

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, September 21, 2021 at 7:15 pm** via Zoom Teleconference

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

Staff Present: Whitney Singleton, Board Counsel (Via Zoom)
Peter J. Miley, Building Inspector

1. Spencmorg, LLC (Richard Stumbo)
333 Lexington Avenue
Mount Kisco, NY 10549
(SBL 80.48-4-1)

ZBA#21-16
Area

Mr. Steven Helmes of the Helmes Group was present.

Harold Boxer: September 21st, 2021. Meeting of Zoning board. First case here is Spencmorg LLC. Anybody present for Spencmorg?

Steven Helmes: Yes. Good evening. Members of the Zoning board, Chairman. My name is Steven Helmes. I'm with the Steven Helmes Group Architects in Katona representing...

Harold Boxer: Okay.

Steven Helmes: Spencmorg LLC. Richard Stumbo, President/Owner. Rich is running late. He might join us on the call. But I'm going to go ahead and present the application as the architect. We are requesting an area variance to permit a second story edition and alterations above an existing one story concrete block building. And the building was constructed in 1978. It's about 43 years old and, we, we need, it's, actually the, it's non-compliant with regard to dimensional setbacks. The property I'd like to share if, if I can share my screen. Is that possible?

Harold Boxer: You can share it. Yep.

Steven Helmes: One second. I'll get it opened up. Bear with me. There we go. Okay. Let me just make that larger if I could by a few moments.

Harold Boxer: Steve, I don't, I don't think your part of client's portion is that big.

Steven Helmes: We got that survey. He bought the property back in January. He had it surveyed by Robert.

Harold Boxer: Steve, I'm joking. I was talking about the mountain in the background.

Steven Helmes: Oh. Oh, okay. All right. So, let me just go to join one. Okay, here we go. The property is located at the corner of Lexington and Locus Avenue. It's a corner lot. It's got two front yards, a side yard and a rear yard. Because the site is only 50 feet wide, it does create a hardship for our client to expand the building. So, instead of going out on the first floor, we decided to go up and utilize the existing building footprint, which made the most sense for this project. The footprint is about 1500 square feet in its current use. It was, Mount Kisco former use Mount Kisco glass, retail/office. We've been before the planning board. We are doing a change of use to go to office/storage. The second floor is a little over a thousand square feet of, office space. Again, we're using the existing building. This is a, this is a permitted use in this zone district. Co-1 zone district. We have a front yard setback here that we are seeking. Front yard setback, off locus, needs to be 20 feet. We are 10.3 feet. Again, this is preexisting. What's dotted in here or slash is the setback, the encroachment. And on the side, side setback, it's only, let me get my notes here. If I get 6.3 feet and we need 30 feet. So, this is the, just want to go to the existing survey. This is the survey of record. This is the building again, it's a long, narrow, D-block. Parking is that both at the front and the back. There's a McAdam area back in here that we are proposing to remove and just plant and, and do away with the McAdam. Just to give you a flavor of the building here from a aesthetics. This is the bottom drawings here. I'm drawing. Three are the existing conditions, the lower level and the attic plan, if you will. The drawings up here is the proposed first floor layout and the proposed office layout with an internal stair and a bathroom. The elevation, again, this is, how it sits today. By the way, the street sign is going to be removed, which was requested by the planning board. And again, we're using the footprint, coming up with a gamble style design. And, this is the side that faces Locus. This is the rear elevation. And this is a

rendering of our proposed changes to this building. I'd like to see if I could now go through the five points that were referenced in my, August 30th letter if I could. One, we request the variance be granted based on the following, whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created by the granting of the variance granting the, the requested variances will not create an undesirable change in the character of the neighborhood, nor will it be a detriment to nearby properties. The proposed second story edition has been designed, utilized in existing one-story concrete building footprint, no increase in building coverage, which is needed to create office space, which, which is a permitted, use in the C one zone district. The existing building facade is dated, and we feel the proposed second story edition operations are in keeping with this scale and character of the existing neighborhood and would be an improvement. Number two, whether the benefits sought by the applicant can be achieved by some other, some feasible method other than a variance. The benefit sought cannot be achieved by any other feasible method. The existing one-story building is preexisting non-conforming with respect to having insufficient front and side yard setbacks, making it difficult to expand out on the first floor at ground level. Therefore, second story edition makes the most sense utilizing, again, existing building footprint for increasing the usable square feet of existing one story concrete block commercial building on this corner lot. Three, whether the requested variance is substantial based upon existing site conditions and constraints, we feel the requested variances are not substantial since the second story edition and new roof lines does not increase the preexisting non-conformity front and side yard setbacks. There is no building in building footprint or increase in encroachments. Four, whether the proposed variance will have an adverse effect impact on the physical environment. Conditions of the neighborhood, or district. The proposed, variance would not have any adverse effect on the physical or environmental conditions of the neighborhood. The existing building footprint does not change. The site is being improved by removing the portion of existing McAdam area located at the rear portion east under property. Also, the owner will be planting additional landscaping on site to create a buffer and help screen existing parking areas on site. Now, finally, five. Whether the alleged difficulty was self-created, this is not necessarily preclude the granting of the area variance, although the difference, the difficulty may be construed as self-created. The existing building, which was constructed in 1978 will be significantly improved, benefiting the owner and entire neighborhood by approving the overall character and property values of the neighborhood. Nonetheless, a self-created hardship does not preclude the granting of the area variance. That's basically my presentation. Happy to answer any questions. The, the fencing is proposed just to screen that and keep people from parking on his site. And we have to go to the ARB tomorrow night and then, from what I understand back to the planning board, and we would, greatly appreciate the granting of these variances so we can move this project forward. That's pretty much it my presentation.

George Hoyt: Can we, am I on now? Could we talk about parking, Peter? Is this addition going to require additional spacing? And if so, is that going to be an issue or, I seen, I see a big parking lot or two parking lots either side.

Mr. Miley: Yeah, they have front and rear parking. The parking is compliant. They're adding or revising their ADA space. So the parking's on issue, and they also have a garage in the rear, which they're going to store, I believe a trailer of some sort of equipment.

George Hoyt: Okay.

Ralph Alfano: Is, is there a third variance required on the, on the cover page of the plant that says, minimum lot width, required a hundred feet, existing 50 feet. But I don't see the variance.

Mr. Miley: It's preexisting. Nonconforming.

Ralph Alfano: Okay.

Mr. Miley: Lot. Hence the reason for the close proximity to the residential district requiring the, the 30 foot setback that's heading south. No, it doesn't need a variance for preexisting non-conforming, condition.

Ralph Alfano: Okay.

Arthur Weise: And, the, the green space, that is on this, this colored, rendition. Is this, is this all going to remain or are you going to be, is there something here? It's going to be changed?

Steven Helmes: Yes. Planting [Indiscernible 0:09:13.4] along the, I guess the north side of Locus, just to screen that. And then he's going to have to come in here and prune it. The plantings are the hedge along, Lexington I think of, we took the fence out. But I think we have some, small, boxwoods there. But, we did, we omitted the fence along Lexington as, recommended by the, planning board and just having a security gate fence here and, and the, the fence along this property line and will return slightly back in here again, just to keep people from, parking on his site. Also, with his people parking here, he just wants to have him feel more secured if they're going in and out to their car and so forth.

Arthur Weise: Right. Is, is that a grass area?

Steven Helmes: This is a grass area, yeah.

Arthur Weise: Okay. Yeah.

Steven Helmes: This is, tree plantings in here. Trees, existing trees in this area here.

Arthur Weise: Have people parked their cars here before?

Steven Helmes: Where? In this area here?

Arthur Weise: Yeah.

Steven Helmes: There was, there was a structure there at one point where many years ago has been removed. And, this, these people here, I don't see it. I was there a couple weekends ago, and, he just wants to deter people from parking on his property.

Arthur Weise: Okay.

Mr. Miley: Yeah. Can I expand on that, Chairman?

Harold Boxer: Sure.

Mr. Miley: So, probably about four or five years ago, I'm not sure, you were definitely here. A lot of the board wasn't. This had a condition on the original construction of Mount Kisco Glass, that the one family structure had to be removed prior to CO being issued for the Mount Kisco glass. 30 years later it wasn't removed. So we, we issued a violation for site plane violation and the previous owner removed it, hence the reason for the enormous side yard and rear. And, and the parking pavement area. That just seems, seems like it goes to nowhere. That used to be the parking area for the one family home.

Arthur Weise: Okay. Thank you.

Harold Boxer: Any other comments?

Wayne Spector: Yeah. I just a question. It, it looks like there's a specific user that's intended for this property. It doesn't, I don't, I didn't see any reference to...

Steven Helmes: Owner user, EMC is the company name, and, he's actually in Goldens Bridge. He's, selling his building. It's being acquired by Estate Motors to expand their operation there. And, he bought this building and would, like, he's the end user. So he's going to be, li working here. and he needs offices for his man. There was a business plan that was submitted to the planning board. His hours of operation will be something like 9:00 to 5:30. No nighttime use, nothing on the weekend.

Mr. Miley: No fleet parking?

Steven Helmes: What's that? I'm sorry?

Mr. Miley: No fleet parking.

Steven Helmes: No fleet parking. No.

Wayne Spector: I know, I note that the, the parking calculations are very much dependent on this, differentiation between storage and garage and the office and other space upstairs. So, just want to make sure that, it's actually used for that purpose. And, there isn't an overloading of parking on the property. And that there's no retail use and no, no customers that are coming on for, for that purpose or displays or anything?

Steven Helmes: That's correct. No, no customers. No retail operations. Clearly office/storage area.

Mr. Miley: Yeah. The, the original CO was issued for retail, believe it, although it was simply like a manufacturing or, he, he repaired and constructed windows. It was, they had a retail CO for the entire building without having any storage. Although they did have some storage. This is a change of use.

George Hoyt: Well, I think it's a handsome design. So, I congratulate you on that.

Steven Helmes: Thank you. Thank you.

Wayne Spector: And I assume any signage is going to be submitted to the planning board, and if necessary would come here if there's a, there's an issue with it.

Mr. Miley: Yeah, there before the, the ARB. And if you pass by the location, if you notice there's a pylon sign that's no longer permitted in the village, and they've agreed to, to remove that as well. So it'll be a signed package included with the ARB. So this design in front of you has, is going to be seen tomorrow.

Steven Helmes: Yes, that's correct.

Harold Boxer: Okay. Did everybody see the draft that Whitney prepared?

Wayne Spector: It came in a little late for me to review, and unfortunately I didn't, I didn't get a chance.

Harold Boxer: Okay. It, well, what it stated is that there is no undesirable change to the character neighborhood. The benefits cannot be achieved by another method. The variance is not substantial. There will not be an adverse impact on the environment. And while self-created is not fatal and does not outweigh the other factors. So they're really just going for, from what I see, two variances a front yard and the variance where at a bunch, the residential district. And does anybody have any questions or comments on that? Okay.

Arthur Weise: Yeah, I do have one, one question. This, this trailer, there's a picture of it. That is in this, grassy area. I...

Steven Helmes: Actually, that's going to be parked right here. If, if need be, he's going to, he keeps that on his sites. But if it's not on, if it's not making him any money, so that's occasionally, that will be parked on site in here, not on the grass. But that will be parked over here in this back corner.

Arthur Weise: And what, what is the purpose of the trailer?

Steven Helmes: He has equipment in it that he uses, but it's all contained. He has one of those. It could be parked within the building just to add a sight out of mine type of thing, if he, if he needed it there. But,

Arthur Weise: So he, he takes it to big two different sites. That's why it's on his trailer.

Steven Helmes: Yeah. We, he just took a picture of that at his former site in Goldens Bridge, which is parked on the lawn. That site, that doesn't, that's not this site here. The trailer is not the, not way it's depicted in the photograph.

Mr. Miley: Yeah. Chairman, that was also raised with the planning board and still, they still require planning board approval, which includes that trailer and a location as well.

Harold Boxer: Okay.

Arthur Weise: Thank you.

Harold Boxer: All right there. Anybody, is anybody from the public? Are there that wants to comment or on Zoom that wants to comment?

Mr. Miley: We could.

The Secretary: No raised hands on the Zoom.

Mr. Miley: Anybody here public that would like to speak on this application? Nobody present down the hall. How about Facebook? Anybody. Give us a second to check Facebook for any comments?

Wayne Spector: I, I have one other question. I'm just curious about this. The, the odd shape of a lot. That little, almost looks like a, that's, is, that's not an easement to get to another piece of property, is it? The...

Steven Helmes: Nope. Let me see if I have a tax map

Wayne Spector: Just a bit unusual.

Steven Helmes: Yeah. I don't believe it is an easement. And I believe the deed was submitted with our planning board package, and I didn't recall seeing an easement there.

Harold Boxer: There is no easement in the deed.

Steven Helmes: No.

Harold Boxer: Okay. If there's no more questions and no comments from the public, I need a motion to close the public hearing.

Arthur Weise introduced a motion to close the public hearing; seconded by Ralph Alfano.

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

Mr. Miley: You're good, Harold.

Harold Boxer: Okay.

Whitney Singleton: Chairman, would you like me to share the draft resolution on the screen?

Harold Boxer: That would be good.

Whitney Singleton: Yeah. I apologize to the board members for not getting it to you earlier. So, let me see how to do this share screen. Okay. Okay. So here's a resolution. The one that I sent you needed a correction. This sets forth the nature of the request the zoning. There are two variances requested. They're requesting a 20 foot set. They're required to have a 20 foot setback. They're providing 10.3 feet. So they need a 9.7 foot variance. And also this one, I had to correct the variance from the minimum side yard requirements where the property butts of residential district. Down here, I had front yard. I've corrected it to, to rear yard. They're required to have 30 feet, and they're providing 6.3. And then down in the conditions, since these are area variances, it's a type two action. And as you previously pointed out, your, your analysis, the conditions of approval, I put in the standard ones that it's only for the plans submitted and approved by your board shall not constitute, shall submit as bill. The variance shall be subject to any conditions imposed by the planning board of its site plan. Is there a special permit or just a site plan. Peter? Okay. So site plan approval. These ones I picked up from your discussion tonight. There shall be no retailer residential use. No retail or residential use shall be permitted. I should probably put in there without further approvals. And no fleet parking shall be permitted. And I put this in based upon what I heard. But I don't know if it's what your board wants. And that is, that is no overnight outdoor parking of trucks or machinery in the rear of the building, abutting the residential neighborhood. I don't know whether that's consistent with what Steven had proposed. But I kind of heard some concerns over that. So I don't know if that's something you want to address.

Steven Helmes: Is that something that I think we, Mr. Miley, can you, we, we did talk about that at the planning board, with that, trailer on site occasionally. I can see if I can convince my client to keep it in, in his garage. But, he did assure us that it wouldn't be there many times.

Mr. Miley: Yeah. Or it doesn't include trailer, it says parking of trucks or machinery. In other words, they don't want to see a well driller out front.

Steven Helmes: Oh, right.

Mr. Miley: Yeah.

Steven Helmes: Yeah. That, that's, that's fair. That's, that's understood. Yeah.

Whitney Singleton: Okay. So, and then that's, that's all that I have, unless your board wants additional conditions.

Harold Boxer: Any comments? Anybody?

George Hoyt: No, it looks good to me. Nope.

Harold Boxer: Okay. No. Let's see. I did it backwards again. The public hearing is closed. So, but we can take a vote. Can I have a motion to approve based on Whitney's, Whitney's write up?

George Hoyt: I'll make a motion to approve the proposal as presented at this meeting, subject to Whitney's, conditions out as outlined in his, his document presented.

Wayne Spector: I'll second.

Whitney Singleton: What's the second?

Wayne Spector: I am. Wayne.

Harold Boxer: Okay. Wayne. Okay. All in favor? Aye. And the opposition. Okay. And it's passed. The motion carried by a vote of 5 to 0.

Steven Helmes: Great. Thank you. Thank you everyone.

**2. Carl J. Lana (Executor of Estate of Joseph Lana)
29 Gregory Avenue
Mount Kisco, NY 10549
(SBL 80.33-6-12)**

**ZBA#21-17
Area**

Mr. Carl Lana, property owner and Mr. David Coffin, Architect, were present.

Harold Boxer: Okay. Now we have Lana. 29, Gregory Avenue. Who's here for that?

Mr. Miley: Chairman, we have two people here for that application. They're coming to the podium.

Harold Boxer: Do we have the presenter? I think we should do the presenter first.

David Coffin: Representing Carl Lana, the owner of the property at 29, Gregory. So, let me start off, hopefully you've had an opportunity, board members and also chairman to look at the packet, that was submitted to you along with the site plan. And what I wanted to do is go, directly to the written portion summary. Give you a little background on the property itself. Essentially what we're asking for.

Felipe Galindo: Can you just get closer to the microphone? Because the [Indiscernible 0:24:35.9].

David Coffin: Hey, is that better? Okay. Essentially what we're asking for is a continued use of an apartment that was essentially built above a garage back in 1946. The owner at that time was granted a building permit. But unfortunately, the owner didn't follow through on that and get a certificate of occupancy. So the owner, the current owner, Carl Lana is the trustee of the property and is in the process of selling it. And in fact, they do have a buyer for the property. And, so obviously the buyer is very much interested in the property. Also because of the apartment. Now, the, the apartment was built, as I said, above the garage. But apparently it was built within a space that probably was, that was totally enclosed. And, the permit was for just building out the apartment within the existing structure. So, utilities were brought into it and, and what have you. And my guess is that the, the reason that the garage was placed where it is, as well as the apartment is due to the topography of the property is very difficult to, to get to the house because of the topography. And, of course, in today's, zoning requirements, you, we wouldn't be able to put in our apartment unless it's within the, the primary residence. And in this particular case, we have essentially, it's not allowed above a, an accessory building. It has to be part of the, of the primary residence. But the, the point here is that when the property was sold to the parents, actually, of, of my client, Carolina, it was sold to them in 1967. None of this was brought up at that time. And, it really didn't, come to, or surface, I should say, that there was no CO, or, that, the situation was not permitted until was brought up by the realtor who was in the process of selling the property for the owner, the current owner. So at this point, obviously that's why we're here. I think that the CO had been granted way back when it should have been. We wouldn't be here tonight. So at any rate, what we're asking for is a continued use of variance to continue the use of the apartment above the garage. And I think in terms of the justification, I think we've, we don't feel that the character of the neighborhood is going to be compromised by this continued use. In fact, all along Gregory Avenue, there's a number of two, two family dwellings. So that it really isn't keeping with the character of the neighborhood. Also, this really is the only getting a variance is the only feasible way to maintain and keep the property, in its current use. And the, the, the apartment certainly has been used for almost 80 years. So we're really not changing the use. And also the current property owner did not create the situation. It's a situation where they had absolutely no knowledge. Neither did, and neither did the parents of the current owner. So this situation was not created by, by the owner of the property. So at that, I'd be happy to answer any questions, and I'm sure that, Carl would be, be happy to do so also.

Harold Boxer: When you say that it's a two family...

David Coffin: Pardon me?

Harold Boxer: Are you talking about two family in the two separate buildings, the apartment and the main building? Is that how [Indiscernible 00:29:43]

David Coffin: The, the, there's a primary residence on the property.

Harold Boxer: Right.

Interviewee: And then there, and then there was a garage. And then in 1946, the apartment was actually built above the garage. But it was within the, the actual framed out space. Nobody knows what that space was used for. Could have been storage, who knows.

Harold Boxer: Okay. So you have two residences on one lot?

David Coffin: That's correct.

Harold Boxer: That would require an area of variance to continue that. And we, I'm thinking if we can grant, we could grant the area variance. But you would have to keep the buildings as is.

David Coffin: I don't think there's any, any problem in doing so. In fact, that would be the intent, you know of the current owner. And, and I'm sure that's the intent of the buyer. Is that correct?

Carl Lana: Yes. Yeah. Yes.

Arthur Weise: Yes. Can you, walk us through, the, the layout here? I'm just trying to, I'm, I'm guessing that, right next to the four is the main residence and, on eight and 10 is the apartment. But I'm not, I just want to make sure that's clear.

David Coffin: Does everybody have a copy then of the site plan? Okay. The, the apartment in garage is located on lots, what are identified as 10 and eight. We, we know that it's nonconforming from the standpoint of setbacks. The main residence is on lot four. And the lot three, or it's identified as lot three. There's nothing on that property. But in front of Gregory Avenue, it's kind of an interesting topography where the primary residence is. It, it is quite, quite a bit higher than Gregory Avenue. So again, I get back to the fact that I think, and then it slopes down toward where the garage is and, and the apartment. And there's a driveway that accesses the garage and apartment right off of Gregory, right through Lot 10.

Arthur Weise: And you say that for the last 80 years? There have been separate families in both the apartment and in the house?

David Coffin: No, actually there haven't been separate families. It's, it's been utilized by the same family. Carl, the current owner actually lives in the, in the apartment above the garage. And his sister's and family live in the primary residence. So it, it's all maintained within the family. Prior to that time when Carl's parents were alive, there was an aunt that had lived in, in the property, I mean, in the apartment. And then I believe Carl, that your sister also lived in the, in the apartment.

Arthur Weise: Okay. So, so.

David Coffin: So it's always been.

Arthur Weise: When you sell the property, that would be the first time it'd be used by two separate families, is that correct?

David Coffin: No, no. The intent of the note of the buyer is to use it for their own personal use as well.

Arthur Weise: It is. Okay.

David Coffin: Yeah.

Arthur Weise: Okay.

The Secretary: I'm sorry. Can you just step up to the microphone? Cause they're not going to get you on our record. Thank you.

Carl Lana: No, that, that's something that was stipulated by my agent to the buyer's agent that is only to be used for personal use.

Arthur Weise: Okay. Yeah.

Wayne Spector: Thank you. Let me, let me ask you a question, please, this apartment, is it a full apartment with a kitchen, bathroom, bedroom? What is it?

Carl Lana: Yes, it's the, it's a one bedroom with a kitchen, full kitchen and baths. There's a plan in there.

Wayne Spector: I, I have another fundamental question I'm trying to figure this out, is what exactly is, what exactly is the variance that we're being add? Is this a, an area variance, a use variance? Is this an interpretation? Because are you claiming that it's grandfathered in? I'm a little confused on that because,

Whitney Singleton: Is that, is that Wayne speaking with...

Wayne Spector: Yeah.

Whitney Singleton: Okay. Wayne, the camera's on that, on the, podium there, yeah, the, they, the designation of how they've done this is somewhat, ass backwards. They are requesting a use variance, which your board cannot give you. Your, your board cannot give a use variance without a demonstration of financial hardship and all the items associated with the use variance. The question is whether or not it can be couched in the terms of an area variance given the circumstances for this property, which I, I, based upon the research that I've done, I believe that it can be.

Wayne Spector: I couldn't hear what you like. What was the last thing you said? I'm sorry.

Whitney Singleton: I said your board is not going to be, they haven't presented any of the requisite elements for a use variance. Your board is not going to be able to pro, approve a use variance. I mean, one, they, they talked about the fact that it's that, it's not self-created. It, it is self-created. When they purchased the property, they were on constructive notice that there was not a certificate of occupancy for this property for this particular unit. So your, it is a self-created hardship, which would be fatal to their application for use variance, even if they could demonstrate the financial hardship. So, they're kind of up a creek on that one. So the, the question becomes, was it simply designated improperly as a use variance, and can it be approved as an area variance? And based upon the research that I've been able to do, I think that it could be because the, the utilization of two dwelling units on the property is permitted. They're just supposed to be in the same building. So you could, so the, the, the problem with their, with their current site condition is that it's almost the op-, the opposite of a separation requirement. They're separated and they need to be combined. So we could give them your, I shouldn't say wait. Your board could entertain an application to allow the two dwelling units to be in separate, structures on the property. And, so long as, you know, the, the conditions remain, that were there. So you could grant an area variance and the overall use of the property for two families would not be violated.

Wayne Spector: But isn't, isn't this in essence an accessory apartment? And aren't accessory apartment regulations separate and apart from zoning regulations in many. I'm not sure if in this town it is or not actually.

Whitney Singleton: No. They're, they're, they're not.

Mr. Miley: I think, I'd like to shed a little light on this too. The application indicates use variance, perhaps, I mean, maybe you checked it off wrong because the section of the code that you're citing is an, as well as the public notice indicates that they're looking for, two dwellings. So it's going to be a principle dwelling. They're creating a principle dwelling. Now they'll have two principle dwellings on one lot. And that was the public notice.

Wayne Spector: Well, if the public notice is inaccurate as to what was being requested, are we?

Mr. Miley: I think, I think it is accurate. I think the check mark is just the wrong place.

Wayne Spector: Okay.

Mr. Miley: Because they indicate also in the application the same section of the zoning code. So the section of the zoning code and the public notice match.

Wayne Spector: Okay.

David Coffin: So in other words, we should have called it an area of variance as opposed to use. Correct.

Wayne Spector: Yeah.

George Hoyt: So if, if there were a certificate of occupancy granted, which either was lost or never gotten, this would all be moot. And this would've been, wouldn't be here tonight.

Mr. Miley: It's, if there was a certificate of occupancy, they would not be here today.

George Hoyt: And the memo cites. On page three of your memo, I must cite an old section right on top of page three, it talks about section 110 -5.C, and it says effectively that a bill, it talks about a billing permit being duly issued and substantial construction occurring prior to the effective date of this chapter. So is there any indication that this building was, this construction was done prior to the current code and, and it, and it complies with the current, with the code in effect at that time? Or are you just citing this, this reference for historical reasons or something?

David Coffin: we're assuming, that because the permit was granted in, in 1946, that, they were going to comply with the code at that time. And, and certainly it, it, the zoning or the, building inspector signed at that time, Deacon, signed the, the building permit application. So, and, and as best we can tell at the time, it did, it did meet, the zoning regulations.

George Hoyt: So this reference, is this a current Whitney, Peter Whitney? Is this, is this reference a current reference to the statute, or is this, or is this a antiquated reference where it talks effectively that only a building permit needed to be issued? Yeah. Not a certificate in the bankruptcy.

Mr. Miley: Well, they were definitely issued a billing permit. And I referenced the, billing ordinance from 1/10/1928, for which this building permit, would need to follow those regulations, the original billing permit. So they were seeking to renew the permit, and I was unable to obviously renew the permit because one, it's a nonconforming use. And I have no idea whether they used it in accordance with the provision or a section of the code that was adopted in 1/10/1928. So, and it was not enough information. Hence the reason for the challenging or seeking the variance, the accessory use in the apartment above the accessory structure was permitted back in 1928 up until 1954, or from when I think believe the code changed in 1961. They eliminated that section of the code, however it was, for those employees of the owner or not able to gain any, revenue or, or, you know servants, of a tenant and or owner that was the original tenant of code. So, it was impossible for me to reissue the permit because none of the information was available. I have no idea how the property was being used for the last, 80 years. And, and, and our, code in the case of nonconforming use, if it's not being utilized for a year, is no longer valid. In other words, nonconforming use would, would no longer be permitted. Since there was no co I would have to take the interpretation that it should not have been used for the last eight years. I don't know if it was used. I have no idea. I have to go based on a word of the owner that it was being used properly and, but it's not enough information for me to be able to reissue a billing permit, hence the challenge. Or they're not seeking interpretation. But they're seeking, another way to allow this use to continue without violating the code.

Wayne Spector: Just to be clear. So at some point we, we are assuming it became, it did become a nonconforming use and we have no proof that that nonconforming use was not discontinued for a period of time and then maybe restarted.

Mr. Miley: Right.

Wayne Spector: Which you, you can't once you, once you, once you discontinue a nonconforming use, what is it, a year?

Mr. Miley: Period of a year. Yeah.

Wayne Spector: A year it becomes, becomes no longer allowed permitted use, right?

George Hoyt: Well that's, you could prove otherwise, right? Maybe the homeowner, I don't know if you've tried, but do you have records for the last 80 years to suggest that either again, I, the nuances here are, are great. But if you could prove, I assume continued use, original use of the property for 80 years, which your memo suggests you people, family members were living in it, would that suffice?

Wayne Spector: I, I, I think that's, that's preferable because I know that there are a lot of, in various areas of this town, there are a lot of garage structures that are larger than the standard garage. And I believe that there have been some, some, some applications put in and some other issues with other properties involving the desire to turn upstairs up the upstairs areas of garages into residential. Then I think that a lot, that it's, it's not something that's looked at favorably in, in general and, you know, so if there was any way to show that this is a, a continued grandfathered use, it would be much preferable to me than granting a variance, which is then, which then has a degree of precedence, which, could, could be problematic. I think from, for the town.

Whitney Singleton: Wayne, Wayne. The pro, the, the difficulty with that is that it was never a permitted use. Even, even if, even if the use by family members were permitted. And I'm not saying that it was because it references servants' quarters. Even if that were proof, it was never legitimate at the time it began because they never got a certificate of occupancy.

Wayne Spector: So then, so then we are, we're.

Whitney Singleton: Could it be a preexisting nonconforming use if the use was never certified?

Wayne Spector: So then, so then I think for the purpose of this, of this hearing that the historic use of it is irrelevant. We're looking at a property almost, as an initial application to create a, a residential unit above a garage is what we're being asked to do right now. Because it was never legal to be, it was never allowed to begin with, is what you're saying.

Whitney Singleton: I, I'm not saying it, it, it, what the, the occupancy of it was never allowed. Correct. Because they never got a certificate of occupancy.

George Hoyt: So a CO was required back in 1926, whatever it was.

Wayne Spector: 46.

George Hoyt: 46, yeah.

Whitney Singleton: Yeah. The, the, the, the.

Mr. Miley: Sorry. The requirement is...

Whitney Singleton: The thing that I'm telling you is that they are not going to be able to establish legally an entitlement to a use variance. There is another way to, to handle this given the size of the parcel. Given the fact that it's an existing building and given the fact that their total occupancy of the premises is of the parcel is not going to exceed two families. I think that this can be done in the form of an area variance. If, if your board was so inclined with corner with whatever conditions your board deems to be appropriate.

George Hoyt: How, how Peter how easy is that condition? It's easy to say we're going to sell the property subject to only family members or, or, but is that enforceable? Is that put too, too putting too much pressure on the town to monitor? We've done this before at some point. How, how, how is that?

Mr. Miley: I didn't see the conditions. But I, I think Whitney could better explain the conditions he may prescribe for this property. You know, if, if, if that's the desire of board. If the desire of a board wants to grant the, an area variance and, and attach certain conditions. Yeah. I mean.

George Hoyt: Wayne, well Wayne, Wayne is right. That, that there's, this town has been very sensitive to, creating or allowing to create.

Mr. Miley: Yeah.

George Hoyt: Apartments, et cetera for rental, et cetera. So I think, I think we need to be very careful about that.

Mr. Miley: Yeah. Also, also note that this is you. I see exactly where you're coming from and I'm not, obviously I'm not here for the applicant. But I'm just giving you my point of view. This is a two family zone also. You see a lot of those applications for, and in one family zoning district requesting accessory use department, which is totally not permitted. In this case, I think, what Whitney's alluding to is because their size of the parcel, it's a two-family zoning district, potential for adding additional use in the future may present be presented. He's, he's essentially, I think, extended an olive branch to the, to the board to, you know, read between the line and see that it, this could potentially be, you know, a little bit more in a two-family in the future.

Arthur Weise: Can I ask if there's one electric meter and one gas meter? Are there, are there two separate ones?

Mr. Coffin: No, in fact, the utilities were brought into the garage separately back in 1946. And in fact, there was a permit granted as well as an inspection. It took place with the electricity and also gas, and I believe water that was brought into that.

Arthur Weise: So, so, so you have been paying two separate bills. Okay. And then I'm, I'm going to guess that the parking is all right next to the, the garage and the main family members or the people living in the primary residence, they're, they're using that as well, right. Okay.

Wayne Spector : I'm, I'm going to just mention the fact that I appreciate what you said about the fact, the differentiation that this is a two family zone and that does change the analysis in my opinion as well regarding the, the second there, a second unit on the property. I do believe it. I do agree.

George Hoyt: Yeah. I agree.

Whitney Singleton: So essentially, but for the distance between the two buildings, the uses other are otherwise allowed.

Mr. Miley: Right.

Whitney Singleton: And, and from that perspective, I don't have a problem addressing this as a zoning bear, as, as a, an area variance.

George Hoyt: So Whitney, do you mind, did you prepare any or do you have any conditions that you could read to us.

Whitney Singleton: No, but, but, but I've, I've, I've, I've been to this site, I've examined the entire file. I've examined the underlying subdivision plat which, which, which is rather ironic. Did somebody, did somebody say that Dakin was a building inspector? I think one of the, applicants said that Dakin was a building inspector. This is actually known as a Dakin subdivision. So I find that a little odd. But, but any, in any event, yeah, I've exam, I've examined everything. But I didn't want to be presumptuous as to which direction your board would be going in. And I, I didn't want to, I, I think it would be best if I were to prepare something for your consideration at the next meeting. I don't know what the timing constraints are of the applicant. And I do agree with Peter that the public notice is sufficient. I think that they should clarify that they're asking for an area variance though, and not a use variance. And I could, I could propose some conditions for your board and you could, accept or reject them as you deem appropriate. I, I, I've been listening to what your concerns are. I, I think that this is doable. But we're talking going into, October now.

Wayne Spector: On the issue of character of the neighborhood. Are there any other similar uses properties in the vicinity of this property?

Whitney Singleton: Yes, there are. There are other garage apartments on the street. On the other end, on the same side of the street and further down.

Mr. Miley: And multiple two families as well.

Whitney Singleton: Well. Multiple, yeah.

Arthur Weise: So, so is it, is it fairly rare for there to be one family, two structures? Is that pretty rare?

Whitney Singleton: Yes.

Mr. Miley: You see it on occasion completely.

Whitney Singleton: Your last application had two structures.

Arthur Weise: Right. I'm just, I'm wondering.

Whitney Singleton: House and a commercial property.

Arthur Weise: Can, can we say that we want to continue to have one family, which sounds like that's what your, there's your buyer is going to do anyway, that be a corner part of?

Whitney Singleton: I, I think that would certainly be within your realm of permissible conditions.

Arthur Weise: I'm just going to throw it out. What do you guys think?

Wayne Spector: Peter, would, would this apartment above the garage, would it meet the dimensional or the, square footage, requirements for an apartment. For an apartment as a, as an individual separate department otherwise?

Mr. Miley: It has a square footage. I didn't do a full code analysis though on it. It would have to in order for me to even issue, it would be a new permit. So I would look at, through the lens of today's code to make sure it meets the size requirements of bedrooms, egress requirements. So the answer is, I don't know. But it would certainly have to, and that could be a condition.

Wayne Spector: Well, if it wasn't a separate rentable apartment, would it even need to? I guess that's the other question I have because I, I don't know how you designate this, if it's only for the use of the primary owner of the property.

Mr. Miley: Yeah. I mean, it's still a dwelling unit. So, it's still have to meet certain criteria of, sleeping area, living space, dinette, kitchen space. Yeah. I mean, believe it or not, you'd be surprised how small a requirement is in New York State. You need about 260 or 280 square feet for efficiency apartment. So I would certainly believe that this could easily, be able to be converted to a single-family dwelling.

George Hoyt: Yeah. So you're, you're saying that, that you would need to do that in any case, whether there were condition in any case?

Mr. Miley: Yeah. Okay.

David Coffin: Are you saying that this property would have to be separated?

Mr. Miley: They're not calling, talking about subdivision, just treating it as two separate dwelling units.

David Coffin: Okay. Okay.

Mr. Miley: It's going to be two, two principle structures on one lot, not, not permitted to be subdivided, in other words.

David Coffin: And you're saying that the apartment would have to be brought up to the current code?

Mr. Miley: It would need to meet absolutely the, it would have to meet the criteria of the property maintenance code, the minimum criteria, bedroom size, and egress window. Absolutely. You don't have, you don't, and you don't have a...

Whitney Singleton: Which exists regardless of this application.

Mr. Miley: Yes, there's certain retroactive, fire safety codes. We were going to be issuing a permit if upon approval, we'd, we'd review to make sure it meets the minimum. And if you like, I could go back to the 1950 code, which is obviously more stringent than today's code, believe it or not, with regards to its size, ceiling, heights, and everything else. I don't think it's going to be an issue. I wouldn't be concerned about it.

David Coffin: I'm just thinking more in terms of the timing here. When is the closing scheduled?

Carl Lana: Is proposed for November 15th.

Whitney Singleton: I, I, I'm sorry. I didn't hear you.

Carl Lana: Sorry. We have a proposed closing for November 15th.

Whitney Singleton: Well, the, the next meeting would be in October, and the resolution would be drafted.

Harold Boxer: Can they get an approval in October?

David Coffin: What about the, what about complying with the code you would come out?

Mr. Miley: Yeah, we could review it. Sure. Prior too. Yeah. We don't, if, if, if I get a positive feeling from the board, I don't think I'll be wasting my time going there and, and doing a review prior to the issuance of a, of a variance.

David Coffin: The only reason that I brought up the, there was a section that I believe one of the board members brought up about section 110.5 C was the fact that if there's an active building permit. In other words, if it's still open and it was open or remained open, or was issued prior to the enactment of the zoning ordinance, that it would be allowed. In other words, it would be permitted just with the building permit. So the only difference that we have here is the fact that the building permit, I mean, the, you have a building permit. But it was never issued. They never received the CO. We don't even know, we don't even know whether or not they, they had an inspection.

Harold Boxer: Regardless, regardless of whether or not there was a, it continues, it, you cannot, we cannot give you any kind of variance for, we can give you an area variance. But you still need the, you still need to get a variance from this board. You can't pass anything today. Because right now the property is not compliant in terms of the number of dwelling units. Now it's, we're, it would, it's going to be, Whitney was very nice in his interpretation of saying that yes, you can have a two-family even though they're separated. So, I would.

Whitney Singleton: I, I think I can short circuit that you have not requested an interpretation. I don't think that the interpretation would be, fruitful. But you've requested a variance. And that's what the board is entertaining. So you, your issue that you're raising, whether, the, the issuance of a building permit and substantial construction and reliance there on, that's really a, a non-issue for this board at this point in time. It's not part of your application. And I, I'm quite certain that it would not be successful anyway for a number of other reasons, that really, if I were to go down that path, it would just be a waste, waste of everyone's time.

David Coffin: No. I, I simply brought that up just for background, that's all.

Harold Boxer: Okay. We should probably see if there's any comment, comments on Facebook or Peter?

Mr. Miley: Chairman. Bear with me. We'll check. Is there anybody.

The Secretary: No comment.

Mr. Miley: You're clear, Harold. No, no. Nobody would like to speak on this application.

Harold Boxer: Okay. And there's nobody in the room there?

Mr. Miley: Nope. Nothing on Facebook? No hands raised in Zoom, nor is there anybody in town hall that would like to speak?

Harold Boxer: Okay. I would propose then that we keep the, public hearing open and revisit this next month after you speak to, Peter and Peter and Whitney get a chance to get together. Any board members, what do you think?

Wayne Spector: I would agree.

George Hoyt: Yeah, I agree as well.

Harold Boxer: Okay. Then we, we'll need a motion to keep the public hearing open, please.

Wayne Spector: So moved.

Harold Boxer: Okay. I second.

Arthur Weise: I second.

Harold Boxer: I'll second. All in favor.

The motion carried by a vote of 5 to 0.

Whitney Singleton: One more piece of information for the drafting of the resolution. I saw that mister, Mr. Carl Lana was present, who is the name of the presenter before him? I didn't catch his name.

David Coffin: David Coffin. C-O-F-F-I-N.

Whitney Singleton: Thank you.

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

ZBA#21-9
Area

Mr. Jay Black of Diamond Properties and Ms. Teresa Marboe of Gallin Beeler Design Studio were present.

Harold Boxer: Okay. We can go on. There's two, DP 21 cases before us tonight. If you would like to go ahead with your presentation.

Jay Black: Good evening. Actually this is rejuvenating our conversation related to the freestanding monument signage at both 333 North Bedford Road as well as the second application had been for 383 North Bedford Road if you recall. In previous discussions, we were seeking several variances related to each of these signs, which would be based on the last discussion, I believe it was during the July meeting in which we had narrowed down to a height of 14 feet 6 inches among several other discussions in which believe Whitney from discussions we had several weeks ago, we had developed a resolution related to that to both of those requested applications. So Chairman, I don't know if it would be helpful for myself and Teresa from Gallin Beeler Design Studio to show the visuals from the previous presentations as a refresher before moving forward.

Harold Boxer: That would be good.

Arthur Weise: That would be helpful. Yeah.

Jay Black: Absolutely. So Teresa?

Teresa Marboe: Okay. I'll go ahead and share my screen. Okay. So can everyone see my screen?

Jay Black: Yep.

Teresa Marboe: So just to recap on, on the discussions we had previously. This is concerning the 333 North Bedford Road property which doesn't have any street frontage on the property other than the two entrance drives which is where the two proposed monument signs are to be located. We had gone through several different options for height of the sign. We first came in requesting a 16-foot tall sign. We then went through at the request of the board a comparison visually between three different heights, 16 foot, 14 foot 6 inches and then a 12 foot 8 inches. So this is showing at the south entrance drive, similarly at the north entrance drive. And where we had landed in that last meeting was kind of the middle ground between the two, a proposed 14 foot six-inch tall monument sign. And then along with that several variances which some diminished from originally proposed in that 16-foot sign. But still several variances related to lettering on the sign and then the overall area of the ShopRite sign.

Harold Boxer: Okay. Do you have anything that shows what the variances you are requesting are?

Teresa Marboe: Yes. We are requesting a 6.5-foot height variance. So the required is 8 feet. The proposed is 14 foot 6 inch. For letter height, we are requesting a variance for 18-inch lettering of the 333 here. The maximum letter height permitted is 6 inches. We are requesting a face area variance for the ShopRite sign only. It is 21.1 square feet and the required is 20 square feet. And then the only other thing I have listed here in this table is the accompanying artwork height which will be determined by the ARB. So Wendy, I believe these are the variances that we have requested in terms of the sign itself. And then the 383 property also requires variance with the monument sign being located for 333 on another property.

Whitney Singleton: Okay. So the only distinction between the 333 and 383 is the fact that it's an off-premises sign?

Teresa Marboe: Yes, that's correct.

Whitney Singleton: Okay. If you want to stop sharing, I can share the resolution with the board.

Teresa Marboe: Sure.

Whitney Singleton: And more importantly, can confirm that I haven't made any mistakes. So you've seen this application before or this resolution before Chairman and Board Members. There was just the tweaking and the variances requested or the off-premises side sign. This is for 383 right here. One, an off-premises sign is prohibited. They're proposing to have it allowed. The maximum letter height is 18 when six is required, meaning a 12-inch variance, 14.5 feet for total monument sign height where H required is six and a half and maximum face area of 20 square feet. And they're proposing 21.1 for the ShopRite requiring a 1.1 square foot variance. And I think this otherwise reflects this otherwise reflects what your board has seen before. These are the conditions of approval. They're pretty much standard conditions for your board. I haven't put in anything out of the ordinary except for the fact that whenever we do illuminated signs that they shall not exceed the business hours of the tenants, so that's basically it and the resolution for 333, let me see and this one's different. No, this is 383. They're basic. I think that I need to go back and otherwise correct the off-premises sign. I have it for both. I'm not certain whether or not the off-premises signed for 333, but the southern location is actually on their premises, or it's on a separate tax lot, but it may need to come off of this the application for 333. But otherwise everything else is the same.

Jay Black: Whitney, the one for 333 the sign is on is on the premises. It's not another tax lot.

Whitney Singleton: Well, it's a different zoning designation, so it's got to be a different tax lot. It's a CL zoning district than your prop client's properties in the ML district.

Jay Black: Okay.

Whitney Singleton: I could be wrong, Jay, but I, whatever it is.

Jay Black: Okay. Understood.

Whitney Singleton: Any board comments?

Arthur Weise: Looks like this is what we had previously discussed.

Harold Boxer: Anybody in the room or on Facebook?

Mr. Miley: We'll confirm Harold Boxer.

Harold Boxer: Okay. Okay.

Wayne Spector: I'm okay with the review that's been done to date on this.

Mr. Miley: No hands raised. Okay. And nobody in the room is going to speak in this application.

Harold Boxer: Okay. then I think we can have a resolution based upon Whitney's resolutions. So we should probably take them one at a time. So can I get a 333? Can somebody make a motion?

Arthur Weise: We make a motion to close the public hearing first. Yep. I'll make a motion.

Harold Boxer: We could do that.

Arthur Weise: Close the public hearing.

Harold Boxer: Because you're going to have to be chairman pretty soon anyway.

Wayne Spector seconded the motion.

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

Harold Boxer: Okay. Okay. Now we can do the second part. Does anybody want to make a motion to accept Whitney's resolution?

Arthur Weise: I'll make a motion to accept Whitney's resolution.

Harold Boxer: Second?

Wayne Spector: This is on 333, right?

The Secretary: Yes.

Harold Boxer: Correct.

Wayne Spector: I second that as well.

Harold Boxer: All a favor? The motion carried by a vote of 4 to 1.

Ralph Alfano: I'm opposed, Harold Boxer to the resolution.

Harold Boxer: Okay.

Mr. Miley: I'm not sure if you heard that one of your board members?

Harold Boxer: Noted decision.

Ralph Alfano: Chair Person, I'm opposed to the resolution.

Harold Boxer: Who said that?

Ralph Alfano: Ralph.

Harold Boxer: Okay. Next is?

Mr. Miley: 383.

Harold Boxer: 383. Does anybody want to make, propose a resolution?

Mr. Miley: Yes. Chairman, two separate applications. One more public hearing for 383 has to be closed.

Harold Boxer: Okay. I'll move to close the public hearing.

Arthur Weise: I will second.

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

Harold Boxer: Okay, now next motion please.

Wayne Spector: I move to approve the variance requests as per the resolution to be corrected if necessary by Whitney for 383 North Bedford Road.

Arthur Weise: I'll second that.

Harold Boxer: All in favor? The motion carried by a vote of 4 to 1.

Harold Boxer: Opposed?

Ralph Alfano: Nay

Mr. Miley: It was 3-1 Chairman.

Harold Boxer: Pardon me?

The Secretary: Four-one.

Wayne Spector: It's four-one.

Mr. Miley: I keep forgetting. Harold Boxer's not here. Sorry Harold Boxer, I didn't count you. I apologize.

Harold Boxer: Okay. I'm here. It's the ghost of Christmas future. Okay. So then you have your variances and I look forward to seeing it when it's all done.

Jay Black: Absolutely. And thank you very much for all of your time. You're welcome.

Theresa Marboe: Thank you very much.

Jay Black: Thank you.

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

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

P. Daniel Hollis of Hollis, Laidlaw and Simon.

Harold Boxer: Okay. Moving right along Sure Green Properties, 1 Manchester Drive.

Wayne Spector: Harold Boxer, as I recall the last meeting, I believe I recused myself on this one, and I'm just going to continue my recusal.

Harold Boxer: Okay, Mr. Hollis, it's all yours.

Mr. Hollis: Thank you. I can't see you for signal, but I took the verbal hint. Good evening, members of the board, members of the public. My name's Pete Daniel Hollis of the law firm of Hollis Laidlaw and Simon 55 Smith Avenue here in Mount Kisco, New York. I appear before your board on this application on July 20th, where I put on the record my letter of April 21st. Sorry, I have to start over. That's good. my, I, when, when I put into the record my letter of April 21st of this year, setting forth the bases for the grant of the setback variance and the height variance that we applied for this building in an attempt to bring this building into the 21st century. Towards the end of that evening, it was requested that we provide a rendering to you what the building would look like generally. These are not final architectural plans, of course, but it's Mr. Curro who can't be with us tonight his best effort at providing you with something as to what it would look like as opposed to what it looks like now. In addition, there was a request that a sketch be provided for illustrative purposes only, not for the purposes of increasing impervious surface so that we might be looking at another type of variance, but for illustrative purposes only as to whether or not the property could handle parking if the planning board were to require such parking when we get before them for site plan approval. So we also were asked to re-notice the hearing for tonight because certain members of the public indicated that they had not received public notice, although I'm sure Ms. Russo and her inimitable style sent the notice to anybody that was required to receive it. And I know it was properly posted in the newspaper and in village hall. So that even though proper notice was given by mailing by publication in the journal news and by posting, we nevertheless complied with a request we read, noted the public hearing, continuation of the public hearing, not a new one, but a continuation of the public hearing for tonight. I really have nothing else to add to what I said it in July or what my letter says. And two letters were received by the board in opposition to the application. They both dealt with traffic and one of them added a parking concern. And I don't know if there are any other members of the public. My goal tonight is to have you close the public hearing and then at either tonight or at some subsequent date reach whatever conclusion you're going to make based on the record I've made before you.

Harold Boxer: Okay. So let me just go over it. The lot size is too small, by more than half of it exceeds the maximum building height. It exceeds the coverage and the parking based on the topography. You'd be an uphill park.

Mr. Hollis: Well, the parking that is shown is that's not part of this application. That's illustrative only. There was an inquiry as to whether or not the property could accommodate parking. If parking were to be required at some subsequent date by the planning board in the site plan review. If they say you need more spaces than we feel we need, we might be back here for a variance as to parking and perhaps a variance as to impervious surface. Keep in mind that pervious surface parking could be provided on the site which would not increase the impervious surface.

Whitney Singleton: But it would increase the development coverage.

Mr. Hollis: I'm sorry, I can't hear.

Whitney Singleton: It would increase the development coverage.

Mr. Hollis: I'm not here to debate that tonight. We're here for the variances that we're applied for and we're noticed, but that's all it is conjectural as to what the planning board may or may not do. We don't know what this board's going to do. So I'm not going to apply for a coverage variance when we don't need one at the moment.

Whitney Singleton: But it's required by the code, Dan.

Mr. Hollis: It's not as of yet.

Whitney Singleton: The parking spaces per dwelling unit are required by the code. You can't simply say, I don't need those. At least not now, because I'm not going to propose those to the planning board. They're required by code.

Mr. Hollis: And I may seek relief from that code at a future time from the planning board and or this board. Right now there's nothing.

Whitney Singleton: But you're segmenting your applications.

Mr. Hollis: Pardon me?

Whitney Singleton: You're segmenting your applications, You're piece-mealing the applications to the zoning board. I'm not showing on the complete picture.

Mr. Hollis: I'm not piece-mealing it. I was asked to provide an illustrative sketch. I provided it. We're just trying to create an issue here with none exists.

Whitney Singleton: No. But those parking spaces would also require a steep slope variance because they're, they're not only in steep slopes, they're on very steep slopes, which are prohibited from being constructed upon.

Mr. Hollis: Anything else you found in your search today? Because that's also not before the board at the moment. That's when we're in front of the planning board. We'll find out what they have to say, what other permits the planning board feels we need. And depending on where we have to go.

Whitney Singleton: The planning board just not determine what permits you need the building inspector does.

Mr. Hollis: I wasn't quite finished, but I heard you, the letter we got.

Harold Boxer: Any comments?

Mr. Hollis: Pardon me?

Harold Boxer: I was asking the board if anybody had any questions.

Arthur Weise: I mean, the, the first question I have is why do you say this will bring this into the current time period? What is it you think is deficient in the current home versus this, this other, that looks to be very large for such a small lot size?

Mr. Hollis: Well, it's no expansion of the building size. The only increase in volume is the height. It doesn't go out to any of this side yard or front yard or rear yard in any fashion. It's all within the same footprint of the building. What we're doing is right now, this house has been has a lot of rapid warrants and it's been non-compliant. They're building code violations within the building. So what we're saying is we're going to bring it into the 21st century as to the building code to make it safe, habitable, and more attractive.

Arthur Weise: That doesn't require you to double the size of it though.

Mr. Hollis: Pardon me?

Arthur Weise: Making it safe does not require you to double its size though.

Mr. Hollis: It's not being double it in size.

Arthur Weise: Well, this is insufficient. I mean, it's a picture. There's no floor plan. It's hard for us to make a judgment of what you're doing.

Mr. Hollis: The building footprint is not being expanded. The area deficiencies are in the setback of the existing building from the respective side yard, front yard and rear yard. There is no difference there.

Arthur Weise: That's not my point. My point is that we would like to see what the current footprint of the house looks like and what your proposed footprint looks like?

Mr. Hollis: You have that, sir.

Arthur Weise: You don't. We want to see each room what are you doing here.

Mr. Hollis: That's not part of this application, sir, with all due respect.

Arthur Weise: That is going to be part of our determination.

Mr. Hollis: I don't whether that's something the area of consideration. I think it's an area of variance that we're here about not the layout of the house what it looks like. It's not area of variances based upon setbacks that only become non-compliant because we're expanding the non-conformity of the building up not out. That's the reason we're here.

George Hoyt: Yeah. I had asked for and maybe others too for a rendering because one of the concerns was as you come off the hill down into town, this building would be a monstrosity. It's hard. It doesn't seem like it's a monstrosity based on this. It would be nice to see from the crest of the hill what the there's concern about blocking views, et cetera. So if there's a way to have a better sense, this is a nice rendering

and the house looks much improved, but I can't tell from coming off the hill whether this is going to be dwarfing the surrounding homes. I think that's an issue. And the other one is the other issue is simply the parking. And as you saw, we have a number of, we had a couple of letters come in about this narrow street danger with all these cars parking there. So again, we can debate whether you're here-- whether you need, whether you can solve your parking problems at a later date. But I guess maybe Whitney or Peter, if you can refresh me, how many parking spots does this lot need to be up to code currently and how many does it have?

Mr. Hollis: Well, if it were only to be a one family residence, who wouldn't have to meet a parking requirement and that's the alternative. It's a two family zone. The RT-6 permits two family. The client could very easily put in building applications to make this habitable one family residence and it could be rented out and or sold to a family or to a group of individuals within the definition of family in your code. And that conglomeration of individuals could produce as much or more traffic than could a two-family home.

George Hoyt: Right. So you are you saying that all two family homes in the town could be altered so that the, I mean, what you're suggesting is the requirements for two-family homes are moot because any two-family home could be turned into one-family home. Right. If this is a two-family home, how many parking spots are required? And how many does it have?

Mr. Hollis: I believe it's four.

Mr. Miley: On the current code it would be four. Correct.

George Hoyt: And how many does it have currently? Is this one or is this two? I can't tell.

Arthur Weise: I think its zero right now.

Mr. Miley: Well, the application for which the denial letters was based on did not show parking. We just received on the 25th, a drawing that included the four spaces. I'm not even sure if you have it in front of you. And again, we have to do a code analysis, see when the original home was constructed, I know I did that analysis. It may have not even required parking as a one family dwell, but certainly the second dwelling unit would require a minimum of two spaces.

Mr. Hollis: As you sort of twisted yourself around a bit to find the non-compliance wasn't non-compliant by going back in time to 1946 a year with which I am sadly very familiar for a lot of reasons. But this building was built sometime at or about the time the zoning code came into being, certainly was built in the late 20s, 1930 at the latest. And there was a lot of improvements through the years. There was a, a letter from Jack Wade, the Building Inspector to Senator Mary Goodhue in 1958, indicating that the property was non-conforming and didn't need a CO because of its earlier construction. I mean, there's all kinds of documents like that. We're not here arguing the non-conformity. We came in to deal with the area deficiencies and that's what's before your board. We didn't take the tact that this is a prior non-conforming use. I don't need to be here at all. That's not like an earlier application one or two before me. That's not what we we're saying. We're saying that we're increasing that non-conformity by going up, not going out.

George Hoyt: Right. Your situation is not uncommon, right. People coming in for a very variety of reasons with old nonconforming issues. We've gotten community response about parking, about traffic on this road. And I think it's behooves the board to understand exact what the plan is. Very simple.

Mr. Hollis: But my point on the traffic is the traffic in a two-family house would be hard to discern the difference between one-family with a mom, a dad, a couple of teenage kids. Everybody has a car these days and a two-family house with a four parking, four cars. It's a distinction without a difference. It's hard to base a traffic determination on an area variance. This is not a site plan consideration here.

Whitney Singleton: Mr. Hoyt, just to address the question you originally asked, what is a requirement? Its two cars per dwelling unit. So this site would require four cars. It currently has one to two. There's existing carport.

Harold Boxer: I agree with what Arthur said. It would be very helpful if we could have the plans to see exactly how high it's going to be and possibly if they could come up with a rendering showing what the as-built would look like from all the approaches. So we can see the size and whether or not it actually blocks anything.

Mr. Hollis: The as-built is we can come up with a height and, and provide elevations, but an as-built showing bedrooms and all that. That's beyond what I think is appropriate.

Harold Boxer: Dan, we're not asking for that. I'm asking for an exterior as-built so we can see the size of it.

Mr. Hollis: But we can have an elevation that can compare its elevation to nearby or abutting properties so you can see points of reference that that's, that's doable. That's a reasonable request. And we will have Mr. Carro take care of that.

Harold Boxer: And then I think somebody commented?

Mr. Hollis: I'm sorry, Harold Boxer, I interrupted you.

Harold Boxer: Can we get something to show what it would look like as you go down the hill and go up the hill?

Mr. Hollis: I'm not an architect. I understand the question. I'll see what we can do. It's important to remember we're talking about half a story increase here. We're not adding 20 feet.

Harold Boxer: The application just before you, they were able to take their plans and impose what they proposed on it. So I think it is doable.

Hollis: I'm not disagreeing.

Harold Boxer: Okay.

Mr. Hollis: I just say I don't know how to do it.

Harold Boxer: It's confused. CGI, I think Peter, correct me, do we have public comments on this now?

Mr. Miley: Present, will confirm. Michelle? Yeah. And or anyone raised their hand in Zoom. There's no one in the Zoom. Yes. I will get there. I did not forget you. Chairman, we have one person in town who would like to speak on this application. And nothing on Facebook. Nothing. No hands are raised in Zoom.

Mr. Hollis: Clearly I'm going to be back here again. Nuns used to say repetition is the mother of learning when I was in elementary school. I'm not sure the repetition or the area of the airing of the grievances is helpful for the record. So we'll see how the comments go in public here. But I may voice my concern in a more emphatic way if we are having repetition that doesn't result in learning.

Harold Boxer: Whatever you say. We have someone that's wants to comment now.

Peter: We do.

Arthur Weise: It has been two months, so feel free to just refresh our memories. I wasn't, I wasn't here for the July meeting, so I'm happy to hear everything.

Susan Feinstein: My name is Susan Feinstein. I live with my husband at 70 West Main Street. And we were at the prior meeting and there was some question about how high that story would be. It was quite vague and it continues to be quite vague. Our porch looks almost directly onto this new home. Would it be 12 feet? Would it be 15 feet? Would it be 17 feet? It was unclear in last meeting and it remains unclear this meeting. In addition, of course we have concerns about the parking. I don't know what the renderings look like, but I don't see there to be any way for four cars to be parked at that particular site. And thirdly, I thought that there was supposed to be somebody was going to come to our porch and look across and see what the impact would be from our home. And unless they trespassed without our knowing, nobody has come by to do that. So I think a lot of things are still up in the air and I would hate for judgment to be made with this many things still unclear because this will be a huge impact on our neighborhood.

Harold Boxer: Thank you. Dan, do you have any rebuttals?

Mr. Miley: Way back Chairman.

Mr. Hollis: On my way back.

Harold Boxer: I didn't think we'd get away with it.

Mr. Hollis: No, I'm not as quick as I once was. I'm having a knee replacement next month, so the same thing I heard last month. And we're going to address the height zoning board's job is not to legislate taste is in the eye of the beholder. I've been here for half a century doing this in front of these different boards. And what was the taste of a planning board or zoning board 40 years ago was different than the interpretation of boards now. It varies with the personality of a board. That's not a criticism, it's just an observation. The

visit from the porch was not my responsibility. The parking has been discussed by me already tonight. And we're going to find a way to get elevations to his point of comparison to see what an increase of half a story will do to the existing height from different vantage points south, north and west of this property.

Harold Boxer: Can you make one of the vantage points to the porch?

Mr. Hollis: I think that's west.

Harold Boxer: Okay.

Mr. Hollis: All that being said. Are we adjourned till October 19th?

George Hoyt: Do you mind just so we don't have to go over it again from the starting spot. I want to harp on parking because that seems to be an issue notwithstanding this could be a one family house or this could be a grass field. Nonetheless, it's a two-family home and there are parking requirements. So can you preview what you would propose?

Mr. Hollis: We sent in a sketch. There's a sketch that shows four spots here?

Mr. Miley: Let me just clarify. The original letter was based on last, not the last submission. We received another submission on the 25th which is not included in my, my determination on my rejection letter. So the next meeting you, it's going to include that a new information that we received on the parking spots.

George Hoyt: Yeah, right on Manchester here or whatever street.

Mr. Hollis: We're showing four apartment spaces.

Ralph Alfano: The intention of the property to be two family?

Mr. Hollis: Yeah, I was asked to show an illustrative sketch. I understand. That's what we did. Yeah, that's the reason we did it.

Mr. Miley: You'll have comment because it's now a submission to the billing department. We'll have comments on what was being proposed as far as a four parking spaces. They're more than likely a quick glance going to require a couple of variants. It's just the way it's designed, that alone.

Mr. Hollis: That's the point I made before that with that parking in order to accomplish that requirement, which I understand to be the case that it exists. We may have to be back here and we may have to be back here on impervious surface issue. Mr. Singleton brought up a steep slope issue as well. So knowing that I may come back after a planning board review. The issue before us is the area are the two area variances. The side yard, front yard, rear yard, side yards, plural. And then the height. That's what we're here for.

George Hoyt: Is there on street parking on this?

Arthur Weise: No, no, no, no. This is a very busy road and it's Route 133, The major arteries into the town. So I don't there important, I mean on Manchester. There's no parking, no parking on Manchester. It's a narrow street. I just said that, that this is a, a major thoroughfare into the town. So all of these are important considerations for us.

Mr. Hollis: And you weren't here in July. And the point I was making is that this is a gateway into the town. And right now, that house and its present condition, if it remained as such, if the client felt that this process was too onerous and just threw up her hands Ms. Rodriguez is there with me tonight and her nephew Juan, is with her as well. If they just gave up, that would look like it looks and that's not that great and it hasn't looked great in a long time. That's the gateway. She's trying to improve it. And the roadblocks are the roadblocks and we'll do our best to overcome them. But there's economies of scale on something like this. Now this is not a toll brothers here trying to make it get a development going. This is a one individual human being. So everything has a limit. We're here for the area of variances. That's what we'll seek. We'll be as cooperative as we can be on these points to help you understand the project better. But I repeat that we're here at present for the variances that have been publicly noticed. And on that I'll just say goodnight and ask for a motion.

Whitney Singleton: I just say something because I'm just trying to short circuit things. You have a required parking requirement and you're saying you don't want to demonstrate that parking requirement so that the building inspector can make a calculation as to how much further you're going to exceed your maximum development coverage.

Mr. Hollis: I couldn't understand you.

Whitney Singleton: I'm sorry, Dan. Can you hear me now?

Mr. Hollis: A little better.

Whitney Singleton: Okay. You're not the first person. Maybe I need a new microphone. This piecemeal approach to this thing. You're going to go to you're going to the zoning board now for certain variances. After you get those, you're going to go to the planning board and the planning board's going to be faced with non-compliant parking for which you're going to need a parking variance. And you're going to come back to this board and seek that relief. And you're essentially seeking piecemeal review by this board because the submissions that you have don't provide for calculations as to how much of an increase you're going to go over your maximum development coverage. If you put in parking spaces, you're going to exceed. You are already double the maximum building coverage or development coverage. And you're going to go over that even more. But you're not disclosing to this board the extent of your overage.

Mr. Hollis: Hold it, hold it, hold it. Let's not call it not disclosing. We made an application to the building department. Mr. Miley issued a denial letter. Our application is based on that denial letter. There's no three card Monte going on here. We've applied for variances based on a turndown letter.

Whitney Singleton: Dan, I appreciate that. But you know that there is required parking here and now you're pro you're not proposing it. I agree with you. You're demonstrating that it can fit onto the site and that you're going to seek relief not from this board, but from somebody else. The point is it seems very circuitous that at some point in time, those demonstration of parking are actually going to result in a site plan showing parking and showing an increase in development coverage. And it just seems as though it's, it's an inefficient use of everyone's time not to disclose what that is now.

Mr. Hollis: We don't know what the planning board's going to do.

Whitney Singleton: Why are you assuming that you're going to go to the planning board and not show a fully compliant plan?

Mr. Hollis: Because they'll refer it.

Whitney Singleton: I mean, there, there is a requirement as to how many parking spaces are required?

Mr. Hollis: There are four of them there. And Mr. Miley's already indicated –

Whitney Singleton: But there's nothing showing coverage.

Mr. Hollis: All I'm asking for is that we'll be back next week, next month rather, with a demonstration of the elevations. And Mr. Miley indicated that some other letter will be forthcoming with regard to the parking. That's what he said. I'm not going to sit here and hypothesize about what I might do, about what might happen. Not my game. I just deal with what's in front of me. Take it one step at a time, as the military says from my earlier life, just do it by the numbers. That's how I do it. And I'll do it by the numbers. Whatever Mr. Miley says, I have to respond to it.

Whitney Singleton: But Dan, you also know that you don't need to wait for a response from Mr. Miley.

Mr. Hollis: If he's going to indicate I have some deficiency that requires an additional variance, I do need to wait.

Whitney Singleton: If you know what that deficiency is, you can seek the variance on your own. You don't need a denial letter.

Mr. Hollis: You just can't wander into the zoning board saying, hey ladies and gentlemen, I think I'm a little short. I want to be on your agenda because I think –

Whitney Singleton: Dan, you're proposing an increase in the height of the building. You know what that increase in the height of the building is?

Mr. Hollis: Whitney, we're prolonging the agony here for no reason. I said that I want to see what Mr. Miley comes up with and then I'll deal with it. I don't want to debate with you on how many angels on the head of a pin. I want to see exactly what he says.

Whitney Singleton: This is disingenuous. You are going to exceed the development.

Mr. Hollis: What's disingenuous is creating some rabbit hole, trying to get me to say something that you'll hold against me at a later date. Because it wasn't accurate. I want to wait. [inaudible 1:41:11]

Whitney Singleton: Exactly what your application

Mr. Hollis: Excuse me. Excuse me. The proper procedure is for me to respond to Mr. Miley. I fully intend to do that. I am not –

Whitney Singleton: That's not the proper procedure, Mr. Hollis. The proper procedure is that you may seek a variance for an increase in development coverage without having to wait for a denial letter. You know that it's in statutory law.

Mr. Hollis: Mr. Miley indicated that he'll be reviewing the plan that's in front of him. When I see that, I'll respond to it as Mr. Miley indicates is required. I'm not going to...

Whitney Singleton: I'm not going to result in another denial letter, another public notice, and more public hearings. I am simply putting it out there for you now to lay your entire application on the table so that we don't have to go through this back and forth. If you want to do it this way, it seems to me it's going to be a long time before the determination's going to be made.

Mr. Hollis: Well, I don't think I'm in for a short walk anyway here. So that's why I want to be precise because this is in all likelihood the way my sense of the situation is that this may not get finally determined here, but in White Plains. So that's why I want the record to be crisp, clear, and precise.

Whitney Singleton: Good. I appreciate that.

Mr. Hollis: I have nothing else.

Harold Boxer: Okay. Thank you.

Whitney Singleton: Are we adjourning the meeting to a date?

Harold Boxer: Yeah. What we have to get the date from Michelle.

Ralph Alfano: Can I ask what the timeline is to get a, a formal site plan through the planning board?

Mr. Hollis: It depends.

Ralph Alfano: I'm just asking. Cause like right now, this is just an illustration, which is nice. We have very few details of the site plan.

Mr. Hollis: If a site plan's crisp and clean with no issues on it, maybe three months.

Mr. Miley: Okay. Yeah. There's no formal submission.

Ralph Alfano: I mean, this, this just seems out of sequence to how we normally operate. That's my concern. The setbacks are typical in this town, given older properties and when code became code, but we're missing a lot of details here and that's my concern.

Mr. Hollis: Yeah.

Ralph Alfano: Parking is one of them, right? Cause we've talked about that. But there could be others.

Mr. Miley: There could be.

Ralph Alfano: I would rather have everything in front of me instead of the four or five here and then more later on. Well, I mean, I think that's a fair request.

Mr. Hollis: Yeah. Listen, I'm agreeing and, and I, but I just want to be precise that what I'm applying for is what the building inspectors understand.

Ralph Alfano: I'm not disagreeing with that. I'm just saying this is a component of the overall process and right now we just have an illustration, not a full site plan. Right. That's very clear. Right?

Mr. Hollis: Yeah. I mean, are you suggesting we go to the suspend this, go to the planning board with a site plan and then come back?

Ralph Alfano: Yeah.

Mr. Hollis: That's one thing.

Ralph Alfano: That'd be my suggestion.

Mr. Hollis: Yeah. It's something to take under advisement.

Whitney Singleton: Well, did you coordinated review between the two boards? Like SEQRA encourages.

Mr. Hollis: Whitney, between your microphone and the –

Whitney Singleton: Or you coordinated review with the planning board, like SEQRA encourages, and both boards entertain the application and see the same set of facts?

Mr. Hollis: I couldn't hear

Arthur Weise: We have a joint meeting with the planning board and we all see the plans together.

Ralph Alfano: I'm not agreeing or disagreeing with the proposal. I'm not agreeing or disagreeing with the proposed coordinator. So just want to see everything in one package. Okay. That's the key. That's what I am asking.

Mr. Hollis: I got it now. Thank you.

Ralph Alfano: Okay.

Whitney Singleton: Just for my clarification, the revised submission that was submitted by the applicant now showing parking is going to be reviewed by the building inspector for him to issue a determination as to what extent it is creating, if any further non-compliances. And then Mr. Hollis's client can elect to take a, an appeal from that decision and seek further variances from your board.

Mr. Hollis: That is a predictable outcome whether that's the outcome that comes about, but that if I had to bet on an outcome, that's one and the other is the coordinated review, but I think that's taken up a lot of people's time. I need to think about that. But the first part, I agree is a proper methodology, will we be able to get everything together by October 19th?

Mr. Miley: When you say get everything together?

Mr. Hollis: Your letter, my submission, depending on what it is.

Mr. Miley: I'm going to generate a new letter based on what we received on October 25th. Excuse me, August 25th. However, I'm not sure what direction you're going. If you're going to adjourn to several months and seek or submit an application to the planning board showing the entire package, I think the board has requested at least one member from the board here at this board recommended it. I mean, you do what you want.

Mr. Hollis: Let me see what your letter says. Why don't we put it over for a month and then I'll request an adjournment if we are going in some other different direction.

Whitney Singleton: But from a logistical perspective, Peter, and I apologize that my mic's not working better. Are you going to be able to issue a review letter/denial letter of this most recent submission and allow, allow Mr. Hollis or with sufficient advanced notice for Mr. Hollis to file a new application and do new public notices to all the neighbors?

Mr. Miley: Yeah, I don't know yet. It, it may not, I may not be able to get to it. I don't even think there's enough time now for the next –

Whitney Singleton: That's what I'm saying.

Mr. Miley: I'm not sure if the, the plan includes all the information I need to even make a determination. I haven't reviewed it yet. Yeah. so perhaps—

Mr. Hollis: Put it on the note. What's the November date.

Mr. Miley: Michelle? We'll get.

The Secretary: November 16th.

Mr. Hollis: That's probably a more reasonable date.

Mr. Miley: Chairman, did you hear that November 16th would be the next meeting.

Harold Boxer: We can adjourn it. Keep the public. I need motions to keep the public hearing open and adjourn it until November 16th, please.

Mr. Hollis: And the application may be an amended application and an amended notice because the application would be the variances we're already here for. And we would just, the amended notice would include anything that's, that might be necessary to add. It wouldn't be a new application. It would be an amended application required notice and publication of course. But it would be an amendment. It wouldn't be a separate. That's segmentation. Do you agree with that, Mr. Singleton?

Whitney Singleton: I believe if, if you get another denial letter, you'll need to send out additional notices. Correct. If you want to call it an amended notice, that's fine. I just, I just think that everything should be part of the application.

Mr. Hollis: Okay. Understood. Thank you for your time, everyone. See you in November.

Mr. Miley: Do we need a motion?

Arthur Weise: I'll make a motion to continue this on November 16th.

Ralph Alfano: Second.

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

Harold Boxer: Opposed? Okay.

Mr. Miley: See you then. No

Harold Boxer: I need a motion to keep the public hearing open. Please.

Arthur Weise: Make a motion to keep the public hearing open.

Ralph Alfano: Second

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

Harold Boxer: Opposed? Okay. And now we can have our favorite motion. Somebody want to make a motion to adjourn?

Mr. Miley: We have another application.

Whitney Singleton: We have another application.

Harold Boxer: That's the one that's way in the bottom. Hey, it was a good try.

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

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

Mr. Daniel Patrick of Cuddy & Feder and Mr. ken Kicks of Rivera Toyota were present.

Daniel Patrick: I will keep it very short. Good evening. My name is Daniel Patrick from the law firm, Cuddy & Feder. I'm here on behalf of Rivera Toyota. We appeared before this board back in July for an initial presentation. And just a quick recap. Rivera proposes to replace the existing restaurant building at 353 North Bedford with a new service location. Currently, their service location is located a few blocks away on Kisco Avenue. The proposed motor vehicle repair shop or service location will include eight

interior service bays. There will also be a customer drop off port and there will be a customer waiting area as well. the building itself will be approximately 12,616 square feet. This service is proposed for this location, include minor things like oil changes, brakes, tire rotations, and repairs, and things like that. We are requesting relief from two provisions of the zoning code. One of them is for the dumpster enclosure which is not permitted to be closer to the property to the side property line than is permitted for a principal structure. And currently the dumpster is being proposed approximately 25 feet from the Southern, which is a side lot line. Currently, the dumpster location there is about 10 feet from the lot line. So we're improving conditions, but we're still in between the building and the side lot line. So we're requesting a variance from that provision. We are also requesting a variance from a special permit provision, which requires a motor vehicle or repair shop, such as the one being proposed be located. No less than 1000 feet from a similar use. And currently in our written submission in the last or few months ago, we provided details on the nearby similar uses, including the one on the adjacent property, which is the town bus company. During the July meeting, there wasn't to my recollection, any significant specific comments that came up. We were hoping this evening to address any outstanding questions or any additional comments that you guys have and hopefully have this public hearing closed and favorable action be taken on this application. And we are currently, we submitted a formal site plan application to the plan board recently. So we're beginning that process and beginning that review. But this is we're here seeking relief, so we can continue that review.

Ralph Alfano: I don't have any further questions. At last time in July, was it July? I thought the plan was good. I didn't have any issues with it.

George Hoyt: Yeah, I don't have any questions.

Wayne Spector: There were no changes from that plan, right?

Dan Patrick: Nope. Okay.

Wayne Spector: And nothing additional was it requested at the time? I don't believe either.

Harold Box: [inaudible]

Mr. Miley That's accurate. Let me confirm. Chairman, I have nobody here from the public. We do have one of the owner's, property owners. I'm not sure if you would like to speak on behalf of this application or not. Let me check Facebook. And no, we have no comments on Facebook. Nobody from the public. And Mr. Hicks, would you like to say a couple words? You just have to come up. Just come out, yeah. Talk it up a little bit.

The Secretary: And please state your name.

Ken Hicks: Having Mariano Rivera to be part of this community, is a special thing. He's doing a lot of great things for a lot of communities. He's building a learning center in Rochelle. He built a church in Rochelle. He loves this area. We're going to spend a lot of money redoing those two facilities, state of the art facilities. And his name is on that building and he's an iconic, he couldn't get a better name in Mount Kisco. And we're in his business. I'm in the business 40 years and I think that we're doing a good job up there. And I think this is going to be a really nice facility for everyone. And we're hiring a hundred, we have 80 employees now who'll probably be over hundred by then. And we bringing a lot of tax dollars into the town, so I think that's why we need your help.

Whitney Singleton: Could you say your name for the record?

Ken Hicks: My name is Ken Hicks. I'm the dealer principal.

Whitney Singleton: Thank you.

Ken Hicks: Thank you. Thank you. Have a good night.

Harold Boxer: Thank you.

Mr. Miley: That's it, chairman. There's no other speakers here.

Harold Boxer: Okay. Then I think we could get a motion to close the public hearing.

Wayne Spector: so moved

Arthur Weise: I'll second.

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

Harold Boxer: Okay. Step one. Whitney, did you have anything from the prior time? Yeah, there we go. Okay.

Whitney Singleton: Okay.

Mr. Miley: Whitney, we can barely hear you, if you.

Whitney Singleton: I am not talking.

Mr. Miley: okay. Look, you were mumbling then?

Whitney Singleton: I'm just trying to make sure that I have the right thing on the right screen. Yeah.

Ralph Alfano: Whitney, I'm going to get you a new microphone.

Whitney Singleton: So here's the resolution. I believe this was shared with you previously. Just reciting the nature of the application. Basically it comes down to two things. They're seeking a variance of the 1000-foot separation requirement between motor vehicle repair shops and gasoline and commercial garages. And something that has been customarily granted along the street. So they're requesting a 978-foot variance. And they're requesting relief to put the dumpster closer to the side property line than the principal structure which is something that has been previously reviewed and by the planning board and was deemed to be necessary for, for traffic circulation. The public hearing began in July and I'm sorry, this goes up here. It began in July and the public hearing continued today. And presumably your board will be taking action on today. Sorry, bear with me here. I don't know if I spelled that right. Ken Hicks.

Mr. Miley: H-I-C-K-S.

Whitney Singleton: What is it?

Mr. Miley: H-I-C-K-S.

Whitney Singleton: Oh, I'm sorry. He spoke at tonight's meeting. Here are all their prior submissions. It's a type two action, because it's an area variance from a setback line from a setback. if your board approves it, here's your analysis. That's pretty standard without customizing. And here are the four conditions that were put in there. Although I got to think that since the relief they're seeking is not with regard to a building, that perhaps your board does not need an as-built survey. And that's basically the resolution. Unless you, your board wants to impose other conditions.

Peter: No.

Harold Boxer: Okay. Then shall we have a motion to approve?

Wayne Spector: So moved.

Harold Boxer: Second?

Ralph Alfano: Second.

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

Harold Boxer: Anybody opposed? Anybody opposed? Okay. Here you go.

Dan Patrick: Thank you very much. We appreciate it.

Harold Boxer: Whitney, I assume Homeland is put over again.

Whitney Singleton: Yeah. Okay. I don't know if it'll ever reach your board. Perhaps.

Arthur Weise: That will be a long night.

Harold Boxer: Okay, now we can do the motion to adjourn. Somebody?

George Hoyt: I make a motion to adjourn this meeting.

Harold Boxer: Second, I'll second it. All in favor?

The motion carried by a vote of 5 to 0.

The meeting adjourned at 9:01 pm.

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

<https://vimeo.com/612730545>

This meeting was transcribe by Transcription Hub. Names only were corrected by Michelle Russo.