't want, they don't want stop bars away from the intersection either, that was a comment from the DOT was to move the stop bar up. We originally had it staggered, so we had, for instance, this one, we had back here somewhere and this one we had where it is, so you know this car could pull up you know here and this car could pull up farther because there's really nothing impeding it and they wouldn't let us do that either.

Mr. Spector stated well I could see why the right hand turning they wouldn't want that because then vehicles would have a difficult time making a right on red but the cars going straight or left, there shouldn't be any probably if you move that stop bar back, I don't really get it.

Mr. Spina stated we agree. We had that on our earlier designs and that's something that they've denied.

Mr. Spector stated could, if Mount Kisco makes a request to DOT, is that something they would listen to on this?

Mr. Spina stated we kind of already have done that because you know, maybe not necessarily in writing but on a lot of our coordination with the DOT engineers, we've had conference calls with them and Bedford's traffic consultant and Mount Kisco's traffic consultant. We were all on the phone together just swapping ideas and just discussing it and showing plans and you know, they plead those same comments in terms of why can't we just move the stop bar back, you know we, I kind of chuckle when you guys say this because its stuff we already went through with the DOT and we feel the same way you do and we were unsuccessful in convincing them. Maybe if it came from some sort of, maybe the supervisor or a letter from the Board or something like that, maybe that might so something but the DOT, they're just going to respond to us that either you do it like this or we're not going to approve the project.

Ms. Broth stated they're just going to sit back and wait for accidents to happen.

Mr. Spector stated right, and then they'll change it.

Ms. Broth stated because that's exactly what's going to happen there. There are near misses there now with minimal tractor trailer traffic.

Mr. Spina stated we can look into, you know we can find out from, you know I guess from the supervisor's office, maybe there's a chance of putting something together and explaining or pleading our case but just based on the calls we've had and the correspondence so far with the DOT, I would be really surprised if they would change their mind on it.

Ms. Broth stated Whitney, at the last call you had said that we had the opportunity if necessary to talk to the Mount Kisco traffic consultant, would that be of any benefit to this group?

Whitney Singleton stated that's your call, if you guys would like to arrange that, we can arrange that.

Mr. Spector stated it sounds like the Planning Board is taking a very hard look at this for the site plan review as well.

Whitney Singleton stated yes they are, as well as the subdivision and I apologize because I don't have everything in front of me, there is a lot associated with this application. What component of the access relates to one of the 19 requested variances?

Mr. Spector stated that was my question, my next question, thank you.

Whitney Singleton stated I understand your concern, I share your concerns but the question is to what extent are they germane to the issues before you. And I think that one of the issues that you guys raised before and it was a valid issue related to traffic, was the proximity to the driving lane to the building and would trucks hit that building.

Mr. Spina stated at the north...

Whitney Singleton stated the exiting trucks, I mean clearly that's a...

Mr. Spina stated [inaudible].

Whitney Singleton stated I'm not trying to get into a new issue here but we have a dozen plus variances here and I don't recall, Steve, can you comment what was the, what component of your application necessitated a variance from the traffic related issues or access issues.

Mr. Spina stated well I guess it would be, anything really relating to the building setback on 383 North Bedford Road because the building is touching the lot line basically. So we... we slid this over as much as possible and try to work with the owner of this lot who wants a certain building size and shape and square footage and give them that and but [inaudible – lost audio].

Whitney Singleton stated no, I don't know how much of the proposed building is new and how much of it's going to be existing, are they keeping any of the shell? Or is it going to be a completely new building?

Mr. Spina stated at 383?

Whitney Singleton stated yeah.

Mr. Spina stated no, it's going to be a completely new building.

Whitney Singleton stated that's obviously a relevant concern and pertinent inquiry of the Zoning Board with relation to that location and that's certainly something that the Village's traffic consultant and/or engineer could comment on but other than the turn, the approvals of the DOT, unfortunately, while they may be completely relevant to the general operation of North Bedford Road, they're kind of beyond the scope of your Board's inquiry on this particular matter. And I'm saying that without having all of the variances in front of me, I could be proven wrong.

Mr. Spector stated I would have a question, let's say the building is smaller, I don't really see how that would even change the issue about that we're discussing about the ingress, I don't even see how that would have an impact on it.

Mr. Spina stated it really wouldn't, I guess the main issue with it is the width of the driveway.

Mr. Spector stated and it's the crosswalk that really seems to be driving the bus here, or driving the truck.

Mr. Spina stated right...

Mr. Alfano stated sorry Steve, go ahead...

Mr. Spina stated I was just going to say our previous design we had kind of line a slip ramp here and then we had an island in the middle where we thought was kind of safety entrance to wait, so you kind of had two smaller crosswalks or this one here but then a smaller one and they didn't see that way. You know it's, the northern driveway is a little tougher obviously too because of the angle for the trucks.

Mr. Alfano stated I was just going to comment to Whitney's question, I mean it's definitely, a number of us see it as an issue but to your question, I don't think it pertains to any of the variances that have been requested. So it should be noted but we probably should move on.

Mr. Spector stated I think is just an issue that we can note our displeasure with but there's really not much we can do about it at this point, that's all there is.

Mr. Spina stated we'll talk to the, maybe Whitney, you and I can speak with Jan and maybe if, I don't know if makes sense to try to do something, you know like you guys said a letter from municipality to the DOT. I mean, I'm willing to try it but I don't know how successful that might be but you know, whatever we can do to make it better, we'll try to do.

Whitney Singleton stated what your Board might find helpful and it doesn't have to end the discussion here but what your Board might find helpful, given the number of variances requested, perhaps I can begin to prepare a resolution which would identify each of the pertinent issues for you for your consideration at a subsequent meeting. Rather than just say we have a dozen and half issues here and vote on them, you might be better served to see each one of them broken down one by one, what is the standard, what is the variance, what are the impacts here? And then you could, perhaps evaluate this in a more discernable fashion going through one by one.

Mr. Hoyt stated sounds good to me.

Mr. Spector stated I think that would be helpful.

Chairman Boxer stated yeah, that would be good.

Whitney Singleton stated Steve, do you anticipate, when do you anticipate being on an agenda of the Planning Board in Bedford?

Mr. Spina stated I think its going to be October, they haven't gotten back to us at all about the upcoming meeting on the 22nd. The same night as the Mount Kisco Planning Board but we've done that before.

Whitney Singleton stated right but you're...

Mr. Spina stated I think it's going to be October.

Whitney Singleton stated do you have feedback as to whether or not they find the wall to be acceptable? They find the traffic lanes and parking spaces to acceptable? You know, I don't think you want to get too far with Mount Kisco and then find out that relief that was granted to you by Mount Kisco may not be granted to you, you know, the necessary counterpart to that may not be granted in Bedford and it throws off your plan.

Mr. Spina stated right, right, I understand, we don't...

Whitney Singleton stated I certainly don't...

Mr. Spina stated we don't have that feedback, we've been trying to get back before the Bedford Planning Board since July. We last went to them before we went to your Board and they're just reluctant to put us any agendas, it's a [inaudible]...

Whitney Singleton stated okay.

Mr. Spina stated we really want to get back before them because we want to show them the wall and we want to discuss the parking reductions on their side of the municipal line, so certainly that's a big step as well, this Board and that Board.

Whitney Singleton stated so perhaps it would be helpful, do you think you can send me a complete electronic copy of your Zoning Board package, so that I have electronically with an update as to what extent any of the requested variances have changed?

Mr. Spina stated yes.

Whitney Singleton stated okay and then I can start to prepare something for the Zoning Board so they can better evaluate it.

Mr. Spina stated okay.

Whitney Singleton stated I can try to have that for your Board's next agenda for next month.

Mr. Hoyt stated I hope you're not the only one working on this whole project, it seems like you are, you must be swamped.

Mr. Spina stated me or Whitney?

Mr. Hoyt stated you, Steve.

Mr. Spina stated no, no, we have a good team on it. I guess I'm just the lucky one that gets to do the meetings but we're, you know the next steps for us are hopefully positive results from your Board, positive results from Bedford's Planning Board, we're awaiting comments or hopefully an approval back from the DOT and then we go back to the Mount Kisco Planning Board. That's kind of our, those are sort of the next steps for us.

Chairman Boxer stated is there anything else you want to tell us, Steve?

Mr. Spina stated I think that's it, I mean last time we went through the variances and I think like Whitney said, they're really all relating to, there's really nothing relating to the traffic or the truck maneuvering that

I can think of. But we'll send him everything we have and we'll go through it and make sure there isn't anything relating to that.

Chairman Boxer stated anybody have any other questions? Alright be take, before the next one comes, I need a five minute break please.

Whitney Singleton stated we're adjourning this application to the October meeting, correct?

Chairman Boxer stated yes we are.

Mr. Spina stated okay, thank you everybody, good night.

Mr. Hoyt stated thank you.

Chairman Boxer stated okay, ZBA20-7, Sunrise Solar Solutions.

**4. Sunrise Solar Solutions, LLC for Eric Messer
39 Prospect Street
Mount Kisco, NY 10549
(SBL) 69.72-2-5**

**ZBA# 20-7
Area**

Mr. Doug Hertz of Sunrise Solar Solutions was present.

Mr. Hertz stated yes, indeed, Doug Hertz here for the applicant. So Peter, can I get a clarification on the discussion we were having?

Mr. Miley stated Chairman, I took a look at this application and it references a section of the Code that is kind of vague, with regard to the 750 square feet, I did some dimensions, they do not require and I apologize to the applicant because it was referenced in the letter. They do not require because they're not exceeding 750 square feet, however the actual structure is considered a noncomplying structure with regard to dimensional setbacks and the Code does reference shall comply with zoning requirements for accessory structure, that's what was on the notice. So, I'm going to ask Whitney if he can assist me with this section of the Code to see how it applies to noncomplying but a CO was issued for the actual building for the accessory structure, so it essentially noncomplying with regard to dimensions, side and rear yard setbacks.

Whitney Singleton stated Chairman, as your Board is aware whenever we have a building that's noncomplying with regard to dimensional requirements of the Zoning, any enlargement or alteration of that structure requires a variance before the Building Inspector can issue a permit. So in this regard, what you have a preexisting, nonconforming structure that is too close to, that is encroaching within required yards. And if you're going to increase it's height, you're going to increase its size, you're going to alter it in any fashion, it requires a variance from the underlying setback requirements. So, that's basically it, it requires a variance from your Board before the Building Inspector can issue a permit for something that would otherwise be entitled to a permit as of right.

Chairman Boxer stated okay.

Mr. Spector stated you know, I have a question first. The solar panels, do they actually increase the height of the building?

Mr. Miley stated they do, by twenty inches, I'm sorry Doug, I wasn't sure Wayne, who that question was for.

Mr. Hertz stated yeah, actually they increase in the height of the building by seven and a half inches because there's a parapet wall, we only exceed the parapet wall by seven and half inches. But yes, Peter, you are correct, the panels themselves sit below a roof but the roof is below the parapet.

Mr. Miley stated and if I'm looking at it correctly, it doesn't exceed the fifteen foot maximum height for accessory structures.

Whitney Singleton stated yeah, so the question is not that the building is too high, the question, not the question. The issue is not that the building is too high, the issue is that the building is noncomplying and it's being enlarged or altered therefore requiring a variance.

Mr. Hoyt stated and what's the standard again for alteration? Material alteration, if they, the parapet is supposedly newish, that, would that have required a similar variance.

Whitney Singleton stated I think what the proposal here, is that, and I'll let the applicant speak to it, but I thought the proposal here was to alter the building in such a fashion so that it can accept the installation of the solar panels and anything associated with that alteration is going to trigger a variance required from your Board.

Mr. Hertz stated and just to clarify, we're not altering the building in anyway, we're simply putting solar panels on the roof, so the building, we're changing nothing about the building other than the addition of solar panels on the roof. All the parapets are existing and I can share some, my screen if you'd like, I can kind of walk you through. Yeah, we're not, we're not proposing to alter the building except by putting solar panels on the roof.

Mr. Hoyt stated I was just curious whether there is a materiality standard between any alteration virtually or alteration that hits some sort of threshold, its sounds like there maybe is no threshold, it's just any alteration for a nonconforming building.

Mr. Spector stated I would personally question that because, I mean I guess there is a question as to whether the adding of solar panels because they seem to ubiquitous these days, they seem, so many houses have them. Are they considered to be a material or an alteration that does trigger this? There are a lot of dimensionally noncompliant houses, does each one of them have to come for a variance to add solar panels to the roof?

Mr. Miley stated yes, Chairman, let me answer that. So first things first, tier one solar systems are permitted up to 750 square feet on accessory structures. This is about 440 square foot system based on look at the dimensions. The only difference here is that the accessory structures is noncomplying structures with regard to how to close it is to the rear and side yard property line. So if that structure was close, excuse me, set, let's say 15 foot, I'm not sure what the exact number is in the underlying district but if it complied with the setbacks, it wouldn't be before your Board. So it is a permitted use, the tier one solar system, it is permitted up to 750 square feet. The issue here is the noncompliant, it says any alteration to an accessory structure requires a variance from your Board. So the one sentence is shall comply with the zoning requirements for accessory structures and this is a nonconforming accessory structure with regard to setbacks thereby requiring and Whitney, correct me if I'm wrong, relief from your Board because of the issue with regard to close proximity to the setbacks.

Chairman Boxer stated answer a further question, back when I was working, I saw towns that did require a building permit, some even a CO for the installation of solar panels.

Mr. Miley stated it does require a building permit and a CO, there is a building permit application before us.

Chairman Boxer stated okay. I guess Doug, you want to go?

Mr. Hertz stated sure...

Mr. Spector stated I just want to add, the precedent now and I guess the Town must follow, is that any noncompliant, dimensionally, structure because there are, you know, that does wish to put solar will require a variance is I guess the answer, from what I'm being told.

Mr. Miley stated that is accurate.

Whitney Singleton stated wait, who said that and can you say it again. I just want to make sure that I understood it correctly.

Mr. Miley stated that was Wayne.

Mr. Spector stated what I said was I just want to make sure because this is setting a precedent that any non, dimensionally noncompliant structure that may be, even you know, the lacking of foot or two of setback, that wants to add solar, will be have to come in for a variance.

Whitney Singleton stated um, I don't know that that's true but this section that we're talking about that the Building Inspector has identified, specifically requires compliance. That's why we're seeking a variance here. What it's saying is that tier one solar systems may be installed on the roof of an accessory structure provided that they do not exceed 750 square feet, which they don't and shall comply with the zoning requirements for accessory structures, which is does not. So, since it does not comply, it needs a variance, that is specific language to tier one solar systems on accessory structures. I don't know that I would necessarily extrapolate to all solar panels everywhere on every structure.

Mr. Spector stated okay, thank you, adding that language that's specific to accessory structures explains it a little bit better, thank you.

Mr. Hertz stated alright, so just a brief, the applicant is looking to install solar panels on the roof their detached garage. The detached garage sits in, violates both the side yard setback, it's a preexisting structure and the rear yard setback. We are installing panels on the roof of that you know, within the boundaries, right, we're not at the edges of either but nevertheless, where we sit within those, within that rectangle on the roof is still within both side yard and rear yard setbacks. So we're asking for side yard setback in this case is 15 feet, this building sits 7 inches from the property line and the system is located 3' 6" in from the building edge, therefore we're 4' 1" the side yard property line and therefore we're requesting a variance of 10' 11" of the 15' side yard setback. On the rear, the zone requires a 30' setback, the building located, sorry, the building is located 5' 6" from the rear property line, we're 12" in from the rear and therefore we're requesting a variance of 23' 6" for this system. So we are requesting those two variances for both a side yard and a rear yard setback. The structure if you'd like, I can share my screen just to give you a little bit more clarity, would that be alright?

Chairman Boxer stated sure.

Mr. Weise stated please do.

Mr. Hertz stated alright, please let me know if you're seeing this screen with lots of schmutz on it, full screen, can you see this diagram?

Chairman Boxer stated yup.

Mr. Hertz stated okay, so this is a view of the garage we're discussing and I'll show you a, and as you can see over here, this kind of a cut out, the roof has a reverse pitch, this is the parapet height in front of the garage here, and as you can see we're sort of reverse tilting the panels, the panels are south is to the front of the garage. So we're trying to get them ever so slightly pointed south and you can see a photo of the roof the garage there and with that, with this parapet. The structure itself or the design itself, if we're looking down from the rooftop in plan view, you can see this is the required fire setback to get onto the roof safely and then I don't have, in this one view, we don't show the property line but basically there's a property line here and a property line back here. And then I don't have in this one view, we don't show the property line, basically there's a property line here and a property line back here that we're looking to be seeking relief from and I can probably pick up the, yeah, so this is, if you look at this section, this area is where the garage is, sitting over what used to be a tree, which is no longer there which is why we can do this system now because one of those trees has come down. You know again, in a rear yard and side yard, so a preexisting nonconforming accessory structure where we're trying to add solar. Any questions I can answer on that?

Mr. Weise stated there were some comments from neighbors that we're very happy with the structure to begin with and to change it. Can you tell me how long this structure has been in place?

Mr. Hertz stated I've lived in the neighborhood 29 years, I believe the structure has been there as long as I've been there.

Mr. Weise stated and the solar panels, they're not going to be above the height of the tallest part of the building right now, is that correct?

Mr. Hertz stated the first row will sit 7 1/2 inches above.

Mr. Weise stated 7 1/2 inches.

Mr. Hertz stated this is one of those rare roofs that pitches only to the north, so to make it even slightly functional, we're trying to pitch it back to the south a little bit. So the first row sit slightly above that front parapet but again it won't be visible from anywhere. The, that building sits as sort of the high point of the slope on the property, so as you're approaching it with a 12 foot parapet in front, building height, you can't see that so it won't be visible anywhere unless of course you got to elevated spot.

Mr. Weise stated the tree that fell down, was that in this, was that in the applicant's property or somebody else's property?

Mr. Hertz stated it was right on the border between these two properties, it was this tree. Sorry, you're not seeing this anymore, I apologize. Let go back to screen sharing. Alright, I believe it was this tree indicated here, fi you can see my, and it was literally on the border between the two homes and I don't know who's house, who's property that was actually on.

Mr. Weise stated okay.

Mr. Hertz stated I just don't have that information, I'm sorry.

Chairman Boxer stated we did have one objection for the neighbor I think in the rear of the property and I know you said you wouldn't be able to see it from the street but he says you can see it from his house. I wonder if you can comment on that?

Mr. Hertz stated so while I haven't seen that letter, I apologize, let me see if I can change what we're looking at here. So these are some images we shared with ARB, so this, these are, this is the entrance to the house, you can't even see, the building is back there, neighboring homes, the building we're talking about is back here somewhere. Let me see if I can find, so this is the property here and I would imagine that this property up here, going off the screen could have a theoretical view of the back of this. I don't know what the, what their screening is in terms trees, shrubs and other things back there. I know from an aerial view, it's very, very dense.

Mr. Weise stated in the letter it says that there was shrubbery that over years has fallen down and we've seen that with climate changes taking place, a lot of our trees are falling down all over the place, so I can see how that could happen.

Mr. Hertz stated and here's an aerial view of the area, so this is the main home, this is the attached garage we're discussing, so yeah, I would imagine, it's you know probably a few hundred feet back but I would imagine that right now that that rooftop is visible so, you know I've never been one to think solar panels are unattractive, they're looking at tarpaper now, not that worlds most attractive thing, so they'll be looking at solar panels instead of tarpaper. We can probably, I mean we can probably put up a little screen of some sort, so let me just bring back up the image of the, let's see if we can go through this. Sorry, I must have closed the image, I apologize. So I would imagine that we can, we can, this is actually a reversed image because why would our engineers get it right but if you look up here, the back edge of this would be exposed slightly and we could probably put a screen across the back of this that's plain, that would basically block the view you know, of this slightly exposed component. I'm sure we can come up with something that would be neutral and acceptable.

Chairman Boxer stated okay.

Mr. Spector stated that one neighbor that wrote the letter, is their property looking down on this or across at it? What's the topography?

Mr. Hertz stated if they're in the rear, they're at the same elevation, give or take.

Mr. Weise stated do you know how far away their house is?

Mr. Hertz stated I can go to an aerial image but it's, that's got to be two hundred, that property has to be two to 300 feet deep there.

Chairman Boxer stated they front on the street, what's the other street, is it near Hyatt?

Mr. Hertz stated this is Prospect, the other side of that would be Willetts, not Willetts, Emery.

Mr. Alfano stated Emery.

Mr. Hertz stated thank you. So you're looking at, basically you have homes on prospect and homes on Emery, so those are through properties, each of which are quite deep. I can do a, I can get you an aerial measurement as we speak...

Mr. Hoyt stated I think Doug, I think the...

Mr. Alfano stated it's about 200 feet from the house to the garage.

Mr. Hoyt stated not to channel the rear neighbor's mind, it sounds like he is objecting to the ever increasing height and I think adding, you know while well intentioned, adding a little screening to the top of that to block the solar panels might be more of a bad thing. Maybe there's a way to, I don't know if there's enough room there between the property lines to put some screening, appropriate screening or edging of some sort without necessarily, keeping, continuously raising the top of the roof to try to hide the solar panels.

Mr. Weise stated it sounds like the issue is that there's just not enough space between the end of the building and property line to grow anything in there, is that the case?

Mr. Hertz stated that's our, that would be my concern, I mean there's literally a few feet, so it would be in the shadow of, you know, there's five feet and you have a ten foot high building in front of you, I don't know what you're going to get in there that's going to be successful. You know, it's in a shaded area to begin with. So I mean, we could do something to physically just kind of complete the parapet in some fashion or screen from the back but I don't know that we can be successful with installing...

Mr. Spector stated it seems a lot of the solutions that you've been, that have been suggested, simply raise the height and that's exactly what the neighbor doesn't want.

Mr. Hertz stated understood.

Mr. Spector stated the question is, the seven inches I believe you said, that a portion of this that is being raised above, which is the actual increase in height, I think, if that's correct...

Mr. Hertz stated correct.

Mr. Spector stated really what the, you know you have to analyze whether or not that's a reasonable concern and how to act upon it.

Mr. Hertz stated I think that's for your Board to decide. I think this is, I mean a seven and a half inch sliver of glass from multi hundred feet away, it is di minimus from where I stand but again I'm not in your shoes. So just to give you a sense, are you still seeing my screen?

Board members stated yes.

Mr. Hertz stated this is the house, this is the detached garage and taking a measurement, that's 200, 212 feet from house to garage. The property line is literally right there and as you can see there are other trees, other very mature trees in this area so I don't know that in the north side of a shaded area that we can successfully sort of do anything. If I go back to the image of the house itself, so this is what the building looks like on three side but on the rear, there's not parapet wall so we could simply create a simple screen on the back edge of the panels. Let me go to the other image that we were looking at earlier, so if we simply screen right back here, as you can see here's the parapet ending, so you're looking at this open nothing really and you can see the, you can see shrubs and other things back there that are currently there. We can certainly building a little block right there which would be simple enough to keep that view of the open back of the panel, if that's something the Board thinks will be useful. We can probably also build something that would be taller but that would be a more significant structure that would go almost side to side, we we'd have to leave it open at the bottom to allow for water to drain.

Mr. Alfano stated which is probably why the roof was designed as such probably in the beginning.

Mr. Hertz stated yeah, again my feeling is you know, these are not things that we're, there's always an interesting discussion when because I appear before Architectural Review Board and Planning and Zoning Boards around the County and the assumption is that you have, that solar panels are these egregious things that have to be hidden from view and of course they have to be in full sunlight to function. So there is always this interesting push/pull between how they function and people wanting to see them. And I think we all got a back taste of solar panels from those sort of early industrial things that were bright silver and kind of ugly looking. Now, most of things we install on homes are you know black on black as these are, you know these does have a tilt up system to raise it up but again it's fairly minimal and in my view looks far less egregious than an air conditioning condenser, a vent pipe and any of the other things that we allow willy nilly to protrude through all the time and don't give a second discussion about.

Mr. Hertz stated do you have picture of the actual panel, in color?

Mr. Hertz stated the panel is jet black.

Mr. Spector stated are those the panels that are right behind you?

Mr. Hertz stated no, these are industrial, these are bluish black with a silver frame. These we would use on an industrial site.

Mr. Spector stated why are you standing on a roof right now, by the way?

Mr. Hertz stated why am I standing on roof, yeah. And it's daytime no less. So the panels we use on residential systems are typically all black with black frames, they don't do this. This is a typical commercial rooftop system, where we don't pay to have the frames black anodized and things like that.

Mr. Alfano stated Doug, quick question, do the panels, if I were standing somewhere on a property looking at the panels, would I see a reflection of sunlight that would be like a visual impact to me at a certain angle?

Mr. Hertz stated so solar panels are by definition designed to absorb as much light as possible. With that said, they are, you know they do have a glass coating to protect them. So they use anti-glare, not coating, they have a glass front sheet. They put on, all solar panels have anti-glare to try to minimize reflection and increase absorption, with that said, they're still glass and they do, they will reflect, less so than your regular window or a roof window of some sort but they obviously are reflective. And you can see, if you just go around the neighborhood, around the Town, you can see any number of solar systems, some of which are better than others. But the reflectivity of them is fairly consistent from manufacturer to manufacturer.

Chairman Boxer stated is there any way, I would like to see a picture of the actual color of the panel itself before we make any decision. I don't know how the rest of the Board feels but as many shades of color black I would like to see how dark it is.

Mr. Spector stated I mean the Town Code which legislates the permissibility of installing, does it have any standards built into the Code sections as far as color, as far as any other features of it?

Mr. Hertz stated Pete can opine on that but essentially the Architectural Review Board will, has jurisdiction over, those things on systems that are front facing but they have not adopted a standard that requires anything in particular. So if you look at me, if I'm still doing screen sharing, these are the panels, they are literally that black, they're the darkest...

Mr. Miley stated Chairman...

Mr. Hertz stated yeah, I'm sorry.

Mr. Miley stated I don't mean to interject Doug, just the only standard is the glare, as Doug indicated, the anti-reflective coating is on the panel, that's the standard in our Code.

Mr. Hertz stated and we can't buy a panel that's UL listed in today's US market that doesn't have anti-glare coating. So you're not getting the world's best pictures of this but these are literally the darkest black panels we have seen on the market, they are functionally jet black.

Mr. Weise stated I would think that having a rear wall that is equal to the height of the rest of the building might make sense because I'm sure he hasn't like this building for a while, I think he mentioned that in his letter but that would be an attempt to minimize the view of the solar panels which I think would probably do a pretty decent job. 200 feet, thought I don't know if it's the same elevation or whether the person has three stories...

Mr. Spector stated I do think we have to sort of separate the issue of disliking this building and it's location in and of itself as to it's existence versus what the essence of what this application is about. I'm sure a lot of people do not like that building or that structure for various reasons or some of the people may not but I don't personally think that that is an impact or an issue here. I would look at this from the standpoint of the five factors and how they can be applied to this particular application. And I also have to say that the Town by virtue of it's, I think by virtue of its promoting to some degree of the installation of solar has in essence accepted that solar panels look the way they do and there are benefits in some ways, benefits to the homeowner and to the community at large. You know from the standpoint of the carbon footprint of our community. So I mean, I personally, don't have a problem with this particular application on that structure and the fact that the structure is a noncomplying one, doesn't really impact my opinion it, but that's just my opinion.

Mr. Weise stated my thought is that all the solar panels that we're used to are flush with the roof and this is not the case with this roof, so having something that mitigates that view of the bottom of the panel, I think would be beneficial.

Mr. Spector stated well the question I think, whether or not, anything that raises the roofline, is you know, is just taking one problem and replacing it with another problem because if that, if the building is not considered to be attractive in and of itself or likeable so to speak, is raising that parapet just a few inches to cover these, is that creating a better appearance for the building? I don't know the answer to that.

Mr. Hoyt stated Doug, how many inches does it take to raise a parapet in the back to cover, not to equal the front but to cover that last panel? Is it seven inches...?

Mr. Hertz stated let me see if I can pull up a...

Mr. Hoyt stated I agree with Wayne, except we do have a nonconforming structure and we need to be sensitive that we're making a nonconforming structure more nonconforming and I think its reasonable to try to mitigate if its reasonable, the effect of looking at the rear, you know solar panels from the wrong end.

Mr. Spector stated as long as we don't make the problem worse from a visual standpoint.

Mr. Hoyt stated I agree, I agree, so if it's only a matter of inches...

Mr. Hertz stated so this is from the top of the roof surface to the very top of this is just under 21 inches, 20 7/8, and that would, we could put a, it would fairly simple to put a screen really here or we could put a standoff and put a screen of some sort here, that would be fairly easy to accomplish building sort of a rear wall or a fourth, part of that parapet would probably be more involved because we would have to raise it up enough to allow for water and debris to clear underneath it and yada yada yada...

Mr. Hoyt stated you must have a playbook though and I agree with you, you must have a playbook when you have this kind of issue right, this can't be the first time you've dealt with it. So you must have, you have your standard set of screening devices, is that right?

Mr. Hertz stated you know, we really don't, this rarely comes up. We've had rare complaints and concerns about this. So we've dealt with this on a one off basis, so there are no really standard screening devices, we would simply come up with some method of attaching to this upright over here, putting a standoff and then find some material that was plain and can provide a, you know 24 inch whatever, it may be as simple as a piece of azack or something that would survive through the weather and then we just have to get confident that we can anchor it property, it wasn't to create a sail. But usually because of this, those act like deflectors. So we would probably do something like that, that would probably be the simplest solution. It would blend it, there would be a recoating of the roof, the is going to get one of those epoxy rollout coverings to preserve, to extend its life. That would under...

Chairman Boxer stated will the roof be black underneath?

Mr. Hertz stated I believe its getting a white coating, I wish I had that information, I don't off the top of my head. Most of those epoxy coatings we've seen tend to be light in color because they're typically designed to be energy efficient, reflect light et cetera, et cetera.

Chairman Boxer stated that's too bad because I was going to say if the roof was black and the panel is black, you won't even see it, it will just look like a part of the roof that raises up. But I don't know what the ability would be to see, the parapet itself at the point where it shows, does it cover the roof itself?

Mr. Hertz stated I'm sorry, can you repeat the questions?

Chairman Boxer stated the parapet where the problem is, does it go high enough to cover the roof?

Mr. Hertz stated so that's, that's our sketch. So basically on this building you know you have a roof line that's declining there. So, we could you know, the solution, the two options are we can put a screen right here on the back of the panel or we can come back farther and put a larger, kind of forward parapet piece, parapet return piece with a little bit of a space underneath to allow for water, drainage and what not. I have a feeling this would be a much more expensive option, we can't support it, it would have to get tied into the structure in some way, it's going to yada, it's it won't, so we're going to go the length of this or the width of this building without having anything to support it on whereas if I can tie it into the rear support here, at least have the ability to put something smaller here. You know, which would be my recommendation just to minimize the view there and we would match that to whatever the coating of the, whatever color the coating of the roof is going to be, if it was black we'd make it black, if it were white, we'd make it white. So that would be as unobtrusive as possible.

Chairman Boxer stated I actually think if you made it black it would be less visible than if it was white.

Mr. Hertz stated I'm happy to do that. I mean, I don't know what the roof coating is, if we have a choice, we can certainly make that recommendation. It's currently this light color, you know that light, you know rollout asphalt faded color. And most of the coatings that I have seen for these are a light color, they tend to be those whites and light colors.

Chairman Boxer stated Doug, I didn't see anywhere in your submission where you run through the five factors...

Mr. Hertz stated let me... We did not give you a full view of the five factors, it's clearly self-created but only so much, in so far as the applicant is desirous of offsetting his dirty energy with clean energy which is a stated goal of Mount Kisco and there are sort of ten points in the solar zoning code in preamble to it that support that. We can't make it any smaller, we've moved it, the building sits where it sits, we don't have an alternative location, they've already installed panels on the roof surfaces on the primary structures on the house that can accommodate that, so they don't have any more space there, they still have an electrical need that they're offsetting using non-renewables, they have an electric vehicle which they charge on site and they'd love to complete the mission of removing as much dirty fossil fuel as possible and we've located these so it's the smallest possible variance, fire code requires certain setbacks on the roof to be able to, so we can't sort of shift it around roofs. So given that, we think we've met the standards and we hope you'll agree.

Chairman Boxer stated okay, I don't have that in front of me and I have no memorized them. Whitney, can you go through them and have Doug answer them and have it part of the...

Whitney Singleton stated the standards?

Chairman Boxer stated yeah, I'd like to make it part of what we're doing.

Whitney Singleton stated the, as your Board is aware that the standard here is whether the benefit to the applicant outweighs any detriment to the neighborhood or the community's health, safety and general welfare. In evaluating and performing that balancing test, your Board should be considering whether or not there is a undesirable change being produced to the character of the neighborhood or detriment to any nearby property owners, by the granting of the variance. Two, whether the benefit sought by the applicant...

Mr. Hertz stated Whitney, would you mind if I just answered them one at a time, so, if you wouldn't mind.

Whitney Singleton stated sure.

Mr. Hertz stated so we think the benefit to the applicant is significant, it is also a benefit to the community, clear air and that has been memorialized by the Village Board, in the preamble to the solar Zoning Code, they cite ten positives for allowing solar panels in the community, it's also in the New York State stated goals, New York State recently adopted a very aggressive piece of legislation last session that includes 70% or a goal of 70% renewables by 2030 and full decarbonization of the grid by 2040. The only way we can do that is with solar and wind and the other resources that we're already getting from the Canadian border. And the detriment to the community, we believe is di minimus, we have a neighbor who already doesn't like the look of the garage which I can't do much about but we're happy to create the screening as discussed tonight by putting a small screen behind it so that the view of the garage or the addition of the solar panels does not materially alter the view of the garage.

Whitney Singleton stated the next requirement Chairman is whether or not the benefit sought by the applicant can be achieved by something other than requiring the granting of a variance. In other words, can they build it somewhere in a Code compliant location.

Mr. Hertz stated and as I've discussed, we've already installed solar panels on the house, we've used up those available roof surfaces, this is the last roof surface that's available and we considered roof service being much more desirable than trying to put them in a ground mount or somewhere where they would be much more visible to the community.

Whitney Singleton stated the next question is whether or not the requested variance is substantial.

Mr. Hertz stated we believe its not substantial at all, the variance is only being requested because of the current nonconformity being created by the location of the existing building. So we're simply trying to use an existing building very, very minor modification, just adding something on the roof. So we don't consider that to be significant.

Whitney Singleton stated and perhaps something the applicant has already addressed is question number four, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Mr. Hertz stated and I said this is considered an environmental attribute with environmental positives for the neighborhood, for the community, for the State and that has been memorialized in legislation both locally and at both the state and federal levels.

Whitney Singleton stated and finally the questions is whether or not the hardship leading to this request for a variance is self-created which shall be relevant but shall not be fatal to the application.

Mr. Hertz stated and as I stated before, it's absolutely self-created but only in so far as the applicant's desire in alignment with community standards to decarbonize their footprint and access to cleaner, renewable energy.

Chairman Boxer stated okay, does anybody have anything to say on those. I think they've been answered to my satisfaction.

Whitney Singleton stated Chairman, I know that you received one letter that you referenced one letter from the neighbor raising some objections but I don't know if there's anyone available or present to speak on this at this public hearing.

Mr. Miley stated Chairman, we have the phone available for call-ins, we have no received a phone call, I'll just relay that number again 420-0383, we're also monitoring Facebook which is live and we have zero comments at this time.

Chairman Boxer stated okay.

Mr. Miley stated and last, I apologize, we're also monitoring the Zoom where you can raise your hand if you'd like to comment at this time, no one is raising their hand.

Chairman Boxer stated I don't, personally I don't think we need to screen it, it's very hard to see something black from a distance, it fades away.

Mr. Weise stated is it black on the underside as well?

Mr. Hertz stated that's a great question, we install a number of different modules, some of which have a black underside and some of which have a white underside and let me see if I can get you that answer while we are discussing. I believe the answer to that question is they are black on the backside, but I would have to confirm that but I don't think I can do that at this late hour. So if we would be okay if you wanted to, if they were not black, would you want us to create some screening if the backside were white? Knowing that you'll see, it's tilted away...

Chairman Boxer stated is it tilted away from the rear or towards the rear?

Mr. Hertz stated it's going to be tilted, the rear comes back like this, but the panels sit at 7° above the horizon and this area is in shadow and the sun is to the south, the sun is pointing to this. The sun is coming to here and pointing this direction. So the underside is always to the shadow, it's either white in the shadow or black in the shadow...

Chairman Boxer stated okay.

Mr. Hertz stated but it's by definition in the shadow.

Mr. Weise stated right.

Mr. Hertz stated so it would be your call but I don't have a definitive answer whether the rear back sheet is black facing outwards or white facing outwards, I know it's black on the other side.

Mr. Weise stated both of you make a good point that whether it's in shadow or will be in shadow, or whether its black, it won't, it shouldn't stand out. It's not like a reflective surface going the opposite way.

Mr. Hertz stated correct.

Mr. Hoyt stated did you say that these things tilt? By themselves or are they static?

Mr. Hertz stated they're fixed but we are tilting them, right. Imagine this is the roofline which is pitched and you know toward the rear if you will, so the left side is lower, this side is lower because it's on the roof, so...

Mr. Hoyt stated I wasn't sure they were following the sun or...

Mr. Hertz stated no, it's a fixed system.

Mr. Weise stated why is the first one elevated in the front? Is that because of the parapet wall in the front?

Mr. Hertz stated no, it's really just that the system itself, this is the lowest kind of component that they have and we don't want to, we generally don't want to put these, because we have snow and ice and other things that are going to move underneath, we want to make sure there's a little bit of room to get underneath that. We can look at, I mean, you know the worst case scenario, this is the only little piece right here that sits above the parapet, we can look at lowering this one leg, what we're typically concerned with is if we make this closer to 0° above the parapet or 0 inches above the parapet, this panel is functionally flat and then it just collects blech, that's a technical term.

Mr. Weise stated well maybe it could be lowered instead of the 7 inches, may be 5 inches.

Mr. Hertz stated we might be able to get it down slightly. We would certainly aim to do that. I mean, these are aluminum struts and we have the ability to cut them and lower them slightly, so. These are a fixed angle, so we have a slight ability to do that but not a tremendous ability.

Chairman Boxer stated any other comments you want to, we wanted to take a poll on whether or not to make it lower or just leave it the way it is? Anybody have an answer they want to share?

Mr. Alfano stated Doug, would making it lower have an impact on the amount of power that gets generated?

Mr. Hertz stated every time we tilt it away from the sun, we lose some energy, yes.

Mr. Alfano stated okay.

Mr. Weise stated how many months of the year will this be generating electricity?

Mr. Hertz stated this will generate year round, winter the sun is lower in the skin, its up for a few hours so we get much less energy out of all of these systems in the winters than we do in the summers. Obviously now we are used to now where our June and July where it was 9 o'clock and we could go out at night, now it's pitch black, right at 9. So it will produce energy year round, usually winters produce about half or a little less than half of what we get out of a summer day, so typical winter day, 50% 40% of what a summer day would look like.

Mr. Alfano stated okay.

Mr. Weise stated and my guess would be the winter is when this angle would make a bigger difference right?

Mr. Hertz stated its really year round, so the sun is in the summer, the sun is higher in the sky so its making a better, it's more perpendicular to this surface and therefore it's hitting it broader, in the winter we're hitting it at more a glancing blow, the sun is much lower. So in general you know anything we do that lowers it changes that throughout the year.

Mr. Weise stated right.

Mr. Hertz stated it just a mathematical angle of sun to angle of panel.

Mr. Weise stated I mean we'd be talking about a quarter of the system, so I guess the question is if reducing that height marginally, does it, you know does it take out you know 10% of the entire electricity generation...

Mr. Hertz stated we could reduce the height on the front if that's the concern. That wasn't what I was hearing earlier.

Mr. Weise stated yeah...

Inaudible- too many speaking.

Mr. Weise stated variance concern to begin with, right I mean, that is what we're discussing in the end?

Mr. Hertz stated I thought that's not really a variance issue.

Mr. Weise stated okay.

Mr. Hertz stated from what I heard the variance is purely side yard setback and rear yard setback.

Chairman Boxer stated right but our decision could be based upon the aesthetics...

Mr. Hertz stated we certainly can lower this front one, let me go back to that image. So we certainly can reduce the height of the front one so that it protrudes less above the parapet wall. I don't think I can it down to zero inches but I can probably knock to two to three inches off that fairly easily and we're happy to do that. That will be...

Mr. Weise stated I don't think you need to go to zero because people would be, the question is can you see it from the street and it sounds like its hard to see it from the street anyway.

Mr. Hertz stated you won't be able to see it from the street either way, there is a large elevation change between the street level on Prospect and where that building it.

Chairman Boxer stated I'm of the opinion that if he didn't care enough to attend the meeting virtually, which is very easy, I'm willing to ignore his letter.

Mr. Weise stated I think his biggest complaint is something that has nothing to do with the solar panels.

Mr. Hoyt stated I think, Doug, reducing that first rack if you can, without minimizing the effectiveness of the solar array, would be terrific and I think, you know I'm for this proposal, I do think we need to be sensitive about the aesthetics but if you can lower that, even by several inches, I think that's the right direction.

Mr. Hertz stated and we will make that change.

Chairman Boxer stated before you do and install it, is there a way to let Peter know how many inches lower it will be, so if it's not much at all, he can let me know?

Mr. Hertz stated yeah, we can, we'll get some revised drawings from racking company, they're going to have to give us what their next increment is and they should be able to provide that to us, in a few days I can forward to the Building Inspector or to your Board, however you'd like.

Chairman Boxer stated okay, to both would be good.

Mr. Miley stated we can distribute it Chairman, if you send it to me Doug, I can distribute it on your behalf.

Chairman Boxer stated okay, now I don't want to push this out, over to another meeting, so our resolution could state in it that you have to come up with some number that you would try and reach.

Mr. Weise stated I've got one last question...

Mr. Hertz stated I believe we, oh, I'm sorry.

Mr. Weise stated I have one last question, so there is a power line going from the garage to the house, it looks like, I'm going to guess that's the only source of power to the house but it will also be the powerline where the electricity that's being generated goes to the house. Are there, do you need to make any changes to that configuration or will that handle the power that's generated?

Mr. Hertz stated interestingly enough, there's also an underground conduit, so we're connecting, I believe this is coming over to the garage because of the configuration of the accessory apartment there and the fact that there's a second meter, we're going to be going underground so there will be no change to that whatsoever.

Mr. Weise stated okay.

Chairman Boxer stated okay, somebody want to make a motion or do you want to ask Whitney to draft it for us?

Mr. Hertz stated and would it be okay to, because I would like to hit a specific metric, is, can we reduce the height of that by 2 ½ inches? Would that be an acceptable amount? Because that I believe we can achieve easily.

Chairman Boxer stated right now it's 7 inches?

Mr. Hertz stated right now we're listed as 7 ½ inches above the parapet wall, I believe I can easily get 2 ½ inches off of that.

Chairman Boxer stated okay, so you can bring it down to 5, which would require really good eyesight from that far away to see five inches. I'm okay with that, I don't know what the rest of the Board wants to do.

Mr. Weise stated yeah, I think that sounds, that sounds good.

Mr. Spector stated that's reasonable.

Chairman Boxer stated are you okay with it Ralph?

Mr. Alfano stated yeah, I am. I was okay with 7, if we can reduce it a couple of inches, that's even better.

Chairman Boxer stated okay and George?

Mr. Hoyt stated yes, it's fine by me.

Chairman Boxer stated and we lost somebody... I don't see...

Whitney Singleton stated Arthur?

Mr. Weise stated yeah, I said I was okay with it.

Chairman Boxer stated okay, there we go.

Whitney Singleton stated Wayne?

Mr. Spector stated I'm fine with it.

Chairman Boxer stated Jacqui?

Ms. Broth stated yup.

Whitney Singleton stated okay.

Chairman Boxer stated okay.

Whitney Singleton stated wait, before you go anywhere. We have a full Board plus an alternate sitting. So the Chairman, Mr. Hoyt, Mr. Weise, Mr. Alfano and Mr. Spector will vote on this and they are the only ones that can make motions or votes.

Chairman Boxer stated and I think we're all in favor of it, the way it is.

Whitney Singleton stated can I just clarify something?

Chairman Boxer stated sure.

Whitney Singleton stated so what we're talking about here is the Board would be granting a variance to allow a noncomplying building to be enlarged or altered in such a fashion that is within one, within 4 feet 1 inch from the side lot line, necessitating a 10 foot 11 inch variance from the required side yard setback and two, it will be within 6 feet 6 inches from the rear lot line, necessitating a 23 foot 6 inch variance from the required rear yard setback. The conditions of approval would be that this shall be limited to the plans submitted herein, that they shall be limited to the dimensional variances granted herein and shall also be completely within the roofs parapet. The solar panels shall extend not more than 21 inches from the portion of the roof upon which it is set and no portion of the roof with panels, shall exceed a maximum height of 15 feet and as far as screening or other mitigation, the applicant shall reduce the height of the solar panels to the maximum extent practicable but not less than 2 ½ inches...

Mr. Hertz stated on the front row.

Whitney Singleton stated on the front row...

Mr. Hertz stated which is the highest row and let's call the front row the south row, just to be clear.

Chairman Boxer stated okay.

Whitney Singleton stated okay, additionally Chairman, this is an exempt action since it is a solar panel on a accessory residential structure, so there is no environmental assessment form and that's basically it.

Chairman Boxer stated okay. Can I get a, someone just have a motion to approve what Whitney said?

Mr. Hoyt stated I make a motion to approve the resolution as Whitney just illustrated, listed.

Chairman Boxer stated any second?

Mr. Miley stated Chairman, do we have to close the public hearing first?

Chairman Boxer stated yes, I also forget to do that, don't I?

Mr. Miley stated sorry to interrupt.

Chairman Boxer stated that's okay. I'll make a motion to close the public hearing.

Mr. Weise seconded the motion.

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

Chairman Boxer stated okay, now back to George, need a second on George's motion.

Mr. Spector seconded the motion.

Chairman Boxer asked for all in favor. Chairman Boxer asked for any opposition.

The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay.

Mr. Hertz stated thank you all very much, appreciate your hard work. And on a completely separate note, Chairman and members, if you want to have a joint session with the Planning Board with regards to The Park application, because I know there are a lot of thorny issues there. Maybe that would make sense so that both Board's can hear each other's concerns and thoughts. We're not happy on the change that DOT has required on those turning radii but we're sort of feeling like we're at the mercy of DOT's insistence that you know, they minimize the width of those sidewalk openings. We think it makes a poor site plan but DOT seems to have the upper hand on this. But we would happy to have a formal or informal joint meeting because of the significant size of that application. But thank you and let me know if you'd like to do anything like that.

Chairman Boxer stated thank you.

Mr. Hertz stated goodnight.

Chairman Boxer stated Lisa Abzun, that's the one Whitney, that she want sot put over.

Whitney Singleton stated we have already adjourned that to the November meeting.

Chairman Boxer stated okay, let's go on. PL Property Management, 77 Smith Avenue. Is there anybody here for that?

**5. PL Property Management
77 Smith Avenue
Mount Kisco, NY 10549
(SBL) 80.41-1-3**

**ZBA# 20-9
Area**

Mr. Len Brandes and Mr. Gus Levy were present.

Mr. Miley stated we have Len Brandes, the architect and I thought I saw the owner, Gus Levy.

Chairman Boxer stated okay.

Whitney Singleton stated Chairman, before you proceed with this application. As I've done in the past, while they're individual LLC's here and individual corporations associated with this project, I have done and do, do work legal work for the Levy Family who are partial owners of this property, so I'm simply disclosing that. I have done no work for and have no affiliation with any of the applications currently before you, I don't believe that I need to recuse myself but I thought that I should point that out to you.

Chairman Boxer stated I don't think you need to recuse yourself.

Mr. Weise stated can I take one minute to get a power cord, I'm running out of power.

Chairman Boxer stated sure.

Mr. Weise stated alright, I wasn't expecting the multi hour meeting tonight but I guess the packet should have warned me.

Chairman Boxer stated I think you should always carry one around.

Mr. Brandes stated we'll try to speed this one up a little.

Chairman Boxer stated okay.

Mr. Brandes stated good evening Mr. Chairman and members of the Board. I'm Len Brandes, I'm the architect for PL Property Management and we have a few applications before. The first being 77 Smith Avenue, can I share the screen now? Okay, can everybody see that or not yet, I have photos up...

Chairman Boxer stated yup, now we can.

Mr. Brandes stated okay, the property 77 Smith, is in an Office Cottage Zoning District and prior to my clients recent purchase of the property was unlawfully occupied at all levels as an alleged two-family house which I would say had more than two-family occupants in that house at the time. Since he has bought the property, he has brought it back to an only one-family occupancy, so he's trying to make it legal. The property itself is facing Smith Street, is a very small property, it has a very small image on the front level and we'd like to, so what we have is a very steep property in the back of the property and it goes down steep and the driveway itself is also very steep going down towards the house itself. The back of the property has a full exposure on the basement level and our proposal is to create a new office area in here for the property management company itself, they're going to move themselves in there, that's what they're proposing. And then just have this 1 1/2 story structure be a one-family house above it. Now with the Zoning District the way it is, it's very difficult, Code allows us to have a multi-use but the Code suggests that we have to have it on the first floor level and it has to be office and that the residence be on the upper levels. In this case, it's very difficult with these small dormers up here on the front to have just the house over there and we'd like to maintain the small entry as the first floor for the residence, that way we can put our office in the back. We also presently right now, we want to modify the parking lot, there is a large parking lot in the back, we'll go through that in the plans in a minute and we're going to plan, what we plan is to have this area over here change to plantings over here, so when you look down, you're looking into plantings, not into continuous parking areas. This is the existing parking lot right now, it's in bad shape, so we are going to do. This is our neighbors at the parking lot right across from us there is another office area that's also using this parking area over here for office area here, the neighbors next door over here, that's this house right here, they use that parking area here for the commercial use. Next door is also commercial use, fully, across the street obviously the synagogue and the school's there, there are other houses, most have been modified to be office areas. Now, these houses are much larger so it makes sense that you can offices up here and the one-family residence above but we are a much smaller property, being the smallest house I think on the block basically. Let me switch out to the drawings, I have to re-share here, so new share. Can everybody see this? We have the plan, okay. The existing property over here, this is the driveway and this is a square drive, parking lot in the back. So our proposal is changing that so that there's all plantings over here, we extended a little bit of area of parking over here with some, the Planning Board had suggested we add some gravel to the back to absorb some of the water over here, so we don't have to add any additional drainage. There is a steep area beyond that but we're not anywhere near that area. We are including a handicap accessible zone. The existing basement level has been set up with two bedrooms, a hallway, a full bathroom over here and a garage, which by the way the garage is unusable, there is an 8 inch concrete form over here, so you can't drive any vehicles into this garage the way it is right. So we plan on reducing that and bringing that down and apart and creating a small office, using the same door entry, we're creating windows on both sides so that we can have a vestibule, a small office for our two

employees, a waiting area, a conference room over here and a handicap accessible toilet within the space over here. Existing mechanical room will remain the same and since the tenants do need access, there's a meter room over here, we will have that closed off from the stairs so the tenant can use that. They will have a slop sink which is there as well.

Mr. Weise stated and so just to clarify, one of, the garage door will be replaced with a window bay and then there will be...

Mr. Brandes stated correct.

Mr. Weise stated a second window bay on the other side.

Mr. Brandes stated yes and I have elevations to show that.

Mr. Weise stated can you show the [inaudible] of that level again.

Mr. Brandes stated okay, taking out the garage door, opening up this small window over here and putting two windows over here, we want to have an awning above the whole area over here to create a nicer look for the back of the building and to make it more as an office space would be, so also enhancing the look. The existing first floor and second floor will remain the same, we're not changing that, we have a kitchen, there is bedrooms on the first floor with the living and on the second floor there are additional bedrooms up here and one bathroom. We have no intention on making any changed at all, we're still going to maintain it as a one-family residence. The existing elevations, here is the front and the sides are not being changed but the back where the existing back is, where the garage door is raised up about eight inches in the door and a small window, we plan on making it over here with the two bay windows, replacing the door and creating an awning in front. We feel that will be a large improvement to the property, we don't feel it will be any detriment to the Town itself.

Chairman Boxer stated Whitney, what does the Code say about awnings?

Whitney Singleton stated what do you mean what does it say about awnings?

Chairman Boxer stated don't they have specific sizes?

Whitney Singleton stated I'm not aware of any, I'll defer to Peter on that issue. I can certainly take a look on the interim.

Mr. Miley stated Chairman, I would have to review the Code, I don't have that answer for you right now.

Chairman Boxer stated okay.

Mr. Weise stated is there going to be anything put against the remaining cement wall to make it look more like...?

Mr. Brandes stated we're going to be re-stuccoing the whole surface in the back there. I'll go back to that drawing.

Mr. Weise stated it looked like it, I just wanted to be sure.

Mr. Brandes stated we're back at the [inaudible] everybody can see this? We're going to be re-stuccoing the back of the building so it will all, obviously making these new openings, we're closing off the garage door, we're going to make this, we want this to be a good looking building at this point, we don't want it to be where it is right now.

Mr. Weise stated okay.

Chairman Boxer stated Peter disappeared, Whitney do you know if the parking spaces. Peter, are the parking spaces within Code?

Mr. Miley stated they are, I'm still looking up that awning item for you.

Mr. Brandes stated and we did create a full landscape plan, so you can see that we have plantings going through here, so when you're walking down now, you're looking at plantings instead of looking at a driveway and garage. This will really enhance the area itself and working parking just enough for our employees and people who live in the house, it will be one family.

Mr. Spector stated five bedroom house upstairs?

Mr. Brandes stated excuse me?

Mr. Spector stated it's five bedrooms upstairs?

Mr. Brandes stated yes it is, its existing but it's still going to be one family, we're not breaking that up. That's what the Code allows, that's what we're doing.

Mr. Spector stated two cars for five bedrooms is a little light actually.

Mr. Brandes stated it's a once family house, it's not a multi-family.

Mr. Spector stated it's to Code, I get it. Is there going to be signage?

Mr. Brandes stated right now we're only planning signage in the back of the house, this is basically for our employees, it's not really, people tend to come here but we didn't plan any signage in the front of the building at this time.

Mr. Spector stated I noticed there was a conference room and a waiting area in the floor plan.

Mr. Brandes stated yes.

Mr. Spector stated who's going to be, who is waiting in the waiting area?

Mr. Brandes stated well if there are tenants, or we have people that come in and do repairs and we have to meet with the contractors, so we will meet with contractors. But they will know where we are, because people have to come and talk to us.

Chairman Boxer stated are there enough parking spaces?

Mr. Weise stated yeah, that's a valid question, are there enough parking spaces for both the family and your offices?

Mr. Brandes stated well we have, it's a total of 6 parking spaces here, so two for the house and four people to come to the office itself.

Chairman Boxer stated how many employees are going to be parked there all the time?

Mr. Brandes stated two, basically.

Chairman Boxer stated so that leaves you two additional spaces.

Mr. Brandes stated two additional spaces for people to come.

Mr. Weise stated and how many spaces are there right now?

Mr. Brandes stated it's the same number, six but they had it laid out kind of awkwardly, we wanted to create more of a, a nicer area here. Instead of being squared off over here, we enlarged it over here and enlarged a little bit out over here so we can get the same number of cars with easier parking.

Chairman Boxer stated the enlargement is within the side yard requirements?

Mr. Brandes stated yes, yes. The building itself is staying the same exact size, we're not changing the footprint.

Chairman Boxer stated any other questions?

Mr. Hoyt stated yeah, I have a question. I think it makes sense to me, my question is one of the variance requested, the minimum net lot area required is 10,000 square feet, it looks like there's an existing 9,395. Can some explain what that is?

Mr. Miley stated Chairman, that's an existing nonconforming lot, noncomplying lot excuse me.

Mr. Hoyt stated okay.

Mr. Miley stated the requirement is 10,000 square feet, the existing lot requirement in the OC District and its short by 605 square feet for the minimum net lot area.

Mr. Hoyt stated so a net lot area is what? Is the entirety of the property, the entirety of the plus parking...

Whitney Singleton stated the net lot area is the lot area minus amounts that deductible for either steep slopes or wetlands.

Mr. Miley stated right.

Mr. Hoyt stated got it and there's only one other variance requested that's the one allowing the office space in the basement, is that right?

Mr. Miley stated correct.

Whitney Singleton stated yes, it's the location of the front door.

Mr. Miley stated actually the dwelling unit being permitted on the first floor.

Chairman Boxer stated Whitney, with the change of zoning there, they're still allowing mixed use like this?

Whitney Singleton stated yes, this was not a change, this is historically what's there, what the underlying zoning was originally intended to do was to perverse a lot of the existing homes that have been there for a significant period of time that had character by allowing their conversion to office and still allowing residential uses upstairs. So they didn't want to see a lot of the existing building torn down because they add some nice architectural character to the street, so they wanted to encourage both the residential and the commercial use. I shouldn't say commercial, office use.

Chairman Boxer stated okay.

Mr. Miley stated and Chairman, just to get back to you on the awning. An awning is permitted, if they apply for a sign permit, if it exceeds the allowable size they would seek a variance, otherwise we would recommend that they conform to the size if they prefer not to seek another variance. We don't have a sign application in front of us yet to make that determination.

Chairman Boxer stated are you willing to, will you fit within the dimensions for the awning?

Mr. Brandes stated yes, we fit within all the dimensions.

Mr. Hoyt stated I recommend that we go through the five factors, I'm ready to make a decision.

Chairman Boxer stated okay

1. *Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance.*

Chairman Boxer stated it's actually going to make it better, looking better.

2. *Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than area variance.*

Chairman Boxer stated the benefit cannot be achieved any other way that is true.

3. *Whether the requested area variance is substantial.*

Chairman Boxer stated the variances are not substantial for the neighborhood. And as stated in their application it is smaller than the other house, so it wouldn't make any changes.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.*

Chairman Boxer stated the variance will not have an adverse impact on the physical or environmental conditions. My only question is in the back yard, you have the full slope in the backyard?

Mr. Brandes stated excuse me, the slope all the way back here?

Chairman Boxer stated yeah.

Mr. Brandes stated we're not going near that area at all, we only extended three feet for the parking over here.

Chairman Boxer stated okay but this is, I'm just worried, I just want to know where the water's going to go.

Mr. Brandes stated well the Planning Board has suggested that we, let me get my drawing, share that. Okay, the Planning Board had suggested because they didn't want us to have any other impact, we are actually smaller by the way in terms of square footage of the impervious coverage, we've reduced it by about 100 feet. Its actually less impervious surface than exists now and we've added a gravel, per Planning Board, over in the front here, so because it all drains off right now the existing runoff here. So we're maintaining that same amount.

Chairman Boxer stated okay.

Mr. Weise stated could you just zoom out again, I just want to see, what is to the north?

Mr. Brandes stated up here?

Mr. Weise stated yeah, what is the neighbor to the north? Is that...

Mr. Brandes stated this is a residence up here.

Whitney Singleton stated Gregory Avenue.

Mr. Weise stated okay.

5. *Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board which shall not necessarily preclude the granting of the area variance.*

Chairman Boxer stated and final, is the request self-created which shall not, that by itself is not enough to deny and I don't even know, I just think the whole thing is better than what was there before so there's really no outstanding problems with it, even if it is self-created. Any other comments? Okay, can we have a motion then?

Mr. Weise introduced a motion to close to the public hearing.

Mr. Miley stated Chairman, let me just remind you that we are monitoring Facebook and we have no comments, we have the phone, we're monitoring the Village phone, 420-0383. Nobody has called in. Also remind folks on the Zoom meeting you have the ability to raise your hand to make a comment and no one is raising their hand. And lastly, the Village Hall is open and there are no people present.

Chairman Boxer stated okay, so we have current motion to close the public hearing.

Mr. Hoyt seconded the motion.

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

Chairman Boxer stated now Whitney, have you developed...

Whitney Singleton no, the action in question is not subject to SEQRA because you're giving the granting of a variance for, containing a mixed use, meeting the Zoning laws, including by Special Permit, so under SEQRA regulations it is not, it's a Type II action, not subject to SEQRA, so your Board simply needs to vote on the action and vote on any conditions of approval. The only things I heard this evening were that it's subject to the plans submitted, would be subject to Planning Board approval including any landscaping and stormwater. And your Board has already gone through the factors of the balancing test, so at this point in time, you just need a motion and second on the vote and you're done.

Chairman Boxer stated okay.

Whitney Singleton stated the only thing that I ask because I'm trying to take some notes here as we go through. Sometimes, I can't see everybody on the screen, so if we can just identify who's making the motions.

Chairman Boxer stated okay. Anybody going to make the motion?

Mr. Hoyt stated I'll make the motion to grant the variances as described at this meeting for 77 Smith Avenue.

Mr. Spector seconded the motion.

Mr. Miley stated George and Wayne Spector, is that correct.

Whitney Singleton stated and all in favor?

Chairman Boxer asked for any opposition?

The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, that's it.

Mr. Brandes stated okay, thank you very much, I appreciate it. But you're not done with me yet.

Chairman Boxer stated we know.

**6. PL Property Management
18 Britton Lane
Mount Kisco, NY 10549
(SBL) 80.24.2-1**

**ZBA# 20-10
Area**

**7. PL Property Management
20 Stewart Place
Mount Kisco, NY 10549
(SBL) 80.24.2-2**

**ZBA# 20-11
Area**

Mr. Leonard Brandes and Mr. Gus Levy were present.

Off-topic discussion.

Chairman Boxer stated okay, is this where there's going to be the land swap?

Mr. Brandes stated a little bit, we do want to modify the lot lines, we have both properties, the next two applications, they interrelate with each other but there are variances with each property that are different. The order we're going with is 18 Britton Lane, I'm going to share the screen again. 18 Britton Lane has been around for quite a while and the basement area, this is what we had, there was apparently an illegal office from the back of the property, the back of the property parking lot and I just want to show some of the house right now. Right now, it's used as four family house right now, the house itself is also a nonconforming lot, it doesn't have enough depth to it, it goes right up to the railroad tracks and that area was you know, taken back from eminent domain by Metro-North Railroad a long time ago from the Village of Mount Kisco. And doesn't meet measurements for the depth at all. What we proposed to do, there was [inaudible] and we go through the photos a little bit more, we want to modify the parking lot, this is the entrance that's been there for a long time that goes down to the basement level which was an office for many years and was recently found out that that is no longer legal to have the office there, it was probably never legal to have the office there I guess and we have taken our tenants out that we were using, actually that was for PL Property Management, was using that space. So we closed that up and our proposal is to create another apartment in that area. In order to get the apartment, it would require an additional parking space, this is the existing parking lot right now and the parking area has 10 spaces in it right now. The new parking would require 11, our proposal that we have for this property in terms of variances, is that we like to land bank two parking spaces, one on each corner over here and over here. The parking spots that are over in this space right now are two small, they're too short for illegal spots so we are going to, we planning on take that from the small retaining wall to extend the parking so its legal parking spaces here. I'm taking this actually from across the street, you can see this is all parking lot actually, that's right across the street from us. Over here is 20 Stewart and 20 Stewart gets involved because right now 20 Stewart legally only has this one parking space, right here where this car is backed up, this mini van. The other parking space that's over here actually belongs to 18 Britton property. And our proposal is to move the property line so 20 Stewart is more complying with the current codes and it can have that parking space as a permanent fixture there and we'll go into variances for that one in the next talk. So here is just looking up the block at that and we have, it's raised up, it's a steep hill over here and just looking at the lot at 20 Stewart, really are. So the idea is to make this parking space part of that, reducing this property over here

by 1,013 square feet. This is right across the street, and when I was taking the photos before, you can see the parking lot goes all the way to the front edge of the property, so it's not unusual for this neighborhood to have that. We're not looking to go right to the edge, we still want to have a certain amount of property. Over here we have cars also in the front yard parking over here, that's an existing lot across the street from us over here. Once again, we're not looking to change the character of the area, we just want to be able to put our parking in, as I said we're looking to land bank, we're just trying to parking in spaces that are across the street in the area. This is the front of the parking lot where the hill is, so we'll be putting our retaining wall over here to expand these spaces and would continue over here so that we can land bank one space over here as well. We don't believe that we need the additional parking spaces, there's always a lot of parking available to the four families that we have renting there right now and then adding the additional one bedroom apartment, we don't feel we need it but we'd like to have that available so if find that we need it, we can do it. So the variance is basically for one parking spaces but we still want to land bank the two parking spaces and that would be in the front yard of the parking, this is across the street, just to show how this is setup over here.

Mr. Hoyt stated is across the street parking your referencing, what's that got to do with...?

Mr. Brandes stated well I'm just saying that we're not changing the character of our area. This parking lot, the parking lot is actually over here, so its only a few feet from where the parking lot is actually being used, we're looking for much more, we're doing much more space and plantings in front of out parking area. So the idea is that showing the other parking lots, this one in particular right across over here from parking lot to parking lot, I'll go back to that, where there is no yard, it's just straight across, street and parking right across there. We're not proposing to do anything like that, we're just saying that what we're doing does not really change the character of the area and we are enhancing it with additional plantings. The properties that we're talking about right here, I'm going to blow this up a little bit. This here is our building that we're talking about, right now there's an existing walkway that goes down to here and that takes us to the back area to the proposed new tenancy over here for a one bedroom apartment. So the idea is to land bank that and move our walkway over here, in the future if need it. We also have, we're creating pervious pavers over here so we have this all set up in case we do need parking spaces and those will probably remain with the pervious pavers even if we do need the parking. We do have plantings to go in front in the future, the existing [inaudible] area over here where the parking space is too short, we're going to be fixing this over here with a small retaining wall and making these two spaces legal. So we'll have a full two, full set of 10 spaces in the back. The property line right now that we were talking about is back over here, only 1.6 feet away from our building that we have existing at 20 Stewart and we plan on moving that over to here so it includes the additional driveway over here for 20 Stewart.

Chairman Boxer stated okay, for Britton you propose to have a five family over here?

Mr. Brandes stated yes, we proposed five families over here.

Chairman Boxer stated Whitney, is that legal over here?

Whitney Singleton stated yeah, I'm going to defer to Peter on this. Peter spent a lot of time on this application, my understanding of it is yes that it is a permitted use. I'll let Peter weigh in, actually Peter spent a lot of time working with the applicant on these two properties, so its probably more appropriate for him to weigh in.

Chairman Boxer stated okay.

Mr. Miley stated Chairman, Whitney is correct, it's a permitted use.

Mr. Brandes stated well actually the existing space right now in the basement area right here where this was the office area. Right now we do have it opened over here, we have a washer and dryer for the tenants to use, this is an existing space for it to remain and that the new area over here would be coming into a living room dining room area, kitchen and one bedroom apartment over here with a bathroom, just one bedroom, one bath, that would be the additional change. Again, this was used for an office over here for many, many years without realizing that it was not a legal space.

Mr. Hoyt stated was that not a legal space because of the same issue we just dealt with, with the other house or some other reason.

Mr. Brandes stated I believe it's not allowed in that area to have mixed use, if I'm...

Mr. Miley stated that's accurate, it's not a permitted use.

Chairman Boxer stated okay, so Peter, the parking spaces are adequate for what they plan to do?

Mr. Miley stated yeah, the parking spaces are adequate, if you looked at the application, they could create two more spaces but the preference from the Planning Board is always open space, less impervious surface and based on the applicant, the people that are renting this space are, do not utilize parking, they could probably elaborate on how little parking they actually use. I drive by often and the spaces are always empty. I believe the tenants, and correct me if I'm wrong Len, are people with special needs and they're bussed there and they really don't use the parking at all, however the one space addition would even out the parking lot and then as I indicated earlier, the proposal to create additional open space will allow for some landscaping on the entrance and that was one of the recommendations by the Planning Board.

Mr. Hoyt stated I'm sorry, how many spots are there currently, parking spots?

Mr. Brandes stated well legally there's only 8 legally because these two are very short, one is over here. So we are extending those to make it legally 10 spaces.

Mr. Hoyt stated okay, so is one of the variances though, notwithstanding no one uses the parking lot, is one of the variances related to parking? Because your application says you require 11 parking spaces.

Mr. Brandes stated right, it would require under the Code, we require 11 parking spaces, we would either be but we don't feel we need the 11, so we're saying that we'd like a variance for that for 10 spaces and that, but if there is a situation where we feel we need it we want to land bank these so that we don't have to come before the Boards again if there are any other issues.

Mr. Hoyt stated I see.

Mr. Brandes stated and it's also that, part of it is that one again, the back of the house, this was all taken back because this is an existing house, we're not changing the footprint of the property on either house over here. The footprint is going to remain of the buildings that is, they're going to stay the same but setback wise, this is existing nonconforming, due to the property line, the way it is right now and this is the Metro-North Harlem Division property line right here.

Mr. Hoyt stated I'm just curious why, if you think parking is inadequate now based on past experience even though you need a variance, why go through the trouble of land banking with the issues of kind of encroaching you know, your parking to the street, notwithstanding that seems to be the character of that street, why go through that? Why not just say we're sticking with 10, we've only ever needed 8, we've got 10, you know we've gotten the variances, assume you did or assume you will, why go through the two land banking? You don't want to waste money and come back or...?

Mr. Brandes stated this has been totally, so we don't come back and forth and this is what the Planning Board actually wanted us to do, they had suggested this to us and Jan had suggested this as well, that we have these just in case, sort of like in our back pocket but to go through and get everything, to get the variance so we don't have to necessarily use these, only use these if we find that we need them later one. Once again, this once again the Planning Board recommendations to us.

Whitney Singleton stated can we just, I wanted to ask Peter something because I'm a little confused by your application. The, we seem to be mixing the terms variances and land banking interchangeably. You're asking for a variance of one parking space requirement, is that correct Len?

Mr. Brandes stated yes, that is correct.

Whitney Singleton stated but the concept of land banking is something where by, when somebody demonstrates that they probably don't need it but the Code requires it, they show it on their plan and then the Planning Board, not the Zoning Board authorizes it to be land banked and should there be a point in time in the future that the Village determines that the parking space is necessary, they direct the property owner to install the spaces. So, are you asking the Zoning Board to land bank these or are you saying that this is something that the Planning Board is going to do.

Mr. Brandes stated this is something that the Planning Board said that they would do but I think everybody needs to be aware of what's going on...

Whitney Singleton stated okay.

Mr. Brandes stated [inaudible].

Whitney Singleton stated so all you're asking for and all you're asking for is the variance of one parking space, correct?

Mr. Brandes stated correct.

Mr. Hoyt stated Whitney, but doesn't the land banking create additional variances between the front yard and the parking, that's what I'm reading.

Whitney Singleton stated I defer to Peter on that. Are you saying that the parking spaces that's being proposed for land banking would not otherwise be permitted where it's being proposed?

Mr. Miley stated the only issue that would come up would be the buffer, but I believe, I can't see the map here in front of me, then it would also meet the buffer [inaudible] but I would have to confirm that.

Mr. Hoyt stated the application says, the existing parking is 18.8 inches from the front property line, required front yard is 25 feet, therefore a 15 foot 4 inch variance is requested. So I'm confused as...

Mr. Brandes stated that would be correct because it does not allow front parking in the front yard and we are in the front yard obviously...

Mr. Miley stated where are you getting that front because I don't have that in my notes here. George?

Mr. Hoyt stated I'm just reading from Len's...

Mr. Brandes stated my relief request...

Mr. Miley stated because we didn't make that objection Len.

Mr. Brandes stated well in that case...

Chairman Boxer stated well what variance is left for us to vote on?

Mr. Miley stated it's only one parking space, this two-family was converted to four-family in 1997. They have a current site plan of record that provided for ten spaces that was approved by the Planning Board. This is specific just to the one bedroom additional apartment that is it.

Mr. Hoyt stated are you saying that they've already gotten the variance that they needed for what I just described?

Mr. Miley stated the don't have another variance, they have site plan approval from 1997 with ten parking spaces, that's what they have.

Mr. Brandes stated the variance that we need is for the one parking space.

Mr. Miley stated let me take this one step further. The building was original constructed in 1925 as a two-family home, there was no requirements for parking so when they proposed the new application to convert to a four-family, which was in June 1997, they were only required to fulfill the obligation for the parking for the two new apartments. So the parking lot was increased to ten to satisfy the Planning Board requirement, however only the need was for the two additional apartments, that was all they needed to provide. So here today, the application is to add one more apartment, thereby requiring an additional parking space.

Whitney Singleton stated so this application for 18 Britton Lane and I understand that they're related but this application for 18 Britton Lane is limited to a variance for one parking space, correct?

Mr. Miley stated correct.

Mr. Hoyt stated and there's not variance needed for the...

Whitney Singleton stated here is essentially what goes on with the, the interaction between land banking and variances. Once you grant the variances, your Board knows it exists forever and the Planning Board is reluctant to encourage that kind of activity because it may become a problem in the future and then the applicant says too bad, I have a variance, I'm allowed to operate that way. If something is land banked or if the Planning Board deems there to be substantially different peak operating house and double count parking spaces, they have a greater modicum of control over an applicant. They have the ability to say hey, what's going there is too much, you need to put in more parking spaces or we're not allowing this new tenant in or whatever else may be the particular case. If they have a variance, the property owner can tell them to go pound sand. So by affording the land banking as opposed to granting a variance for three

spaces, it gives the Village greater enforcement power to make sure that we don't have any unintended consequences on the property. I don't know if that makes complete sense to you but that's why you're seeing two land banked space and one variance because they can't find a location to put a third space in, for land banking. Is that roughly accurate, Peter?

Mr. Miley stated correct and if the applicant, let's say in the future decides that he does need to create the spaces and he encroaches into the front yard buffer, it would require and I don't have the dimensions but it would require a variance to construct within the buffers.

Mr. Hoyt stated I didn't mean to go down...

Mr. Brandes stated we can come back to the Planning Board, we come back to the Zoning Board and request that at that time, if it's needed.

Mr. Miley stated not the Planning Board, the Zoning Board.

Mr. Brandes stated the Zoning Board rather, sorry.

Mr. Hoyt stated that's what I said in the beginning, if you're encroaching then notwithstanding the Planning Board, you have to come back to the Zoning Board.

Mr. Miley stated yeah, they're just not constructing the spaces today, they prefer to remain as open space today.

Mr. Hoyt stated okay.

Chairman Boxer stated okay and where is the measurement on the front yard variance, the variances you're looking for in the front yard.

Whitney Singleton stated Chairman, keep in mind that because this is a corner lot, it's going to have two front yards and two side yards and no rear yard. This fronts both on Britton Lane and on Stewart Place.

Mr. Brandes stated okay, here are the setbacks by the way, so we have that all noted. Where we are existing on the house and I do have a list up on top.

Chairman Boxer stated so where is the variance you're looking for the front line?

Mr. Brandes stated right now we're looking at having ten spaces, we're fixing so we have legal spaces over here because right now they're not legal. So we're going to have, instead of eight legal spaces, we'll have ten legal spaces and we're looking for a variance for one space. That's all we need for right now.

Whitney Singleton stated so they're showing ten spaces, two land banked spaces and they're requested that one space be waived or granted a variance for, that's not being shown, correct?

Mr. Brandes stated correct.

Mr. Alfano stated the one parking space being one of the land banks? Is that correct?

Whitney Singleton stated no...

Mr. Alfano stated okay, I'm sorry.

Whitney Singleton stated the parking space for which they're seeking a variance, is not shown there. They're not proposing to land bank it or install it. They're asking your Board to waive it.

Mr. Alfano stated okay.

Mr. Spector stated so we're looking at a one spot variance for this particular application.

Whitney Singleton stated correct.

Mr. Hoyt stated that's again, caused by the addition of the apartment, correct?

Mr. Weise stated correct.

Mr. Spector stated okay.

Whitney Singleton stated can I make a suggestion? That before your Board entertain anything, that you hear the balance of the application for the adjoining property because they're clearly interrelated and issues that might arise on one property might trigger some thoughts on another.

Chairman Boxer stated okay.

Whitney Singleton stated Len, you want to take it?

Mr. Brandes stated I'll take it and go to 20 Stewart. Can everybody see the photographs?

Mr. Weise stated yes.

Mr. Brandes stated 20 Stewart has a long history, it was built in 1930, it was originally built under the zoning district Residential C, and is now in an RM-10 moderate density multi-family district, it was modified. The house is existing, nonconforming in many ways in terms of the property size and in terms of also coverage of the area itself. What exists right now is a three-family, I'm just going to walk around, this is the side of the property which comes next to 18 Britton, just adjacent to the property in the rear yard over here, showing from once again the parking lot and the building and looking at the building from the other side of the street coming down over here which is that parking spot right here which exists. There is an existing illegally built rear deck which is expanding way over on this side to the, on the railroad property, we're going to be taking that down and building a new ramp and handicap accessible entrance for here. The tenants in here do not drive, they're all in different ways, it's a different type of house where people have to get help, assistance, limited assistance adults in there. Once again we're back to the parking lot and where we're doing, we want to add the second space over here as part of the property. That will add this make this much more legal space as a three family which is what we want to maintain, we'll go through some of the relief requested on that, let me open up the drawings. It's on the screen so everyone can see where we are on this because they are interrelated. So once again, the property line is only 1.6 feet from the house right now and just barley makes in that one parking space right now. The lot coverage right now, the proposed lot, the existing lot is 4,068 square feet, where 10,000 is required, we're going to be adding 1,013 square feet over here at the property which will bring us up to 5,081 and it will reduce the extent of variances that are required for this property, bless you.

Mr. Weise stated thank you.

Mr. Brandes stated and that's one of the reasons that we want to do this. As a three-family you're allowed to have, you have to have 1,500 square feet per unit, and right now we only have 4,000 so 4,500 would be required, now we'll be making this compliant, so we'll make this lot more compliant. The lot coverage also is at 25% and the existing is, the existing house will not be making any change 1,855 square feet. So we're not going to be changing the building but once again the existing lot coverage right now is at 46%, by adding the additional square footage, we're bringing that down to 37%, so it's going to be less nonconforming. So the variance for the existing lot would be 585 square feet, in order to make that, so that's one of the variances we're looking at. In terms of development coverage also, the existing lot is right at 65% which is legal, we want to reduce that so it will be down to 58% instead of 65%. The lot depth, it's 80.98 feet and lot width which is required to be 100 feet, is only 49.9 feet, so once again it's noncomplying. Parking, originally for this house I believe there was no parking requirements at that time and also you're not allowed to have parking spaces in the front yard but that is the only parking space that exists for this house. So we need a variance if we're going to add this over here because then both parking spaces would be continued backing out onto the street or if you back into the spot, you're going forward but its in the front yard. And that is the areas that we can have parking in this area, at this house. So the new lot that we're concerned here, we want to add this new walkway with a new ramp going down to the back of the house and repair the areas that are a problem right now. So basically right now, the existing backyard that we saw, that whole decking, this is back here, it's not on our property, so we need to correct that problem, we bought it this way so we're going to be correcting that creating new ramps and new access to the back of the house which does have an existing living room and apartment here. So we're just trying to legalize this and make this house a little bit better and add additional parking for people to use.

Chairman Boxer stated are you creating any side lot problem for Britton?

Mr. Brandes stated we are, no, not at all. Britton is a much larger lot which oversized, I can put a lot more units up there if I needed to but...

Chairman Boxer stated I'm not talking units...

Mr. Brandes stated we have no plans.

Chairman Boxer stated the building on Britton, when you take away some of the land...

Mr. Brandes stated no, there are no issues with the setbacks on that all.

Chairman Boxer stated okay.

Mr. Brandes stated the only thing is that we are now improving this lot by now having, it still doesn't meet Code requirement because of the new Zoning District that its in, it will be 13 feet 10 inches, as opposed to 1.6 feet. So we are reducing the amount, so this land becomes a little bit more usable, in the future if we ever want to sell it, it becomes usable because it's more legal spaces, having two parking spaces legally, we're just really trying to improve this space over here, it doesn't have much effect on 18 Britton in terms of use and parking. Because its existing nonconforming, there are a lot of variances because of the existing nonconformance of the building, we're just trying to reduce the number of requirements that this house does not meet in any or form now.

Mr. Weise stated so there are ten parking spaces for one property with, you're going to have five residences and then two parking spaces for three and I guess that is the way its always been?

Mr. Brandes stated well it's only had one parking spaces legally. So right now because they own both properties, they are allowing them to use the two right now because its on their property.

Mr. Miley stated I can answer that, Arthur. This house was built in 1930 as a three family dwelling, at that time there was no parking requirement, its still a three family dwelling. The whole issue here was the one parking space that is in close proximity to the property line, they had another space that is existing, however it was never approved. I believe the premise of moving the property line is that those two parking spaces can be addition to that property, although not required, its certainly an enhancement with no effect on the adjacent property 18 Britton, you're just moving the property line 10 or 12 required, thereby allowing for another conforming with regard to size for this space. However, the variance before you is to enable them to park in the front yard and back out into the street.

Mr. Weise stated would this not be possible if they didn't own both pieces of property?

Mr. Miley stated unless they had an agreement with the adjacent property owner, I'm not sure. I would say that's a legal question.

Mr. Spector stated it makes it easier.

Mr. Miley stated I would agree with that.

Mr. Brandes stated the whole idea is to make this less nonconforming, giving it more property, giving it the extra space.

Mr. Miley stated and let me add Arthur, when we first looked at this property prior to the potential lot line relocation, it had a number of areas that were essentially right on the property line, we have an addition that was created in the rear that was only about one foot six inches. So now they're increasing the side yard area and they're improving that entire section of the property by moving that property line.

Whitney Singleton stated so perhaps I can kind of reword this in another way and maybe it will kind of tie in. If they did nothing to modify the lot line between the two properties, the lot on, what's, on 20 Stewart would be more noncomplying than is being proposed. They are proposing to eliminate some of the noncomplying issues or to make them less noncomplying. They're providing more parking spaces on the property, they're increasing some setbacks and they're eliminating some, forget nonconformities, they're eliminating some violations. On the other property, 10 Britton, it appears as though and this predates all of it, it appears as though the construction of 10 Britton by virtue of the basement use was nonconforming or noncomplying, not legally noncomplying but was noncomplying with regard to the basement and its use. By virtue of trying to, put it to a permitted use, it's generating an additional parking requirement which they're trying to satisfy without aesthetically modifying the layout here and by only putting in those spaces which are necessary. But for the fact that they're trying to make it noncompliant, they can keep it the way it is, albeit they wouldn't be able to put the apartment in the basement at the 10 Britton Lane place.

Mr. Weise stated and let me just ask one last question, I understand why these two projects kind of go together because of the change of the property line but what about the third? PL Property Management seems to be doing a lot of things to make properties more compliant, is there something about the timing that we should know?

Whitney Singleton stated I'll leave that to Peter, Peter has been more...

Mr. Miley stated I'll be honest with you and I'm not sure if the owner is watching or not. So I came on board around 5 years ago and we went through the Village looking for, well we started the Fire Safety Program, so a lot of issues have unfortunately you know, come to rise as result of doing our inspections on both residential and commercial. So I'm just going to speak specifically to these two properties and then I give you a little background. The owner, who has endured some rigorous fire safety inspections has potentially cleaned up all of his properties. He's made them more safe, he's trying to comply with the standards for parking, he's trying to create open space, he's trying to just bring all of these properties to the best of his ability into compliance. We have been working with the owner for four and a half years and that's essentially what it comes down to. This property is a legalization, I'm talking specific to 20 Stewart, it was and I'll give you a little history, had a CO for a six family home, I don't want to talk about how it got there, not by this owner. Now it is being restored back to a, as lawfully compliant as possible three-family as it was originally built with now some enhancements, the extra parking space, the additional open space. Going back to the property on 18 Britton, you know, we keep talking about the parking lot, the parking lot was legally, lawfully existing as a 10 parking space parking lot. You know any changes to create any additional nonconformities, obviously would require, as it sits today, he can essentially leave it the way it is although you still need that one space variance to add the additional apartment on the lower level. Today, the way it sits is a four family and the ten parking spaces is 100% legally nonconforming. So yeah, getting back to you know, what's occurring with PL because you see his name, he is improving every single property that he purchases. He's worked with the Building Department, he's work with the Fire Safety, Code Enforcement and I can tell you he's been really doing what he needs to do to improve his properties, so I definitely have to, at least elaborate on that.

Mr. Weise stated perfect, thank you.

Mr. Miley stated you're welcome.

Whitney Singleton stated Len, can I ask another question because I kind of get the sense that the Zoning Board is looking towards, moving towards taking action. Have you had your subdivision plat prepared yet?

Mr. Brandes stated it has been prepared, the surveyor was away for a while and we had to wait for him to come back. He came back this week and he's worked on it and he says he has that ready for us.

Whitney Singleton stated okay...

Mr. Brandes stated and I know the Planning Board, they wanted additional information on the lighting, I just got that this afternoon actually, for the lighting for the parking lots. So I have all that setup as well, so we're ready to go back to the Planning Board to finalize with them.

Whitney Singleton stated right, I guess what I'm asking is this, if you're going to be getting a subdivision plat that's going to be last revised such and such a date, prepared by such and such and it's going to have certain things shown on it that can be incorporated into a Zoning Board resolution, in addition to the Planning Board and I have that plat with dates on it and lines on it and everything else. It would be much easier to prepare a resolution for this Board's review that had everything depicted on that plat and referenced in the resolution than it would be to kind of cobble a resolution together for each of these properties without that in place. I understand also that there's the you know, the chicken and the egg, something has to be done first. I'm not suggesting that the action be deferred here but I'm wondering if we're better off having that subdivision plat at least drafted and having a draft of any resolution for this Board so that they can see it with everything laid out and for each of the two properties and a copy of finalized or at least finalized draft subdivision plat prepared, before they actually take a vote. I'm not trying to defer, I know you've been waiting a long time for this and I just wonder what your thoughts are and what the Board's thoughts are on that.

Mr. Brandes stated okay, the way we are right now, the numbers that we have here, this is all from the surveyor that he was setting up for the plat, so this has already been negotiated, worked out already, we've done all these. So the numbers that you have here are correct, this is the proposal that we will have for the plat for the subdivision, there's definitely no change on that. I would like to not have to waste the Board's time and have to come back before the Board, they can approve this stating that its approved if we get the approval for the subdivision, I'd rather have that so that we don't have to waste the Board's time anymore.

Whitney Singleton stated they're...

Mr. Brandes stated I don't know if that's doable or not but certainly we want to move along with this.

Whitney Singleton stated anything that they approve is going to be subject to their review of the language in the resolution. I just, I mean that's fine if the Board wants to take action now, I just worry that it's not clear to them.

Chairman Boxer stated well I think we should wait until it's legally subdivided so we know where, that the lines are going to be where they say.

Whitney Singleton stated Chairman, the point is when I said the chicken or the egg, it would be very helpful, in fact one of your Board's requirements would be any conditions in the resolution of approval for either or both of these properties be referenced in the files subdivision plat.

Chairman Boxer stated got you, okay.

Whitney Singleton stated so it is important perhaps that you get it done in advance but at the same token, I want to make sure that you have a comprehensive resolution for each of these properties before you leave. You can approve and I can provide the language after the fact which you always review before finalization.

Chairman Boxer stated okay, so you're, well 20 Stewart has a lot of relief requested, so we have to go through that now before we can do anything.

Whitney Singleton stated right but the relief, correct me if I'm wrong Peter, the relief that they're requesting really only exists by virtue of the fact of the subdivision application making the lot, I mean those are existing noncompliance.

Mr. Miley stated yeah, part of it is the legalization of some existing, well existing prior to ownership by PL Properties, an addition to rear and an addition to the front, so this is more referencing the side than front yard setbacks.

Whitney Singleton stated I guess another way to approach this is for your Board to approve the resolution subject to the drafting of the final language.

Chairman Boxer stated are we okay using the new proposed line for our variance?

Mr. Brandes stated this was determined by the surveyor, that's why we have the numbers here. I don't make those up myself, I wouldn't even try to be a surveyor, so we do have that, this is where he is with the subdivision plat. This is what he gave me, that's what's being approved. And you do have a survey with those numbers on it already, you have that.

Whitney Singleton stated I think what the Chairman is saying, we're referencing something based upon a line that is not yet approved.

Mr. Brandes stated correct.

Whitney Singleton stated so Chairman, the way you would deal with that was everything would be conditional on the Planning Board approving the subdivision without any modifications to the lines.

Chairman Boxer stated okay.

Mr. Hoyt stated I have a question. Len, we haven't really talked much about the backing out of these two spots for 20 Stewart. Was there any, I know it's a narrow lot, there was not other path that you guys could figure out how to...

Mr. Brandes stated no and it really gets very steep as you're going up from the photographs, you can see how the hill does up very steep, s going up here is very hard. There's a curb right now that does have, it's basically a retaining wall, so there really is no place to go, we can't bring it up into the house. And once again, they do exist already, it's not something that we're making that doesn't exist at this point, it does exist right now. I can go back to the photographs, if you'd like.

Mr. Hoyt stated no, no, you know I understand it exists...

Mr. Brandes stated and it certainly predates and Code that required that, you're allowed to back out, so it predates...

Mr. Hoyt stated it's a potentially dangerous situation, so I hear what you're saying. So if you do nothing, it's still going to exist. There's not sidewalk on that property line right? On that side of the road, right?

Mr. Brandes stated no, there is no sidewalk there. There is on the other side.

Mr. Hoyt stated now in the past when we've had situations like this, we've asked that there be clean site lines et cetera, I see a shrub or some drawing of a shrub that seems to block the sight line...

Mr. Brandes stated I can certainly remove that shrub.

Mr. Hoyt stated I mean I'm assuming you've dealt with this with the Planning Board and others and this is not the first time you've been asked this question.

Mr. Brandes stated yes.

Mr. Hoyt stated so I don't want to harbor on it because I hear what you're saying, it's existing but none the less, you know.

Mr. Brandes stated I understand, we're just trying to make this particular more conforming because its so nonconforming right now, so anything we felt that we can do to improve the property at the same time. When we first went to the Planning Board, we actually didn't have the lot line change and we were saying well we want to make this lot bigger, getting variances back here and adding more parking spaces here, so this house can use this parking lot and it was actually the Planning Board that said, you know why don't we add the, move the lot so this becomes part of it and that's actually how this developed to move the lot line and create the two space. But right now, especially the way the house is use now, the people that are living in the house do not drive, they cannot. They have people that come during the daytime to take them to their jobs and help them back and forth, you know during the day, so this isn't a frequently used parking area at all and once again it was always a three-family house, it was originally a six-family when we first purchased, at least when we got the property and along with a lot of other properties that were illegally made, there were a lot of changes that the owner of the property, the current owner, inherited, literally, all of these properties which had problems and he's been correct, I've been helping him with a lot of these properties, we've done a lot of work all over the town with his properties. So, this is just one of those that we're trying to improve, the Planning Board had approved and actually suggested this lot line change so we can maintain two legal spaces for this building. That's what we're going with, we felt that they were correct on that idea, it makes this a lot more conforming, bringing this from 4,000 square feet to over 5,000 square feet, is a big improvement on this property.

Mr. Hoyt stated yes, I agree, can't argue with that. If these were sim city, you would move that line easily. I think for both houses there is a lot of chaff in the air with all the existing nonconformities but it's relatively straight forward, what you're asking, in my opinion.

Mr. Brandes stated yeah.

Mr. Hoyt stated have you thought about solar panels? That's the last question.

Mr. Brandes stated no, I don't want to get into that argument that you had. Have to keep my comments down on that, there was a member of the Planning Board before.

Chairman Boxer stated okay, let's go through the relief requested. Minimum gross site area should be 10,000 square feet after the lot line move it will be 5,081 square feet, so what's that...?

Mr. Miley stated 4,069.

Chairman Boxer stated okay.

Mr. Brandes stated 4,019 square foot variance.

Mr. Miley stated thank you.

Chairman Boxer stated okay, so now, so what was that variance again?

Mr. Brandes stated 4,019 square feet.

Chairman Boxer stated okay, second...minimum lot area per dwelling is 1500 square feet with three proposed units...

Mr. Brandes stated I have to correct that, I'm sorry, it's 4,419 square feet, I'm sorry. We're only about halfway there.

Chairman Boxer stated on the first variance?

Mr. Brandes stated on the first variance, yes.

Chairman Boxer stated okay. So second...

Whitney Singleton stated Chairman, can you just repeat that so I can prepare. So is 5,081 provided or is it lesser?

Mr. Brandes stated yes, that's what's provided.

Whitney Singleton stated okay.

Chairman Boxer stated and they're looking for a variance of 4,919 square feet.

Whitney Singleton stated four thousand what?

Chairman Boxer stated 4919.

Whitney Singleton stated okay.

Chairman Boxer stated the second is just there for information because it does create any noncompliance...

Mr. Brandes stated yes, we're making it from noncompliant to compliant, so we're improving it that way.

Chairman Boxer stated right, okay, so, how many square feet are you adding on that one then. Oh, never mind, I got it.

Mr. Brandes stated we need to go to C actually, where the maximum lot coverage that we have, it is existing noncomplying.

Chairman Boxer stated okay, so you have after the change 46% lot coverage, or is 46% lot coverage needed?

Mr. Brandes stated that's what's existing and we're proposing with the change, it will be 37%, so we will be closer, 9% closer to the lot area. The lot variance for that lot coverage is 585 square feet, the variance.

Mr. Miley stated you're talking about the building coverage.

Mr. Brandes stated building coverage, yup, building lot coverage, development coverage we're okay on that, we don't need that.

Mr. Miley stated the variance is for maximum building coverage.

Chairman Boxer stated okay.

Mr. Miley stated the next one is development coverage.

Mr. Brandes stated right, development coverage, we don't need a variance, we're compliant but we can go to E which is the existing lot depth that requires 100, provided is 80.9 feet, existing nonconforming, noncomplying.

Chairman Boxer stated same thing with F on this, as far as the lot width.

Mr. Miley stated lot width is changing here after moving the property line.

Mr. Brandes stated right and that's 62 feet...

Mr. Miley stated 62 feet proposed, 100 required.

Whitney Singleton stated you're going from 49.9...

Mr. Brandes stated the existing is proposed, the front lot line, the existing is 49, we still need 38 for the lot width.

Mr. Miley stated correct.

Chairman Boxer stated now comes the parking spaces. You need a variance for having one less parking spot and a variance for having parking spots that require you to back into the street...

Mr. Miley stated actually Chairman, the parking is not required, they're adding a space however the space requires that they back out into the street and park in the front yard.

Chairman Boxer stated that's what the variance is for...

Mr. Miley stated correct.

Mr. Brandes stated those are two variances.

Mr. Miley stated correct.

Chairman Boxer stated okay, building setbacks. There's no setback to the rear and there's 30 feet required, so they're looking for a variance of 30 feet. The side requires 25, the existing is 9.9, so looking for a variance of 15.1, the north side is 3.1, proposed is 1310, so an 11 foot 2 inch side yard setback is required, is being requested. And then buffer requirements...

Mr. Miley stated no.

Chairman Boxer stated 25 is required, existing proposed is 0, so Peter, you want to explain that one?

Mr. Miley stated sure, there are, they need buffer variances for the front, side and rear yard.

Chairman Boxer stated got it, okay.

Mr. Miley stated so in some areas, although there is open space in the side yard and some areas like the parking,, it goes right up to the property line in the front yard, again the parking area is right up to the front yard, excuse me, the front property line and the side area on the opposite, as well as the rear. With the ramp, they're putting in an ADA ramp that goes right up to the property line.

Chairman Boxer stated okay.

Whitney Singleton stated so what are the variances being granted?

Mr. Miley stated buffer variances, side, front and rear, 25...

Whitney Singleton stated right but on the side yard to the north, there is a buffer, is there not?

Mr. Miley stated a required buffer but the parking space is right up to the property line.

Whitney Singleton stated oh okay, alright.

Chairman Boxer stated you have all that Whitney?

Whitney Singleton stated yeah, it's just recognizing the existing conditions.

Mr. Miley stated correct.

Whitney Singleton stated really is what its doing.

Mr. Miley stated and again for the rear property line, they lost a significant amount of their property due to the imminent domain when the Metro-North was built or relocated rather.

Chairman Boxer stated okay, does anybody have any more questions? Whitney, how is going to read as far as Planning Board and lot line change?

Whitney Singleton stated I would say something to the effect of and that's why, ultimately you're going to have to approve the final language, I can't give it all to you tonight given the extent of things that are out here but it's going to say something to effect of the following conditions must be satisfied within 12 months of the date of this resolution and then set forth in there its going to be the, they must provide, the Zoning Board and attached to a copy of the resolution will be a copy of the filed subdivision plat with the Westchester County Office reflecting the filed plat number, indicating the revised lot line change between these two properties, with a copy of that going into each of the two files and that we will presumably will

also have a requirement that the filed subdivision plat will reflect the conditions that are set forth and variance associated with this and it will also require that developing improvements be performed within a year of the granting of the variance, granting of the resolution and that presumably also no certificates of occupancy for any new use shall be permitted until the work is complete. So in other words, you don't want to have additional uses going on if there's no parking available on site.

Chairman Boxer stated okay.

Whitney Singleton stated so I'll just incorporate all of that and I'll circulate the resolutions to the entire Board before any signature is executed by the Chairman, if you guys adopt this.

Chairman Boxer stated okay, any comments on that?

Mr. Spector stated no.

Mr. Miley stated we're just reviewing Facebook and looking at the Zoom to make sure no one has their hand up and I still have the phone in front of me and there's not one here in the Village. Michelle just confirmed that there is nobody calling or wanting to speak at this time.

Chairman Boxer stated okay, than I guess we could make a motion to approve each one based upon what Whitney has stated what is going to be in the resolution. Should we make them wait until it gets signed before they do any work?

Whitney Singleton stated it will be subject to the final language approved by the Zoning Board.

Chairman Boxer stated no, do we have to wait for the next meeting to approve that?

Whitney Singleton stated no, what I will do is I will circulate what your Board is adopting this evening to all of you for comment and for any revisions that need to be agreed upon. Then if your Board is all agreement, then the Chairman can sign it.

Chairman Boxer stated okay, how do we put that into a...

Whitney Singleton stated I'll circulate, I mean there's going to be other language, there's going to be language in there that says this is subject to the plans that are submitted and there shall be no revisions. I'll put in a provision that says this is subject to the Planning Board's adoption of a, you know, the installation of all the requirements of the Planning Board including the landscaping plan and everything else that's being proposed on this plan. There will be a lot more in there and it will probably be like you know, most of the resolutions, five or six pages, adopt, incorporating all of these items but you know not that much out of the ordinary compared to what we usually do.

Chairman Boxer stated okay.

Mr. Hoyt stated will you circulate that tonight, Whitney?

Whitney Singleton stated as soon as the meetings done, I'll get right one it.

Chairman Boxer stated okay. Okay...

Whitney Singleton stated but I should point out the following things, yes, we need to close the public hearings on both of these and two, I've been sitting here, the variance for the parking for 18 Britton, the variance for that is a Type II action under SEQRA and you are allowed to do that without coordinated review of the Planning Board. It's exempt from SEQRA. We regard to 20 Stewart Place, the variances that are being sought there are all in connection with a one, two- or three-family home. So there are area variances that are similarly exempt from SEQRA so you don't need to, you don't have any environmental assessment form in front of you but you don't need it because both of these applications are complete. So you can make a motion to close the public hearing and make a motion to vote on each of the applications.

Chairman Boxer stated okay, I'll make a motion to close the public hearing on both cases.

Mr. Weise stated I second the motion.

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

Chairman Boxer stated okay, that was the easy part. I, rather than I don't think we can go, we can't make a resolution listing everything so we can, can we make the resolution saying that it, we'll review it, once it get signed it will be considered approved?

Whitney Singleton stated well its never deemed approved until you sign the resolution, so if your Board simply wants to make a resolution that's subject to the final language being authorized by your Board, that you approve the variances subject to the conditions that were discussed, that's fine. But I think you should approve 18 Britton Lane and 20 Stewart Place by separate resolutions.

Chairman Boxer stated I agree. Maybe we should wait until you get that to us before it gets final approval then.

Whitney Singleton stated it's six of one, half dozen of the other and you're ultimately going to approve and you know that's kind of what I was suggesting earlier but I think Len is eager to move forward with the Planning Board and your Board is not meeting for another month and there's likely going to be a public hearing and if for some reason the meeting gets cancelled for lack of quorum, I can see that being a potential problem but its really your Board's call.

Chairman Boxer stated anybody have any thoughts on that?

Mr. Hoyt stated I'm fine moving forward, Harold. And I will make a motion to approve the variances for 20 Stewart Place as described by Whitney at this meeting.

Mr. Spector seconded the motion.

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

Chairman Boxer stated George, you did so well, why don't do it for the next property.

Mr. Hoyt stated I make a motion to approve the variances as described at this meeting with the conditions described by Whitney for 18 Britton Lane.

Chairman Boxer stated any discussion?

Mr. Weise seconded the motion.

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

Chairman Boxer stated okay, that concludes the meeting, I'm not going to go over the minutes now because it's too late.

Mr. Brandes stated gentlemen, thank you so much, I really appreciate everyone's help on this.

Chairman Boxer stated I appreciate what you're doing for the Town.

Mr. Brandes stated thank you.

Chairman Boxer stated I remember when you first came in front of our Board, we had a lot of lawyers and recording and everything, this is good.

Mr. Brandes stated okay, thank you again, have a good night everybody.

The meeting adjourned at 10:43 pm.