

Minutes  
Meeting of the Planning Board  
Village/Town of Mount Kisco  
Tuesday, November 14, 2006

Meeting called to order at 8:00 pm, Tuesday, November 14, 2006, at the Municipal Building Mount Kisco, New York.

**Members Present:**                   **Vice Chairman Anthony Sturniolo**  
**Stanley Bernstein**  
**Sol Gibbons**  
**Doug Hertz**  
**Joseph Morreale**  
**Ralph Vigliotti**

**Members Absent:**                   **Chairman Joseph Cosentino**

**Staff Present:**                   **Nanette Bourne**  
**Whitney Singleton**  
**Jannine M. McColgan**

Vice Chairman Sturniolo: Welcome, everyone to the November 14<sup>th</sup> regular session of the Mount Kisco Planning Board. The first item on our agenda is the minutes, and the first set of minutes is September 12, 2006.

**Minutes:**

**September 12, 2006**

**Motion: Stanley Bernstein**  
**Second: Joseph Morreale**  
**Aye: Stanley Bernstein**  
**Aye: Joseph Morreale**  
**Aye: Sol Gibbons**  
**Aye: Doug Hertz**  
**Aye: Ralph Vigliotti**  
**Aye: Vice Chairman Sturniolo**

Vice Chairman Sturniolo: On the question and I just have one comment to make, and that is page six line 42, I believe the word should be recuse.

Stanley Bernstein: Yes, you're right it is recused.

Vice Chairman Sturniolo: Are there any other comments?

Doug Hertz: Mr. Chairman, page 12 line 46, I believe the blank word there is intent. And then, on page 17 line 46 after the word higher, we've got higher trees on the adjoining property is the way that should read.

Vice Chairman Sturniolo: Any more?

Doug Hertz: There are, I just have to get to them. I've got them noted. Sorry Mr. Chairman, I'm looking for my notes, but I don't see them. It's probably in the next set of minutes. Those are all my comments.

Vice Chairman Sturniolo: If there are no other comments, there is a motion by Mr. Bernstein, seconded by Dr. Morreale.

Stanley Bernstein: Mr. Chairman, I move that we accept the minutes of September 26, 2006.

Doug Hertz: Mr. Chairman, could you give me one moment, please? I thought I made notes.

Vice Chairman Sturniolo: I'm sorry.

Doug Hertz: Clearly they have disappeared, so you can go ahead.

**Minutes**

**September 26, 2006**

**Motion: Stanley Bernstein**  
**Second: Sol Gibbons**  
**Aye: Stanley Bernstein**

**Aye: Sol Gibbons**  
**Aye: Doug Hertz**  
**Aye: Ralph Vigliotti**  
**Aye: Vice Chairman Sturniolo**  
**Joseph Morreale (Absent)**

Vice Chairman Sturniolo: Next item on the agenda is under Conceptual Applications is Panera Bread Company.

**Conceptual Application:**

**Application No: PB2006-20**  
**Panera Bread Company**  
**222 Main Street**

**Members Present: P. Daniel Hollis, III, Shamberg Marwell**  
**Davis and Hollis**  
**Lowell Farkas, Panera Bread**

Daniel Hollis: Daniel Hollis, Shamberg Marwell Davis and Hollis, attorneys for the applicant. I am here tonight with Lowell Farkas, who is behind me from Panera, and although the submission deadline has long since past, we brought along something for you to follow when Mr. Farkas is talking that has some pictures and some presentation. Since this is only conceptual, I think it isn't harmful to have these booklets to follow along so that Mr. Farkas' presentation, although not part of the official record, it's just for ease of reference.

Vice Chairman Sturniolo: Excuse me, not to sound like I'm rushing you, but we're going to spend a few minutes on this conceptual application. We have a heavy, heavy duty agenda, but please go ahead.

Daniel Hollis: We represent 222 Kisco Plaza East Corporation, which is right down the street. The space in question, 5000 square feet was previously occupied by Sun Natural, which was a conglomeration of a produce store, a delicatessen, you could get hot food; you could sit there and eat your lunch. They have been out of there for a considerable period of time. Panera Bread is interested in going in. The booklet shows you what Panera views as its operational program for this site. The site is 5,000 square feet. In that shopping center there is also a 1,500 square foot, 1,600 square foot property that had been occupied by a thrift store, and the Pacific Restaurant, which is the Chinese Restaurant, has 3,500 square feet. Their lease has expired. They are a month to month tenant, and in the event that this conceptual plan and then eventual site plan is approved by this board, the owner of the property has made a commitment that there will be no restaurant going into the Pacific spot. So what does that mean in utilization? The Sun Natural area was 5,000 square feet. The Pacific Restaurant is 3,500 square feet. The area for seating at Panera Bread, which is about 16 and 1,800 square feet out of the 5,000 because there is backroom production area, and the Panera Bread, if you look at the plan, it's a combination sit down area for restaurant use and a counter for bakery and deli and take out use. The 1,600 and 1,800 square feet would be for the sit down area of 120 seats, so that the net restaurant utilization subtracting Pacific of 3,500 square feet and replacing that 3,500 in part by the 1,600 square feet of Panera would be a reduction in the restaurant square footage; seating square footage of 1,900 square feet. So we would respectfully submit that the building inspector could have made this decision on his own, he referred us to you for your input on this matter, but we feel that the Change of Use Statute that is in your ordinance requires the Planning Board to take a look at a project if there is a change in the configuration or the use of the parking. As I've set forth, the restaurant use that is Pacific would not be there, replaced in part by the Panera seating area. The other use of the other 3,500 or 3,400 square feet of the Panera use would be identical in utilization, not product, but utilization to Sun Natural. So for all of those reasons this is an approved site plan. The building is already there. We don't want to find ourselves in a situation where we have vacant stores up and down Main Street and Moger Avenue. That's certainly anyone's goal, not our client's goal, and we feel that Panera Bread would be a most positive addition to the Village in general, and to this specific area of the Village in particular. The traffic which Mr. Farkas can address. We anticipate that this Panera Bread unlike many that you find in shopping centers (there's one in Yorktown in a shopping center, there is one in Port Chester where the new movie theatre is) have parking lots. You have a situation where you have the professional offices on Smith Avenue, such as my own, and I walk to get my lunch on a daily basis. The hospital, the school and all the other businesses up and down Main Street so that the bulk of the business for this Panera Bread will be the breakfast and luncheon business, and a lot of that traffic that will be there will be pedestrian traffic and/or traffic that is for another end user, that this is not the point of destination

necessarily where people will be coming to Panera Bread, but when they are at the shoemaker or across the street at one of the other stores, they would see Panera and come in. Mr. Farkas, is there anything operational that I haven't touched on?

Lowell Farkas: I think if you look at Panera's menu, etc., it reinforces it. We're a breakfast and lunch destination type place. In other words, our menu is really only conducive for a very light dinner, because we only serve soup, salads and sandwiches. There is no hot, real preparation. Our experience and the experience of Panera's is that most of the business is done before 5:00. And most of it at breakfast. We do a good size breakfast; we do a lot of catering. Anywhere from seven to ten percent of our business goes out as catering business and then lunches where the bulk of the dollars and traffic come into the store.

Daniel Hollis: Are there any questions from any of the board members?

Vice Chairman Sturniolo: What are the hours?

Lowell Farkas: We open at 6:00 in the morning and generally close at either 8 or 9 in the evening.

Vice Chairman Sturniolo: And what time do the employees arrive to be ready to open at six?

Lowell Farkas: We have a staff of bakers; there is usually two bakers work through the night. The bakers come in at about 10:00 at night, they bake through the night, and the first employees; two people, come into the store about 5, 5:30 in the morning to set it up for a 6:00 opening.

Vice Chairman Sturniolo: And how late do you stay open till serving soup and salad?

Lowell Farkas: 9:00.

Daniel Hollis: If you remember, before Mango there was the bagel store at the corner there, and they had the same sort of thing with bakers there through the evening. I mentioned that the thrift store at the end of the lot, we have a lease with Trustco Bank to go in there. Trustco Bank is going to have two teller sites within and an ATM. The bulk of the business they are seeking to attract there is the private banking type of business to make an impact in the community. That's what we are told is their business plan.

Lowell Farkas: I also included some pictures of the last store we opened which is the current design style. We just opened this three months ago in Fishkill, New York.

Vice Chairman Sturniolo: I've been to the store in Yorktown. Huge success.

Lowell Farkas: The brand is a terrific brand.

Vice Chairman Sturniolo: But I drove; I didn't walk.

Lowell Farkas: There's a thousand of them opened. But generally if you go to most of these places, our business is driven by other businesses in the area. We're not a destination place. We support the other business, that's generally how our traffic is generated.

Joseph Morreale: What kind of volume do you usually get?

Lowell Farkas: The average store in the country is about \$2,000,000.

Joseph Morreale: I don't mean that, I mean people-wise.

Lowell Farkas: People-wise; we are going to do about 5,000 people a week over seven days.

Joseph Morreale: That's a lot of traffic. And there's take out?

Lowell Farkas: There is a lot of take out. Our business is probably 40-45% take-out, and then we do close to 10% in that – you see that via Panera menu, where we send stuff out; in other words we take orders from that, it's the second menu. A good deal of our business does not stay seated there.

Vice Chairman Sturniolo: You mean you deliver?

Lowell Farkas: It's either we deliver or somebody comes and picks up for 30 people.

Vice Chairman Sturniolo: Like a drive in window, kind of thing?

Lowell Farkas: No, no, no. Somebody comes in or we have a delivery service. For a small fee we deliver, and most of it we try to deliver, it makes it easier for the customer. A lot of that is used – a big part of that are pharmaceutical reps, and we feel that with all the medical facilities in this town, that is one of the...

Vice Chairman Sturniolo: I remember reading that story in the New York Times about the pharmaceutical reps and Panera's.

Lowell Farkas: It's a terrific business. Part of satisfying the doctors' offices today is they bring lunch in, and we've turned out to be the choice of most of the medical facilities. So we think in a town like Mount Kisco we'll do very well with that part of our catering business.

Doug Hertz: May I ask, what's a smart room?

Lowell Farkas: It's just because of the tables here, where people could sit in a lounging chair so they can sit and read and be comfortable.

Daniel Hollis: It has computer capacity.

Lowell Farkas: Panera as a chain has the biggest free Wi-Fi place in the country. In other words, you go in there with your computer and you can sign right on, there is no charge for it.

Joseph Morreale: Sounds like Starbucks.

Lowell Farkas: Starbucks charged for it. They are just now starting to get around where some of them are giving it free. We give it away free. It's really a part of your system that you use for credit cards. You do it on a T-1, and that band line is in the store anyway, so you're charging for it and you're still not beating up the customer.

Vice Chairman Sturniolo: So in one hand you say you are trying to attract customers that are locally shopping in the area. You used the example of the shoe repair shop across the street. Am I correct?

Daniel Hollis: I did.

Vice Chairman Sturniolo: Oh, I'm sorry. But now you're talking Wi-Fi. Does everybody walk around with a laptop to get their shoes repaired? I'm trying to figure out where the connection is.

Lowell Farkas: There is a certain amount of the population today, especially in the hours of 9 to 11 and 2 to 5 that are salesmen, students, and they –

Vice Chairman Sturniolo: E-mail time.

Lowell Farkas: They are looking for a time to clean up and put their orders in, etc. Panera's has turned out to be the spot that they go to. It gives them that office away from home.

Stanley Bernstein: Mr. Chairman, I have a question. Do you have a counter similar to a diner's counter, where you can have breakfast, order eggs and things of that nature?

Lowell Farkas: No, no.

Stanley Bernstein: In other words you just make, using your bread, you make sandwiches –

Lowell Farkas: Sandwiches and salads and bagels.

Stanley Bernstein: And vegetables.

Lowell Farkas: We do a baked soufflé. That's an egg item here that goes up on the front.

Stanley Bernstein: That's all done in the back.

Lowell Farkas: There's no open cooking. There's no open flame.

Stanley Bernstein: You don't need an open flame; all you need is a grill or a griddle.

Lowell Farkas: The only thing we have is a Panini type machine. That would be the only surface cooking.

Stanley Bernstein: I understand. So fresh eggs are not part of the operation? Okay. Thank you.

Ralph Vigliotti: Question for Dan – the Pacific Restaurant, you’re using a portion of it?  
Daniel Hollis: No, we’re not using any part of Pacific, I just said...

Ralph Vigliotti: So, what is to become – how many square feet would be remaining from the Pacific site?

Daniel Hollis: Pacific Restaurant is a 3,500 square feet site. None of that is for Panera. But, what we’re saying is if Panera were to be approved, our client, the owner of the property, would agree not to have another restaurant in the Pacific site so there wouldn’t be a duplication of restaurant use. What I’ve been saying is that the restaurant use for Pacific would be transferred in smaller part to the Panera site.

Ralph Vigliotti: Just a quick question to you, sir. All of the restaurants you have outlined, do they all close at 9 pm or do some close earlier?

Lowell Farkas: Generally, well, of all the ones that I have – 9:00. When you get into the deep winter, we do look at some of them at 8:00, but generally 9:00 is the latest.

Ralph Vigliotti: I am just looking at the 5-9 pm, which is the dinner hour, and we know that that section of town is heavily trafficked with dinner goers, and trying to regulate any of the other restaurants; we’re not going to regulate this. If it was 8:00 it would really mean that there would be less traffic going into the parking lots because people would be going there as a full dinner destination. They may go for something light, 5, 6:00, where the other restaurants aren’t in full motion at that point. So that’s why I’m questioning the 9 pm closure.

Lowell Farkas: Generally our last hour of business probably does about \$100 in sales. It’s the slowest of any of our traffic business. Really what happens there at that time they are also cleaning up and getting out of there, because generally the staff is out by 9:30, 9:45. They’re gone. So it’s sort of a closing up hour.

Ralph Vigliotti: And there isn’t any liquor?

Lowell Farkas: No liquor, we are not a Cosi’s. And by the way, there are 1,000 stores nationwide today. The chain has had incredible success, and tremendous trust from its guests.

Vice Chairman Sturniolo: Dan, would you repeat the last part about Panera’s is occupying what square footage and what site and what your client agreed not to –

Daniel Hollis: Sure. Panera Bread is going to be taking the entire 5,000 square feet that was the Sun Natural. The 3,500 square feet that is Pacific Restaurant would not be leased as a restaurant by our client if Panera were to be approved.

Vice Chairman Sturniolo: A question going back to the 5,000 patrons a week that you anticipate.

Joseph Morreale: 8,000.

Lowell Farkas: No, five.

Joseph Morreale: You said five? I thought you said eight.

Lowell Farkas: No, five.

Vice Chairman Sturniolo: The 5,000 patrons that Panera’s would anticipate having if they were to occupy the site of the Sun Natural. How many patrons would you guess Sun Natural had a week? On the scale?

Daniel Hollis: At the beginning or at the end? At the end not so many.

Vice Chairman Sturniolo: At the beginning. At it’s best.

Daniel Hollis: That would be impossible – it would be a pure guess on my part, but I think what’s important, if I had to bet, I bet it would be as many or more. Because

people went in there not as a point of destination to stop and eat. For the most part, people went in there to buy fresh produce and to buy the macaroni and the tuna and the sushi and what they had in the counter. So I would hazard to guess that you probably had that number of people, the same number of people using it, perhaps concentrated at different times of the day. Because the utilization was more varied, because you went there maybe for a sandwich, but you might have gone there just for milk or for produce or for canned goods. They had all of it; flowers, fresh flowers; so I'd be guessing, Mr. Chairman, if I said a number. But if I were to guess it would be the same or greater based upon the variety of uses.

Lowell Farkas: If I also can support, the Pacifica Restaurant is also going out. And their traffic was more skewed I would assume towards the evening.

Vice Chairman Sturniolo: How many people did they have a week, a dozen?

Lowell Farkas: I'm not familiar with it. Somehow they must have been paying their rent, so I don't know.

Daniel Hollis: As I said, they are on a month-to-month, so it's not that you have – the commitment that I made about not renting that for a restaurant, that's not something three to five years down the line, that's something that could be imminent.

Joseph Morreale: The reason I asked about volume is that I am trying to figure out where 5,000 a week are going to park.

Lowell Farkas: Oh, we think a good deal of our business is walk-in business. We think the hospital is going to be a big part of our business, we think that the traffic along Main Street, and shoppers – a big part of our business. We think there is enough local traffic there that we'd probably do a good deal of it with just...

Stanley Bernstein: Mr. Chairman, question on that subject. Oh, are you finished, Doc?

Joseph Morreale: Well, I was waiting to hear the rest of the answer.

Lowell Farkas: Yes, we believe a good deal of our traffic is walk-in traffic, and we've done a survey on that store, we've had Panera's do a survey on that store, we are always concerned that there is going to be enough to support what we're doing.

Joseph Morreale: Then let me just ask this, what percentage is walk in?

Lowell Farkas: I would clearly guess that walk-in is probably close to 50% of the business, if not more.

Daniel Hollis: For this site.

Joseph Morreale: Okay.

Stanley Bernstein: How often have you stood on the corner and counted the people walking?

Lowell Farkas: I haven't personally done that, we've spent some time there.

Stanley Bernstein: Maybe you'll see ten or fifteen.

Lowell Farkas: Well, if you have people who are drawn there...

Stanley Bernstein: People in the hospital are not going to walk that distance. People today are lazy. The people in the hospital are getting in their cars and they're driving over there, and the people in the shoe store may walk across the street, but it's unlikely, and to have droves and droves of people like 5<sup>th</sup> Avenue and 52<sup>nd</sup> Street, you're not going to get that. I never see that many people walking in Mount Kisco on Main Street.

Daniel Hollis: I beg to differ, Mr. Bernstein, with all due respect. I happen to walk twice a day, every day.

Stanley Bernstein: I walk a lot also.

Daniel Hollis: And I walk to my dinner, and I see the same people walking everyday, doing the same thing. Walking to get their lunch.

Stanley Bernstein: Ten of them?

Daniel Hollis: There's a lot more than ten. And if you want to join me some afternoon, we'll walk together, and you'll count a lot more than ten.

Stanley Bernstein: We'll hobble together.

Vice Chairman Sturniolo: Any other questions?

Daniel Hollis: Where would you like to see us take this, Mr. Chairman?

Vice Chairman Sturniolo: The purpose of a conceptual review is to allow the Planning Board to give you feedback before the applicant goes ahead and commits dollars into hard drawings and engineering studies and all that. So I'd like to start off with my feelings about the conceptual, and then I'll ask everybody else to join in. I spent a considerable amount of time reviewing Dan's letters and Austin's letters back and forth, and I totally understand where the building inspector had made the reference back to the Planning Board. One of the things that this Planning Board is charged with is the health, safety and welfare of the Village of Mount Kisco. The Panera's Restaurant I think is going to generate far more car traffic than you ever, ever, ever imagined. I totally agree with my colleague. I don't see this as people walking from the hospital or walking from here and walking from there. I think parking, the 56 or 58 spaces that are there, I am not even 100% sure they are code compliant at this point, but parking is extremely tight in there, egress and ingress are very difficult. As you know, you can't be in that parking lot, come out and make a left-hand turn. I think we are inviting the potential for grave traffic problems if Panera's were in that location. Panera's is a hugely successful restaurant with a high quality product, but this is not an appropriate location for that restaurant because of parking, ingress and egress and the health, safety and welfare of the Village of Mount Kisco is what I am concerned with personally, and that is what this Planning Board is charged with. I think putting a Panera's there flies directly into the face of the safety issues of Mount Kisco. It's too big and too popular a restaurant for that location. The intersection I talked to you about is difficult at best to get out of there, and something as popular as this will only just exacerbate that issue of trying to get in and out of the parking lot in back of it. Anyway, that's my feelings and I need to ask my fellow Planning Board members for input. Doug?

Doug Hertz: Yes. It seems like a great business. You've done a very nice presentation. My concern is the same line, which is the limited number of parking spaces and a possibility for a hugely successful car traffic getting in and out of there. 5,000 trips; and I concur that I think the bulk of them will be via car and not walking trips. This is going to present a real difference then of 3,500 square foot restaurant that is not terribly successful that's not - particularly during rush hour and lunchtime generating a tremendous amount of traffic.

Vice Chairman Sturniolo: Stan?

Stanley Bernstein: I said all I have to say about it. The walking and the driving are a problem. I've made my point.

Vice Chairman Sturniolo: Okay. Ralph?

Ralph Vigliotti: At this point, I don't have a comment, and that's pretty rare for me. If two restaurants that are there, one replacing two that were successful at some point in time, I'm not sure if this will take place of those two as far as traffic generation and parking. My gut is it probably, certainly will increase. The menu has nothing to do with the planning process, but I think it's very favorable that the people of Mount Kisco can get something to eat at a fair and reasonable price, but parking is something is of concern, but not quite as high a concern that I had earlier on.

Joseph Morreale: Since I raised the issue, I do have a concern, and I think you will get more than 50% car traffic from it. I think it's a wonderful idea, I think it would be successful, frankly I could picture it much better on Moger Avenue because of the huge parking lot across the street.

Daniel Hollis: Well, when you can get Mr. Friedland to rent the spaces at a reasonable rate then you give us a ring.

Joseph Morreale: Can I finish?

Daniel Hollis: Yes, I'm sorry.

Joseph Morreale: So I think we're going to have to look long and hard to see the impact of this whole thing on the traffic flow. Because the traffic flow right through that corridor is terrible. We are already seeing how it backs up from light to light to light, and this I think would only exacerbate it. That's my point. But I love the idea; I have to tell you, it's a great idea.

Sol Gibbons: I do too. Panera's is a hugely successful enterprise, but I think it's going to generate a lot of business, and that is a bad area for parking and for traffic, and I'm concerned about it.

Daniel Hollis: May I go back to the traffic, if I may?

Vice Chairman Sturniolo: Dan, would you like to have some closing comments?

Daniel Hollis: Sure. The traffic, if you think about it, what we've said, the heavy hours are breakfast and lunch. And I think that we can manage the traffic there at breakfast and lunch, because neither Mango nor any of the other uses are busy at breakfast and lunch to the extent that they're busy late in the day; whether it's the lacrosse store, the tanning salon, no one tans at 8 in the morning, I don't think. So I think that we can alleviate your concern. A lot of the parking that's in our parking lot there is overflow from other places. And if this were to be approved would undertake to insure the integrity of that parking lot, so that it would be used only for the tenants. There is a way that we can do that, and our client is agreeable and is exploring that way to make sure that his parking lot is used for his tenants and not for everyone else for free. So I think if you gave this a chance, because it is a good use, I don't think what the board is saying, because this board is far too knowledgeable and considerate to say come back to us when you can bring us unsuccessful potential occupiers. I don't think that's what we want. We don't want to bring unsuccessful people that will have no traffic, because then I'll be back month after month after month with a string of exceedingly less successful applicants. So, if we can show you with a traffic study and a more detailed analysis as the utilization at breakfast and lunch, would that help to alleviate the concerns you have about traffic? I don't want to spend the client's money unnecessarily.

Vice Chairman Sturniolo: Like I said, the purpose of the conceptual review, like we're going through, is so you get a sense of where the Planning Board is coming from before you start to open your wallet and spend dollars.

Lowell Farkas: Would it be appropriate for me to make a suggestion?

Vice Chairman Sturniolo: Sure, you can make a closing statement.

Lowell Farkas: We have a store that I have pictures of in Fishkill, New York. The Fishkill store is supported 100% by drive in traffic. It's got one entrance, well it's got one entrance and exit on one side and one on the other side, there's us, there's a Verizon store, there's a Starbucks, there's a whole bunch of things there.

Vice Chairman Sturniolo: It's double what you have right now.

Lowell Farkas: No, we have less parking in that location that would be dedicated to us than we would have in this current one. And what I would suggest, if the board would entertain, and I'd take a look and try to develop something that can be certified, the number of parking spaces there and the traffic we get there, which is going to be about the same business we're going to do there, and come back and demonstrate the number of cars that we support by the hour over a period of time. That may help you, or help me understand, that maybe it is the wrong place for me, or help me to understand that as we believe that there's more than sufficient parking spaces to support the business, especially what we think our walk-in traffic is going to be there.

Vice Chairman Sturniolo: To answer your question, I personally believe this is the wrong place for you. If you want to go through the time and expense of submitting a formal application, there is nothing to prevent you from doing that; the Planning Board is here. But this is our feedback on the conceptual.

Lowell Farkas: We'd like to respond, possibly to the parking issue and try to show you what it is.

Vice Chairman Sturniolo: Whatever you choose to do.

Daniel Hollis: As part of the conceptual, can we come back just for that traffic component to you?



Vice Chairman Sturniolo: I think no. And I'll tell you why. Because we keep taking a conceptual application and it gets drawn out and drawn out and drawn out. It's either you come back with a formal application when you feel comfortable that you have your parking information, and let's go from there. But I don't see any need to segment the Conceptual Application process with traffic or with something else.

Daniel Hollis: The only concern really is the traffic, though, isn't it?'

Vice Chairman Sturniolo: I don't want to start to segment this into many multiple versions of this conceptual meeting. If you want to do a formal application it's your privilege. Thank you.

Lowell Farkas: Thank you.

**Formal Application:**

**Application No: PB2006-22  
Lawrence Guida  
Apple Antiques  
342 Lexington Avenue**

**Members Present: Lawrence Guida**

Vice Chairman Sturniolo: Next item on the agenda is a formal application, Apple Antiques, 342 Lexington Avenue.

Lawrence Guida: My name is Lawrence Guida. I am the owner of Apple Antiques, 342 Lexington Avenue. I have been in business in Mount Kisco for about 27 years on Lexington Avenue, and from day one I have had furniture outside, plenty of people know me, we put pumpkin carts and chairs and other accessories outside. I've been in front of the Town Board before from a different location and been approved for being allowed to put furniture outside, and I moved to 342 Lexington, which is a larger store, and there is a deck in front of the store. It's not walked by at all or walked on, and that's what we're being allowed to do, to continue to put out furniture.

Vice Chairman Sturniolo: You are looking for an amendment to your site plan that would permit the outdoor displays.

Lawrence Guida: I thought I had one. I didn't realize it. I've been doing it all along.

Vice Chairman Sturniolo: But somebody came along with a camera.

Lawrence Guida: Absolutely.

Vice Chairman Sturniolo: Whitney, I have a question. Is the formal application in proper form, where the site plan subdivision approval and handwritten minor site plan amendment for an outdoor display?

Whitney Singleton: Well, I'm a little perplexed by the – the hand-drawn.

Lawrence Guida: Well, if you don't like it, I'm saying I didn't do it. If you like it, I did it.

Whitney Singleton: With regard to a lot of the application information, Tony, yes, a lot of it is non-applicable because he is not proposing to change any of the site plan elements or any of the building elements, there is just the outdoor display area. The question is, not to turn it around on you; the question is more for your board whether or not you have adequate information before you to make a reasonable determination. Is there enough specificity or detail? I don't mean to interrupt – from a long time ago I believed there was another approval. What happened on the other approval?

Lawrence Guida: I don't know. The building inspector has been coming by, and I've been getting letters.

Whitney Singleton: Didn't I recall, maybe a decade ago, you came before this board for permission to display.

Lawrence Guida: Exactly. Good memory.

Whitney Singleton: And you were approved?

Lawrence Guida: But it was for 326 Lexington. Now it's an auto building.

Whitney Singleton: 326. As long as – could I back up a little bit?

Vice Chairman Sturniolo: Sure.

Whitney Singleton: One of the other concerns from my perspective legally is I noticed some of the outdoor display area is not only in the front but on the side, chained down. To the extent that the display area might be granted by your board, I would certainly want to make sure that that would not be putting this furniture and whatever else in the public driveway. And it's hard for me to ascertain what the public driveway is.

Vice Chairman Sturniolo: From this drawing?

Lawrence Guida: On the side – I'll remove all of that. I've actually been ill for the last few months; I haven't been able to remove anything.

Vice Chairman Sturniolo: Could you get somebody to professionally draw this up so we can see where the public right of way is in relationship to where you would like to continue in your outdoor display and verify it? And then we would have it in the record that yes, here is the public right of way, and you're over here.

Lawrence Guida: Sure. Just the front of the building?

Vice Chairman Sturniolo: Well, the corner.

Whitney Singleton: Well, if it is the front there is a sidewalk in front of this, so long as it's behind the sidewalk I'm okay with that. It's really the side where there is no curbing or delineation where the public street is.

Lawrence Guida: I'm going to remove everything from that. I just haven't been able to do it yet.

Vice Chairman Sturniolo: Any other thoughts or comments?

Stanley Bernstein: What about the 30% window coverage, and the "too many signs" inappropriate signs.

Lawrence Guida: They're gone.

Stanley Bernstein: They're gone, and you cleaned up your window?

Lawrence Guida: Oh, yes. I had no idea the papers signs should not have been up. Here again, 27 years, I had a full sign in my window. I have to get with it, I think.

Vice Chairman Sturniolo: So, Whitney, if we can get this put on paper, drawn up professionally. Nanette, do you have a comment on this?

Nanette Bourne: No. As long as it's drawn up professionally and you identify where you're going to be placing your storage. Put that on your plan, and that's where you need to be, so that if you can't gravitate to other areas.

END OF TAPE 1 SIDE A

Lawrence Guida: No problem, there is actually a deck and there is no pathway or anything that's on that deck. And that's the only area that we were hoping to put something on.

Whitney Singleton: Is this a building that is owned by the -----?

Lawrence Guida: By the Case Family, yes.

Whitney Singleton: Even if they have some sort of survey or something.

Lawrence Guida: I looked and there wasn't. I'll try again. As I say I haven't been really around that much, since this has all been going on. But I'll give them a call this week.

Whitney Singleton: And so your board would want to see something showing the areas where there will be display items.

Vice Chairman Sturniolo: Absolutely, in the relationship to the right of way, and an engineer architect can easily do that for you. And then we will definitely put it back on the agenda, because this does not seem to be a big issue.

Lawrence Guida: Okay. I will thank you. Goodnight.

Vice Chairman Sturniolo: Whitney did you want to add something?

Whitney Singleton: No, I was just thinking down the road for a resolution, would you want to see this stuff that's being displayed, or is it just display items, are they going to be chained down?

Vice Chairman Sturniolo: No, we would definitely want to see that.

Lawrence Guida: You want to see examples of items?

Vice Chairman Sturniolo: Yes, whether it's locked down or not locked down, that kind of thing.

Lawrence Guida: No, no, it's all going to come in every night. It's basically country furniture and carts and things.

Vice Chairman Sturniolo: Thank you.

**Formal Application:**

**Application No: PB2006-05  
Filippo Simone  
127 Barker Street**

**Members Present: Dan Simone, Engineer**

Vice Chairman Sturniolo: Next item on our agenda, Filippo Simone, 127 Barker Street.

Dan Simone: Good evening ladies and gentlemen, my name is Dan Simone, engineer for the applicant. I haven't been back in front of you, I missed the last meeting that we had, but I did receive Michael Stein's comment letter. Just bringing it back to the board for discussion and just to get kind of procedural –

Vice Chairman Sturniolo: Danny, Jannine McColgan is the Village Engineer replacing Michael Stein, but she does know what Michael wrote in his comment sheet to you, so you two need to connect.

Dan Simone: Will I be getting another comment letter from you, Janine, do you think?

Jannine McColgan: Have you resubmitted since Michael's? Have you addressed Michael's comments?

Dan Simone: No.

Jannine McColgan: Once you address all of Michael's comments and if you have any questions, call me and we can go through it, but address his comments.

Dan Simone: Okay. That's fine. Just to bring the board up-to-date also, a lot of the comments relative to Michael Stein's memo had to do with the storm water plan. We did do testing at the end of the summer with DEP, deep hole testing, the original reviewer for DEP has since left, so I met with Mr. John Drake a couple of weeks ago who is the new gentleman in charge of this area. This is actually a question for Nannette, I guess. His question to me was he really can't accept an application until the Village is in a position of...

Nanette Bourne: It's a bit of a chicken and the egg situation. But what he will do is this. You have to prepare a storm water pollution prevention plan. He will provide you input as to the adequacy and then it will be transmitted to us, so that we can let the board know that the direction in which you are headed is okay. The board's concern is the DEP might require a change that would alter the site plan.

Dan Simone: Yes, that was his question to me.

Vice Chairman Sturniolo: And that question to you is not unusual. Because we go through this on an on-going basis with DEP. It's not specific to this site; it's that until they have that information they are not going to say yea or nay on it.

Dan Simone: Okay, that's understandable.

Jannine McColgan: Mr. Simone, when you submit the storm water plan to them, please also submit a copy to my office.

Dan Simone: Definitely will. Now, with regard to furthering the application in front of the board, this also requires to go to a public hearing, doesn't it Nannette? For site plan or no? Okay. Oh, because it's not a special use.

Nanette Bourne: Yes. Special Uses, subdivision, natural resource disturbance; a site plan...

Dan Simone: Okay. So then I guess really the way to approach this is to continue my review with DEP and the storm water management, and re-submit to the board for further review? Would I be able to go to the ARB in conjunction with the site plan review at this time?

Vice Chairman Sturniolo: You could go to the ARB at this point, sure. The big thing is to keep in touch with Jannine.

Dan Simone: Right. And just to answer any questions, since I wasn't here at the last meeting, if the board had any further questions regarding the application I would be happy to answer them.

Vice Chairman Sturniolo: We didn't going back a couple of meetings before; the board did notice and was pleased that you tried to carry over the theme of the attorney's office across the way with the stone wall treatment. And that hasn't changed.

Dan Simone: And I know this board had some questions regarding the stone, and that is one of my objectives; to go in front of the ARB and get their impression on what kind of stone they would like to see on the building. So the façade may change a little in stone type, but we're trying to carry that theme straight through on the building.

Vice Chairman Sturniolo: To mimic across the street.

Doug Hertz: This is going to have a full basement?

Dan Simone: Yes. Actually it has a parking space, one car garage on the lower half, and the rest is mechanical.

Vice Chairman Sturniolo: Good. Anybody else? Thoughts? Questions? Okay. So, once you've got your package together, give us a yell and we'll get it back on the agenda.

Dan Simone: Okay. Thank you very much.

Vice Chairman Sturniolo: You're very welcome. Thank you for coming. Goodnight. Next agenda item is still under formal applications, Buckingham Properties, Morgan Drive, and Lot 3.

### **Formal Application:**

**Application No: PB2005-19  
Buckingham Properties  
Morgan Drive, Lot 3**

**Members Present: Brad K. Schwartz  
Jon P. Dahlgren  
Eric A. Kaeyer**

Brad Schwartz: Brad Schwartz from Zarin & Steinmetz on behalf of Buckingham.

Eric Kaeyer: Eric Kaeyer from K G & D Architects.

Jon Dahlgren: Jon Dahlgren from Tim Miller Associates.

Brad Schwartz: We're here tonight to present our wetland application form. We need this permit in order to implement a remediation plan from sedimentation that has remained on the site dating back to the days when this property was operated as a municipal treatment plan. We are focusing on just this remedial part of the project, this component now. To give you some background as to why we're doing that; the contract of sale; our client is the contract vendee, and the contract contained a zoning approval contingency provision. That date is fast approaching, and there is no way that we are going to be able to obtain all of our approvals before that date kicks in. That said, our client is very determined to close on this property and to complete the deal, but he cannot do so until this contamination is re-mediated. Once this aspect of the project is complete, he'll close on the deal, we'll be back before the board to process the

remainder of the underlying application for an office building. Jon Dahlgren is here from Tim Miller and Associates, and he can describe in greater detail the nature of the contamination with a proposed remediation plan.

Vice Chairman Sturniolo: Are you the author of this two page document: The project narrative?

Jon Dahlgren: I think that the site plan that shows the site better illustrates what we're proposing to do. Basically our firm has been involved with the environmental assessment of the site, we've done a number of investigations in terms of sampling the soil and the water and the contents of the structures on the property. I don't know if you are familiar with the property, but there are some concrete structures that are remnants from the former sewage treatment plant. What we found in our investigation, to summarize, is that there are three structures on the property that contain sediment, which is a sediment consistency, it's not soil. It's at the bottom of water. These sediments contain elevated levels of metals such as mercury, cadmium and some semi volatile compounds. Semi volatile compounds are typically found in un-burned carbon, basically. So we found these compounds in Pond One here. These structures are constructive concrete. They are concrete lined, and we've determined that they are solid. They hold water as much as a swimming pool. There is Pond One, where we found some sediment, a tank here, which is about 22 feet deep, and Tank Two here, which is about 20 feet deep. Pond one is about five feet deep, so it is shaped like a swimming pool. We also did sampling on Pond Two, here, which is unlined. It's not a structure and this particular pond has relatively low levels of metals. To explain why we are here for the wetlands application, this pond has been identified as a wetland and delineated; I think that was part of an earlier work as part of the larger application. So basically this blue line here is the wetland buffer, 100 foot buffer from the wetland line, and what we're showing is this area here, which is where we need to do some clearing to gain access to these three structures. And the work we're proposing for remediation or cleaning the sediment is in-place treatment in situ. We looked at a number of different options about digging it out, trucking it away; we felt that the most environmentally effective way of dealing with this is in-place treatment based on the levels that we found in the sediment, and its consistency. Its sloppy sediment and we felt because these structures are sound and solid concrete structures, we found that in-place treatment was the best way to go. So that's what we're proposing, a combination of chemical treatment and stabilization in Pond One followed by basically mixing it with concrete and concrete in these two structures here. Basically, I don't know if I made this point. There is about two feet of sediment in the bottom of these ponds, which, given the size of the structures, really isn't all that much volume, but it's at the bottom of water, and it needs to be addressed. In terms of the work that will be done here; this clearing of the wetland buffer, removal of trees and brush is needed to bring in trucks, basically, and equipment and people to gain access to these. There is no grading proposed in the wetland buffer, if anything, it will be some stabilization with some rock in case there is a soft spot that the trucks don't get stuck, but that's it. And that kind of summarizes the work. I can answer any questions you may have.

Vice Chairman Sturniolo: I have a couple of questions before we kind of open it up, and it goes back to your project narrative. Specifically I'm looking at your second paragraph where it concludes with the investigations that you've done. What are the investigations? What does that consist of? Where is the hard copy to support conclusion?

Jon Dahlgren: We recently submitted a summary of our investigations to New York State DEC and copied the Village and the Planning Board, so you do have a copy of that. It wasn't formally submitted with the wetland permit application because the wetland permit was - we felt we wanted to keep it focused on the work that was required to do the remediation. So the technical justification for the work and all the conclusions about our environmental investigation was contained in a separate report, and you were copied on that.

Stanley Bernstein: Who was copied on that, the Planning Board?

Jon Dahlgren: Yes.

Brad Schwartz: Do you recall when that was submitted?

Jon Dahlgren: It was submitted last week to the New York State DEC.

Vice Chairman Sturniolo: If it was submitted last week to the Planning Board we wouldn't have it, because the cut-off date for all submissions for this Planning Board meeting is October 25. In your third paragraph, proposed work, where you talk about in-place remediation is more cost effective and protective of the environment and off-

site disposal; I don't mean to sound cavalier, but why would the Planning Board care what's cost effective from your point of view? We'd love to see this stuff out of Mount Kisco.

Jon Dahlgren: That's a perfectly good question, and cost really isn't your concern. We felt that in terms of disruption, number of trucks that have to come in and out of the site, the preparation and equipment that would be required to do the actual removal would be more involved than the in-place treatment. A back hoe would be needed, basically, or a large truck to pump the material out of some of the structures. Trucks would be needed to haul the material away and use local roads. In terms of the environmental impacts in place versus off-site disposal, we felt that in situ disposal is getting more and more accepted as a more viable alternative off-site, because you're keeping the material in place rather than moving it around to another location. And the long term location in Mount Kisco, addressing your concern about leaving it there...

Vice Chairman Sturniolo: Not to sound cute, it kinds of sounds like what was done at Chernobyl. The "pour the concrete over it and hopefully the cows will live" approach.

Jon Dahlgren: That's a good point. These are metals, and the chemical treatment of them will bind them to the material that is there, and they are relatively immobile now and with the chemical treatment they will be even more immobile and won't get into the environment.

Vice Chairman Sturniolo: Do you have another way to deal with the de-watering than pump it through the Village sewer system?

Jon Dahlgren: We've looked at different alternatives. One alternative is to possibly treat the water and pump it into trucks and dispose of it. That involves trucks and disposal and traffic. Another alternative is some sort of filtration and disposing it to the river. We felt that the sewer treatment plant would be the most effective. I might add right here off the bat that we're working on the remediation plan with another consultant. He's not here tonight. I came here tonight to really address the wetlands permit and the application and the wetland buffer impact. I think there may be a lot of questions, and there certainly are about the whole remediation process; the chemicals that are there and the effectiveness of the remediation. Those questions can broadly be better answered by our contractor who is going to be doing remediation.

Vice Chairman Sturniolo: Do you have a permit to travel on Village property to do this? Where you are going to lay your gravel and the trucks and all that?

Jon Dahlgren: What kind of a permit?

Jannine McColgan: Your access. It is coming off Village property, is that what you're getting at Mr. Sturniolo?

Vice Chairman Sturniolo: Yes.

Jon Dahlgren: At this point we don't. We'd have to pursue that.

Vice Chairman Sturniolo: You're going to be disturbing about .15 acres of wetland buffer.

Jon Dahlgren: That's correct.

Vice Chairman Sturniolo: Just by way of a brief history of a similar applicant to this. Recently we had an applicant who wanted to do something on a piece of property that needed to disturb a portion of the wetland buffer similar to yours. His property was already built upon. He had multiple buildings and he was in the process of trying to consolidate the buildings. While this board basically is not in support of blanketly saying "yes, you can disturb" or "yes, you can build on the wetland buffer," we felt that the pluses gained by this property outweigh the negatives of disturbing the wetland buffer or building in portions of the wetland buffer, because the property was already built in a sense. In this case, this is brand new virgin property. It's not like there are buildings there and there and there, even though they may be old buildings.

Eric Kaeyer: It's not virgin property, but I understand what you're saying.

Vice Chairman Sturniolo: There are currently no uses on the property right now. There are no buildings there. So I also have a concern about the .15 acres of disturbance on the wetland buffer. Where do you stand with DEC at this point, time-frame wise?

Jon Dahlgren: We've had discussions with them. Do you mean in terms of approval of the work?

Vice Chairman Sturniolo: Where are you in their scope of things?

Jon Dahlgren: This work, as we understand it in our discussion with DEC, falls outside of some of their typical programs. They have a spill program that deals with gasoline spills and releases to the environment. They have a brown fields program that addresses industrial sites that have contamination on them. We aren't in the brown fields program as of yet, and we aren't a spills program. So we are being reviewed by a branch in Albany. In terms of timing, I'm not sure exactly when we'll get comments or concurrence with the proposal.

Nanette Bourne: So you're part of the voluntary clean up?

Jon Dahlgren: Yes.

Nanette Bourne: So there is actually a whole process as with what you were saying. There is the spill, there's the brown spill and then there is the voluntary clean-up, and you have to work with DEP and get an approved remediation plan?

Jon Dahlgren: Yes.

Nanette Bourne: So you're working with them but don't yet have the remediation plan submitted to them?

Jon Dahlgren: A draft plan has been submitted with the back-up of technical support for the plan.

Brad Schwartz: To DEC. And Dave is five minutes from our office, and I had a conversation, Mr. Chairman, with a representative from DEC recently, and what David was advised was they received the application and because this doesn't neatly fit into one of their programs, that we may or may not hear back. He was going to look at it, and we are certainly going to try to follow-up, but we may or may not receive a formal sign-off on a remediation plan, is what we were told, but we're far from having a definitive answer on that. This conversation just...

Doug Hertz: With all this remediation and the size of the wetland buffer, where do you stand on the building, the next step?

Eric Kaeyer: The proposal that we presented to you a year ago is still the same proposal.

Doug Hertz: We are talking about disturbance of these wetlands, but the proposal uses a tremendous amount of space. Not this proposal, but your building proposal.

Eric Kaeyer: Between the building and the parking etc., the overall development of the site?

Doug Hertz: A number of these structures are going to be subsumed by the building in some way, shape or form. What happens when you build over these concrete encapsulated spaces that are going to be subject to excavation and all the other site work that is going to be done in that space?

Eric Kaeyer: Here again, the majority of where this remediation is happening is significantly underground. And so once it gets capped, it may be, and we haven't done the full structural engineering on this because we haven't gotten through this planning process, but there may be grade that has to be placed across some of these structures. It may be that we cut some of these structures below grade by a certain amount.

Jon Dahlgren: If I can address that, these two tanks where the building is proposed over a portion, I don't have the plan, but the sediment is 20 feet below the surface grade here and 22 feet here. 20 to 22 feet.

Eric Kaeyer: And our structures aren't grade, so we're not digging down anywhere close to where the existing contaminants are.

Doug Hertz: Do you feel you can successfully not disturb the remediation during the construction?

Eric Kaeyer: Yes.

Doug Hertz: And all that additional work is still easier than trucking the contaminants off-site?

Brad Schwartz: It's not about being easier, is it more environmentally friendly? I think what some of the board members are asking is sort of the effectiveness of this plan that is being proposed and the permanency of it, and once we come back again to my presentation on the building, are we comfortable that it's not going to be disturbed at that point?

Jon Dahlgren: The proposed remediation combination of chemical treatment and physical encapsulation is meant to be permanent. And, mobilize these metals in place so that they won't escape into the environment. I just have to say that this is an acceptable method of treating chemicals such as these; the metals that are found here, and the contractor who is proposing to do the work can back that up in terms of effectiveness at other sites, it's acceptance by the regulatory community and we feel that it is the best method to treat the materials.

Doug Hertz: Even when you're sticking a new building on top of a chunk of it, and the entire disturbance that that entails.

Jon Dahlgren: We're taking into account the fact that these are large concrete structures that have been in place for over 60 years. Thick concrete walls – I don't know if you've ever been out there, but these are solid structures. If there was no contamination in these structures, they would have to be dealt with in some way in terms of the proposal for the site. Maybe it would have to be demolished in some way, and like I said they extend 22 feet into the ground. They are solid structures.

Brad Schwartz: We can certainly provide more information to you.

Doug Hertz: That is certainly not our thing, but between engineering and our planning consultants, they have the expertise to be able to review that.

Stanley Bernstein: First of all, if your contractor is the one who can explain this to us, why isn't he here?

Jon Dahlgren: We came here tonight to explain the wetlands impacts.

Stanley Bernstein: So we're going to have another session on this, is that correct?

Jon Dahlgren: We certainly can to address the technical aspects of the remediation.

Stanley Bernstein: Proposed work, paragraph two. The sediment and pond water will be chemically stabilized in place, etc., etc. ....basis proximity to the surface, etc., etc. I want you to explain to me how you are going to do that process.

Jon Dahlgren: It involves first de-watering. Taking the water out.

Stanley Bernstein: I'll address that right after, but go ahead.

Jon Dahlgren: Pumping in a chemical ad mixture, which is a compound similar to concrete and physically mixing it with the sediment with mechanical mixers. And then taking samples of the sediment to make sure that the chemicals in the sediment are bound up with the ad mixture.

Stanley Bernstein: You're not chemically transforming the sediments, the molecular structure; it's just going to be an encapsulation.

Jon Dahlgren: There is a chemical process where the chemistry of the metals is bound up to the ad mixture, making them less mobile. So it's a chemical treatment process.

Stanley Bernstein: And then you'll encapsulate it.

Jon Dahlgren: And then it's mixed with concrete to physically solidify it.

Stanley Bernstein: Another question, then I'll tell you my thoughts on this. You're removing vegetation but you don't intend to bring it back to where it was because you're going to build on it. You're going to leave that off, is that correct, from what I understand here?

Eric Kaeyer: Yes, the plan is to develop the site.



Stanley Bernstein: And as far as the de-watering; you intend to put it in the sanitary sewer?

Jon Dahlgren: Yes.

Stanley Bernstein: And have you investigated the Mount Kisco sewage disposal plant at the Saw Mill River Parkway which will receive this?

Jon Dahlgren: We have had discussions; not our company but the environmental contractor who is doing the de-watering work has had discussions with Village treatment plant.

Stanley Bernstein: And our treatment plant will handle it, does he think?

Jon Dahlgren: I don't have that answer right now.

Jannine McColgan: They are supposed to provide additional information.

Stanley Bernstein: Now you also intend to build upon this in the same location after the stabilization takes place, is that correct?

Eric Kaeyer: Yes.

Stanley Bernstein: We I do not want to segment this hearing. I don't want to give approval for remediation and then have to give further approval for building within this wetland buffer. It has to be done at once. You have to bring all your information, and the hearing will cover both the remediation and the building.

Brad Schwartz: Mr. Bernstein, if I could address that?

Stanley Bernstein: Yes, please do.

Brad Schwartz: You don't have to ever approve the building.

Stanley Bernstein: That's correct.

Brad Schwartz: So, what I would submit, and Whitney you could certainly advise the board, is there are incidents and SEQRA regulations do allow for permissible segmentation.

Stanley Bernstein: And this is a permissible segmentation?

Brad Schwartz: I would submit that this presents a case for it based upon two factors. One again, that you don't ever have to approve the building. There is nothing as part of this wetland permit application that is determinative of any approvals in relation to the building. It doesn't set you down on a slippery slope or fait accompli to approving the building down the road. That application will undergo its own review by your board. All the relevant factors will be considered and subject to its own, again, planning process. And secondly, because of what John has eluded to, and again we'll provide you with more information; if cementing it in and not taking it off is in fact a more environmentally friendly approach to the handling of the remediation, then we would suggest that we are certainly being protective of the environment in handling of it in this way. So any of the regulations do provide for permissible segmentation.

Stanley Bernstein: So in other words your client is willing to go through the expense of doing the remediation without ever knowing whether he'll get approval for the project?

Brad Schwartz: Correct.

Stanley Bernstein: That's a very altruistic person, don't you think?

Brad Schwartz: He is interested in this property. He wants to pursue the planning process, understands the risks involved, but again the contract is set to expire. He wants to close, but he at least wants to know the remediation aspect has been taken care of.

Joseph Morreale: I have a couple of things. I always worry about leakage. I know you are in cement here. I don't know what the chemicals are that you are putting in here, but you are in wetlands. So my concern is down the road, particularly with a building on top of it, suppose there was a fissure in the cement that lead to leakage of what ever the mixture is now, in the tank in the wetlands? What would we be facing at that point?

Jon Dahlgren: The treatment mount – that is the combination of the chemical treatment to immobilize the metals, which are largely the issue, and physical treatment to make this basically a cement block. And so at the end of the process there will be no liquids. This material will be essentially cement.

Joseph Morreale: In the tank?

Jon Dahlgren: In the tank.

Joseph Morreale: And outside?

Jon Dahlgren: Right now everything is contained within these tanks and structures. So you're going to have a structure with – basically these are concrete walls, twelve inch bottom, and on top of that structure you will have cement. Basically your former sediment is now cemented. The contractor can address this more fully, but we don't anticipate any free liquids or water or sediment to remain in those structures. It's going to be cement that can be built upon and structurally sound.

Joseph Morreale: My other question is this, being familiar with building buildings, they have to settle. My concern here is you're talking about soil fill over the hardened cement to stabilize the structure. Now, how stable is this, and is there any danger to building on it?

Jon Dahlgren: That's where my expertise ends and I have to defer to the architect in terms of settlement issues.

Eric Kaeyer: Potentially it makes for a slightly more challenging foundation plan.

Joseph Morreale: It sure does, which might suggest there might be more difficulty with the building itself.

Eric Kaeyer: When you say that what do you mean?

Joseph Morreale: If it's more challenging as base, there may be some real difficulty building once it's up.

Eric Kaeyer: That's not necessarily so. In terms of the structural design, we have to take into account the existing structures that are there. Earlier we mentioned that maybe there are grade beams that have to span across some of these concrete structures, and they may have to span across, but it won't potentially cause problems later on for uneven settling if that's the question. There is no reason to believe that that's the case.

Joseph Morreale: Tell me if this is possible. Tell me about the idea of removing the tanks altogether.

Jon Dahlgren: I guess that's a possibility. The original proposal was to keep these structures in place. That was before our firm got involved with the environmental aspects and what was contained within the structures. So we looked at the possibility of emptying the structures, taking the sediment off site, leaving the concrete structures there or physically and chemically treating the sediment and leaving the structures there. In either scenario, the structures were proposed to remain.

Doug Hertz: Can you explain, perhaps as a follow-up, what is the downside route in taking the contaminants off site? If we're not concerned essentially with how much disturbance in this area, because ultimately it becomes a developed site, there will be a tremendous amount of disturbance. What are the other negatives?

Jon Dahlgren: The negatives as I understand them are physically removing the sediment with equipment like backhoes and pumps, loading it into trucks that have to be special trucks because this isn't dirt – you are not dealing with dirt. With sediment you have to be very careful not to contain the sediment and have special provisions so that it doesn't leak out onto the ground. It certainly can be done. But the risks and the potential for problems in transporting this material on local roads, wet sediment, with potential for accidents, the truck traffic, trucking it to another location, New Jersey or wherever, it adds risk rather than treatment in place. It's much more physical handling, but it can be done.

Doug Hertz: I hear what you're saying on the one case; that this is something that can be successfully treated in place. I'm just trying to weigh the two sides of it. Sorry, I frankly am not interested in the economic aspect of it. Our job is the safety of the site and the water that could potentially be affected by it. The argument is going to have to

be filtered through Janine and through Nanette that this is going to be an as effective way to treat this as trucking it off site. What is your take? Is this something that we're not to ever hear boo from once it's treated this way?

Jannine McColgan: There are some concerns because I don't know about the structural integrity of the tanks and everything that is there. There is a structure that has been there for nine years. So that's one concern as far as how are you going to also build over it. That is obviously the other concern this board has addressed. Have you actually sat down and done an assessment as far as number of truckloads. You were saying earlier that it's only one to two feet in the bottom of these tanks, and the tanks don't appear to be very large. I don't imagine it to be that many truckloads transporting on and off site versus the cement mixers and the other machinery that you are going to need to go on the site to do what you are proposing to do. You keep saying that there is going to be that many more trucks. I don't see how that would actually be.

Jon Dahlgren: We can provide a more detailed analysis of volume, how many trips would be required, the exact number of equipment that would be needed for the remediation we are proposing; how many trucks are going to be on-site for this particular in place treatment versus off-site trucking. We can do that. A preliminary assessment and kind of balancing has been done, but we can flush that out and bring that out to the board.

Jannine McColgan: In one of the ponds you were talking about putting that chemical ad mixture in and then concrete, cement on top of it. And then the other two – they are not mixing the sediments into it, so basically you are going to have the sediment layer and then the concrete on top?

Jon Dahlgren: We're proposing to mix the concrete with the sediment, yes.

Eric Kaeyer: It's not capped, it's mixed together.

Jannine McColgan: The other thing which is crucial is finding out from New York State DEC as far as if this plan is acceptable to them, and then we brought up the egress to the site. On the plan you talked about coming in through the Village property. Is there any reason why you cannot access it from Morgan Drive?

Jon Dahlgren: It would be more disturbances from Morgan Drive, but it's certainly do-able.

Jannine McColgan: It would be more disturbances?

Eric Kaeyer: You have to cut down more shrubs and trees just to get to it.

Jannine McColgan: There already is a pathway there, that's why I'm questioning it.

Eric Kaeyer: There is an existing path here, and that's actually what we were proposing to use.

Jon Dahlgren: And it ends about in this area, and then this is pretty heavily wooded between, basically the end of the tank here and Morgan Drive. These are pretty large trees, and obviously this is wooded too. This is an existing driveway right here.

Jannine McColgan: Right, so it's just that portion.

Jon Dahlgren: And to get to this tank, Pond One, I'm trying to see how you can get to it from Morgan Drive; there is quite a grade difference here, so you couldn't easily bring trucks down through here without causing more wetland disturbance, buffer disturbance. And then to get from Morgan Drive to here, you would have to go through the buffer and get very close to the wetland right here. So we avoided that. So that is what we are proposing. This is the shortest distance and the least disturbance; physical disturbance on the site.

Vice Chairman Sturniolo: Two access points? Morgan Drive, too?

Jannine McColgan: Three.

Vice Chairman Sturniolo: Three?

Doug Hertz: I'll comment again that it's just sort of funny that we're going to such lengths to preserve something that is going to be decimated a few months later. It won't even have time to re-grow.

Eric Kaeyer: If it's the board's wish for us to come in from this point, we have no problem. I think we felt that was the easiest way.

Doug Hertz: I appreciate the effort, and I'm normally a staunch defender of every inch of wetland and wetland buffer, but there is something slightly farcical about this if indeed you are going to plunk down the building that we've seen, on top of this, which is going across most of that wetland buffer.

Stanley Bernstein: They may not get approval for it though.

Doug Hertz: They may not.

Vice Chairman Sturniolo: If something doesn't add up, you may not get approval. If you want to go ahead, spend the dollars, maybe get approval and then build over it anyway. I don't know.

Stanley Bernstein: He's a very optimistic person. He wants to help the Village get rid of the contaminants.

Doug Hertz: So let's do the least disturbance we can at this point, because it's going to be segmented approval.

Whitney Singleton: On that point, if I could jump in a little bit. Right now we don't have any plan for your board as to what exactly remediation is going to be, correct? And we don't know whether or not that plan is going to be acceptable to DEC, correct?

Jon Dahlgren: The proposed remediation plan, you don't have in your hands yet. It hasn't been formally submitted as part of this application but it was copied as part of a formal submittal to DEC.

Whitney Singleton: I understand that. What you are proposing to DEC, this board hasn't seen yet.

Jon Dahlgren: That's correct.

Whitney Singleton: Okay. And we have to schedule a public hearing for this to review this component. Do we have a separate EAF component or the application?

Nanette Bourne: Not yet. I don't see one here.

Whitney Singleton: And the only thing that I'm - I'm just laying it out there now. I understand that you can't make an omelet without breaking some eggs, and the trees and whatever else. The issue of segmentation that we're dealing with is solely whether it's permissible or impermissible. It's solely for the convenience of the closer, correct?

Jon Dahlgren: Correct.

Vice Chairman Sturniolo: Jannine, do you want to add anything further?

Jannine McColgan: No, I think that's it.

Vice Chairman Sturniolo: So we're missing a lot of information. As you said something was submitted recently to the Planning Board a few days ago. We'll wait and review that and then continue on.

Jon Dahlgren: Okay.

Brad Schwartz: Thank you for your comments this evening.

**Public Hearing:**

**Application No: PB2005-16  
Arthur DeFeo  
136 Radio Circle**

**Members Present: Brad K. Schwartz  
Nicholas A. Pouder, Pouder Design Groups  
Daniel Coppelman, Keane Coppelman  
Engineers, PC  
Arthur DeFeo, DeFeo Manufacturing  
Supply, Inc.**

Vice Chairman Sturniolo: The next item on the agenda is a public hearing, and we have a sign-up sheet here, and it's for 136 Radio Circle, Arthur DeFeo. This is a public hearing pertaining to a permit to disturb sensitive and natural areas. Before the applicant starts, is there anyone who has signed up or would care to sign up or speak to this public hearing?

Brad Schwartz: No. Mr. Chairman, I'm going to submit to your board secretary a copy of the notice that was published as well as the certified cards that were received from the certified mailings. Since we were here last time the only aspect of this project; a proposal that has changed is Nick Pouder updated his landscaping plan to show the landscaping on the new three-tier retaining wall as opposed to what was previously proposed as single, 15 foot wall. Nick, if you have any brief comments, just to show and briefly describe what you're proposing.

Nicholas Pouder: Yes, this is the plan, and I have some 3D images also of the wall, but basically the idea is to plant above the wall and to plant on each of the successive tiers with shrubs that are drought tolerant and relatively deer-resistant, and at the base of the hill to use some larger pine and spruce; that going in will be almost up to the height of the top wall as it is anyway with 10 to 12 foot and 12 to 14 foot pine and spruce on the bottom. We can't necessarily do bigger trees than that, because I don't know that we can get the root balls in there; otherwise we would have done that. Certainly the pines are fast growing, and the spruces are very deer resistant, so we like to use them together. Besides that, everything else on the landscape plan is identical to what you've seen before with the exception of this rear property line. Based on our meeting with the ZBA, this planting strip widened by a foot and a half to allow a reduced need for a variance. So we've added, in front of the hedge that we have there, we have a grass strip; and frankly it doesn't even plot to this scale. So, that's in a nutshell what the changes in the planting plan are. I think you've probably seen these before. These are the before and afters that we did with the 3D modeling software. This is the one I think is most descriptive. This is the view if you were inside the site looking back at the wall. Here's the view from somewhere around here, inside the site looking back. And the other ones are other parts of the site. They have not changed. I also have, which was previously submitted to you, and it shows the view; this same vantage point but from Radio Circle. We could pass this around if you want, showing what the additional three birch trees do to that vista. So obviously that's when they are in foliage, fairly densely branched. But the concept is that the massing of the shrubs on the wall and the fact that the ground slopes on that would give us a fairly dense planting on each of the three tiers on the top, and with the addition of just a few trees out in the front I really think it breaks up the view in from the public right of way.

Vice Chairman Sturniolo: Thank you for the presentation. I assume there is no public comment on this. Nannette, do you want to add anything to this portion of this presentation? Traditionally, we would close the public hearing tonight via a motion and keep it open for ten days in case there are any written comments that we may receive. Having said that, if somebody would like to make a motion and second that we close the public hearing and keep it open for a ten day written comment period?

**Motion: Doug Hertz**  
**Second: Stanley Bernstein**  
**Aye: Doug Hertz**  
**Aye: Stanley Bernstein**  
**Aye: Sol Gibbons**  
**Aye: Joseph Morreale**  
**Aye: Ralph Vigliotti**  
**Aye: Vice Chairman Sturniolo**

Nanette Bourne: As far as where this goes next. You have submitted a storm water prevention plan to DEC?

Brad Schwartz: We have.

Nanette Bourne: I saw that there is comment where they won't review it... **(TOO MANY PAPERS BEING SHUFFLED BY THE MIC)** and similar to all the other applications, assuming that the board wants some feedback from DEP before they put it into the queue for an approval.

Brad Schwartz: And we're also on a DEC wetland issue, we received notification last time we were before your board, Scott originally sent that letter saying that we may need a wetland permit just left DEC, so now we're dealing with somebody else there. So we're working on it and trying to resolve this as soon as possible.

Vice Chairman Sturniolo: Time wise you are at a little disadvantage, with the transition.

Nanette Bourne: So the ball is in your court.

Brad Schwartz: The public hearing is closed, thank you for doing that, and we'll come back to you once we have more information from DEP and DEC.

Vice Chairman Sturniolo: Okay, we'll go forward from there. Thank you for your time.

**Public Hearing:**

**Application No: PB2006-19  
Westchester Residence and Club, LLC  
Kisco Avenue**

**Members Present: W. Charles Utschig, Jr., Schoor DePalma  
Rosellen Gonzales, Caro & Associates  
Richard Rosen, Perkins Eastman**

Vice Chairman Sturniolo: Next item on the agenda is Westchester Residence and Club, and what we have in front of us is a draft outline of a scoping document.

Nanette Bourne: The scope that was before you at the last meeting, I suppose that was prepared by the applicant...

Whitney Singleton: I don't mean to interrupt, could you just make a motion to officially open the public hearing? The public hearing has not been opened yet on this application.

Vice Chairman Sturniolo: Yes, we'll have that motion now.

**Motion: Doug Hertz  
Second: Stanley Bernstein  
Aye: Doug Hertz  
Aye: Stanley Bernstein  
Aye: Sol Gibbons  
Aye: Joseph Morreale  
Aye: Ralph Vigliotti  
Aye: Vice Chairman Sturniolo**

Nanette Bourne: So for those of you who would like another copy of this sent to your e-mail, I would be happy to do so. This draft scoping includes the comments that we received from my office, comments from the Village engineer as well as the comments that we received from Planning Board members. Just for clarification; this wasn't a public hearing. It's under the category of public hearing but the purpose of tonight is for you to receive a revised draft scope and set a public hearing, not to open up a public hearing.

Vice Chairman Sturniolo: Whitney, you were referring to 136.

Whitney Singleton: I was referring to both.

Nanette Bourne: No, tonight is to be scheduled. It's included on the agenda in the wrong place.

Whitney Singleton: Okay. There is no notice in the public papers for this application.

Nanette Bourne: Not yet.

Whitney Singleton: I'm sorry.

Doug Hertz: So, I'm withdrawing my...

Stanley Bernstein: I withdraw my second.

Vice Chairman Sturniolo: And everybody withdraws their Ayes.

Nanette Bourne: And my packet didn't come with an agenda, so I didn't see that this was in under the public hearing. So, this is a revision that includes your comments, it is suitable in my opinion to be scheduled for a public hearing. You don't have to make any

decision on this tonight. You can schedule it for a public hearing, get comments from involved and interested agencies and the public, and based on any additional changes that you want made, you will be in a position to adopt this scope, and the applicant can then go ahead and prepare a draft environmental impact statement.

Vice Chairman Sturniolo: What is the feeling of the board? Has everybody gone through this document sufficiently?

Stanley Bernstein: No. I skimmed it when I got it. Based upon what we saw as a draft scope submitted last time, and based upon the individual comments that we also got, I think it's really what we want, but I can't really say so without reading it thoroughly.

Nanette Bourne: You have no obligation to conclude it tonight.

Stanley Bernstein: Yes, I know that. The questions are we satisfied?

Doug Hertz: And we'll have an opportunity to get the public to give additional input.

Vice Chairman Sturniolo: Additional input to this document.

Doug Hertz: Right. So there is no reason why we shouldn't, in my opinion at this point, invite the public to give their input and schedule a public hearing.

Vice Chairman Sturniolo: Is that the feeling of the board? Schedule it? Okay, Nanette we could do it at the next work session.

Nanette Bourne: The next work session is the 28<sup>th</sup>.

Doug Hertz: You can't meet the Noticing requirements.

Vice Chairman Sturniolo: So then the next work session is the 26<sup>th</sup> of December.

Stanley Bernstein: We didn't agree on the 26<sup>th</sup>.

Vice Chairman Sturniolo: What do you mean?

Stanley Bernstein: We didn't agree that we are going to have a meeting on the 26<sup>th</sup>.

Vice Chairman Sturniolo: Oh, I thought Joe asked everybody.

Stanley Bernstein: Well, he asked but we didn't vote on it.

Ralph Vigliotti: What date could it be if we do put it in the form of a motion; the first week in December?

Nanette Bourne: This could be scheduled for the first meeting in December; it doesn't have to be a work session.

Vice Chairman Sturniolo: Let's do it at the December 12<sup>th</sup> meeting – let's put this on for a public hearing on December 12<sup>th</sup>.

Whitney Singleton: And the board is fine with the draft as it presently exists?

Vice Chairman Sturniolo: As it presently exists, and the board is obviously free to comment and make additional comments to this between now and then.

Whitney Singleton: I have to apologize. I was under the impression that tonight was the public hearing based upon the way it was put in the agenda. We have no public notice on this right?

Vice Chairman Sturniolo: There was not, for this.

Nanette Bourne: Mr. Chairman, since the applicant has... I don't know if they have any comments that they want to make on the scope, if you want to entertain them tonight.

Patrick Hewes: I am going to resort to the lowest technology of communication; spoken word. Because our projector has three prongs, and Mount Kisco doesn't.

Vice Chairman Sturniolo: It's a two-prong Village.

Patrick Hewes: We will describe remarks on the revised scope as submitted to you.

Stanley Bernstein: Excuse me, Mr. Hewes, didn't you project last time you were here?

Patrick Hewes: We did, because we had an extension cord and we broke off the third prong.

Stanley Bernstein: Not good, violating the electrical code.

Nanette Bourne: Your presentation tonight is?

Patrick Hewes: A brief overview of the design qualities of the project.

Nanette Bourne: Do you want to see the design project again? This is a scoping.

Patrick Hewes: It was designed for the public also.

Vice Chairman Sturniolo: But why not hold it off till when the public is here at the public hearing.

Patrick Hewes: So what we were going to do was describe the essence of what the scope as submitted to you comprised, and just hope to share with you a couple of items that also Nanette presumably can talk to. There are two items in the scope that we want to have a moment to share, an opportunity to discuss some things about it.

Nanette Bourne: Patrick had commented on two areas of the scope that he had concerns with. And I said, bring them to the board, talk to the board about things. There were things I didn't put in the scope; there were things that were requested... I don't know, and bring them up. You may choose to keep them in or change them.

Vice Chairman Sturniolo: Patrick, if you could do a brief presentation about these two items.

Patrick Hewes: In your scope, in the section relating to visual impact, your page 8 at the very, very top, as a component of Chapter 4, Visual Resources and Community Character, a three-dimensional model of the entire site including the proposed building and all internal roads shall be built. We would certainly as a team, prepare - and Rich Rosen from Perkins Easton could speak in more detail to this, that there would be a detailed three dimensional model at a point much closer to an FEIS at the end; presumably getting closer to the end of the SEQRA process. But that it's possibly an appropriate time to volunteer a three-dimensional model that we display massing relationship to topography at the DEIS public hearing. This is possibly to have this as part of our submittal as described in this scope is, we would think would be a premature inclusion, and I wanted to register that with you because it represents time on a project that of course has the opportunity to change as the SEQRA process goes forward. The second item is found on Page 11.

Nanette Bourne: I agree with Patrick but for different reasons. I actually think it's a very appropriate tool for the Planning Board to consider as part of the DEIS process. In reality you can't include a model in an EIS. A model is something that is separate for you to be displayed on a table, included in the EIS. And I would recommend that it be a tool that is brought in by the applicant as part of the public hearing on the DEIS, but not necessarily something that is required to be inserted into the DEIS.

Patrick Hewes: An analytical tool rather than an industrial tool?

Nanette Bourne: No. When you come in for the public hearing with the Planning Board and with the public, the public and the Planning Board will be commenting on not only the written material and the graphic material in your DEIS, but you will have as a visual aid a three-dimensional model. And that's when you'll bring it in.

Vice Chairman Sturniolo: As opposed to?

Nanette Bourne: Having a model included in the EIS itself.

Whitney Singleton: If we could back up a little bit for those members that recall when the Mount Kisco Woodcrest was done. It was a three-dimensional model that was provided to assist the public and your board in reviewing the application. It was an on-scale three-dimensional model to show the undulations of the property and the prominence of the building in their particular locations, whether they could be screened and stuff of that nature, and I think that's what Nannette is talking about, is that as being part of the public hearing, being available during the public hearing process to assist the public and your board in being able to ask questions, and draw some information as to the nature of the application. Am I correct?



Nanette Bourne: Yes, if you remember the Woodcrest Model. It was very helpful when the applicant had it here, but it was a tool that was brought in, not included in this binder.

Stanley Bernstein: So how can we insure that they will bring in the model if it's not included in the scope?

Nanette Bourne: Just modify the scope. That it is anticipated that during the public hearing you want this model brought in.

Stanley Bernstein: We had one at Jobco and we had it at Woodcrest, and I'm pretty sure it was at couple of other projects that we had a model. I don't know if it was included as part of the EIS or it was just there as a convenient tool. I'm not sure which way it was done, but it was there at the public hearing.

Nanette Bourne: Right. Keep in mind at Jobco you NegDec'd it. You didn't do a PosDec, so there was no formal scoping.

Stanley Bernstein: I know, much to my dismay.

Nanette Bourne: But they had a very effective model.

Stanley Bernstein: They had a castle on a mountain.

Whitney Singleton: To pick up where Stan left off, the reason that you required or it was offered on those two particular applications because visual impacts were an important concern to you, just like it is in this particular case. Quite frankly I think that the board and the public are well served as well as the applicant in providing that as far as providing a degree of comfort as to what the board's buying into with the application. I understand that it's expensive.

Richard Rosen: I think what we would provide is not a model of what you would see in a sales office but a topographical model with the building mass, all the roof lines, the heights and everything shown and even possibly some landscaping as we're preparing to plan it. It's not going to be a sales model; it's going to be an interpretive model. We wouldn't show every brick and every piece of wood, but it would be more monochromatic, made of wood, but it would show all the roof lines and the massing and the height of the building relative to the topography and all the roadways and all the stuff that you would ask for; if that sounds reasonable.

Vice Chairman Sturniolo: The idea of the model of being incorporated in the scope was my idea. I wrote a memo, but I'm willing to listen to at an alternative date, I think that's what you're describing, and the alternative date would be how far into this process after the public hearing.

Nanette Bourne: That's part of the public hearing. As part of the public hearing they are going to come in and make a presentation on their EIS.

Vice Chairman Sturniolo: On the twelfth?

Nanette Bourne: No, that's the scoping.

Vice Chairman Sturniolo: Is there going to be a reference to the model in the scoping session that will be discussed on the 12<sup>th</sup>?

Nanette Bourne: My recommendation is that a reference be included in the scope that says it is anticipated that this model be prepared and provided during the public hearing on the DEIS.

Vice Chairman Sturniolo: Okay.

Patrick Hewes: Once we have fulfilled the assignment of this scope, which will include grading the model, so our efforts and our time, if we're sent off to do this if you adopt it, one of the things would be that model. So our heaving lifting, the most analytical work, the most time that we're spending, the next biggest assignment that we have following the adoption of this scope should you adopt it, would include the creation of a model that would be on display at the time of a public hearing after you have the DEIS.

Ralph Vigliotti: However, the model would be presented to us for the first time when the public gets to view it. I understand that the timing of that, but I would like to see it before the public gets to view it so if we have questions and lengthy ones that we can get answers to that was prior to the public hearing.

Vice Chairman Sturniolo: Or the model modified or enhanced.

Whitney Singleton: Ralph, there should be no reason why you shouldn't. If their environmental impact statement has issues, at some point in time the board is going to have to schedule a public hearing.

Vice Chairman Sturniolo: Can we be time specific as to when we would like to see this model?

Nanette Bourne: Sure. Because at Whitney was suggesting, before the public hearing is scheduled you will have the preliminary draft and environmental impact statement before you, and before you can accept it as complete and schedule a public hearing, you make the request that the model be made available.

Vice Chairman Sturniolo: Is that agreeable to everybody? In that case the model was my idea, I will modify the time frame on when we'd like to see the model, but I would like to add we'd like to see a model with as much information as possible starting from here's Kisco Avenue, here's a curb, it goes up six inches here's a sidewalk it goes here and it begins to sway with all the internal roads, the wetland areas detention ponds, the type of plantings that are going to be used to screen, etc., etc., the slopes in proportion to the site, and obviously the building. But everything to be included in the model that would give us a three dimensional look that we are looking for.

Nanette Bourne: And the retaining walls.

Vice Chairman Sturniolo: And obviously the retaining walls. I'm sure there are many things I left out. Thank you. Is that you're...

Patrick Hewes: That's part one of two parts. It's going to involve Charles Utschig of Shoor DePalma. On Page 11 the item 4A towards the top, a single proposed mitigation in the scope to sanitary sewage being in the words of the scope, "to offset the amount of sewage generated by the development the applicant should consider contributing toward the reduction of inflow and infiltration in the system."

Vice Chairman Sturniolo: Sounds great.

Charles Utschig: Chuck Utschig with Shoor DePalma. Our only concern is that that's. (Although it sounds great and simple in theory) in reality to identify those I & I potentials and figure out where they often occur, and to go through that whole process here could involve significant off-site issues. So it's a very open-ended kind of statement for us to try and tackle. We understand that it's policy on your larger projects recently to start talking about I & I, but from our perspective the other items in your scope kind of leave open what the mitigation is for certain issues, and we would suggest that maybe it's more appropriate to leave open the mitigation for our impact. Typically we go through the process of doing existing conditions, impact of the project, and then as a result of that suggesting mitigation steps, all of which you have a say in whether they're acceptable, enough, not enough. Here we've been kind of specific, and although it's specific in nature in this statement, it is very broad for us to try and analyze it. So, our suggestion is that we leave open the mitigation for this. There may be discussions here about an existing facility that has certain flows that will be abandoned as it relates to new flows for this facility. There's a lot to this issue, and we would suggest to the board that maybe it's an opportunity to let us forward to mitigation, the board can look at it, if it goes to I & I as the only acceptable one, then that's where we go to. But as a starting point, we'd like to leave that open, if possible.

Vice Chairman Sturniolo: Jannine, what's your comfort level with that?

Jannine McColgan: I'm fine with additional mitigation measures being investigated but I guess I'd still like to leave the I & I option in there.

Whitney Singleton: When Chuck said your board would have input, ultimately, your board will have the ultimate input on this issue. You will determine what is necessary mitigation on the part of the applicant in regard to its impacts on the sewer. If reduction in I & I is something that can be achieved for payment towards reduction in I & I that can be achieved, so be it. That will be your call as part of your ultimate findings and determination on this application. In that regard, you will always have control of the applicant. I know that Chuck was involved in Mount Kisco Chase, and in that particular application what was required was to pay a sum of money towards the reduction of I & I, and that's why you see the raised storm drains... and they contributed a couple of hundred thousand dollars towards that. On this particular application I think all he is

saying is he wants to leave the issue open and not be relegated to a payment or a sum of money or open sum of money.

Charles Utschig: We're just trying to leave open our options. We're not trying to avoid the I & I issue, we understand the significance of it, we're just saying give us the opportunity to explore all the options, present to you maybe some innovative mitigation that results in the same end product; that being no negative impact on the treatment plan. That's really all we're asking for. And at this point, not tying down, it would be almost impossible I would guess at this point, not having done the study, for us to be able to come up with the overall I & I, so we're grappling with alternatives so that the lump sum of money may somehow get factored into this, but not be the end and all be all to the solution. We may be able to do a better job.

Whitney Singleton: You do know the Village has undertaken an I & I study recently.

W. Charles Utschig: Yes and the hopes is that...

Vice Chairman Sturniolo: And that's why we're trying to be pro-active by putting that into the scope.

W. Charles Utschig: Understood. And we're hoping that the I & I study has moved along to a point where your consultants have identified specific places where we could do remediation that solves the problem. We're just trying to keep it broader in nature at this point, that's all. Like all the other sections; if you read the other sections, it kind of says mitigation to be determined. And we're just kind of suggesting that this is one where the mitigation could be determined. So it's not really much of the fine tuning of the language. We have a very simple adjustment to it that talks about appropriate mitigation to insure that we don't have an adverse impact, accounting for I & I and other options to make sure we don't have a negative impact. We don't want to tie it to that one issue.

Vice Chairman Sturniolo: Jannine, without putting you on the spot, are you comfortable at this point if we modify that language a bit?

Jannine McColgan: We could modify the language.

Vice Chairman Sturniolo: That's your second point?

Patrick Hewes: That's correct.

Vice Chairman Sturniolo: At our last meeting we suggested that you talk to the rest of your team, Chase Caro and Company, about the concept of the LEED (Leadership in Energy Environmental Design) Green Building. Where has that gone from your point of view?

Patrick Hewes: Also, looking specifically at the scope, which mentions that in two places; in storm water and in architectural design itself. So I would refer again to Rich Rosen on that.

Richard Rosen: One of the questions is whether a certified lead building or designing to LEED standards is the question. I think basically we always approach our projects these days using LEED design standards to get as much of sustaining of design into the building. The question of whether the building's become official LEED certified is another issue, but I think one of the things we're looking at is geothermal for our heating and cooling systems, we're looking at green roofs, we're looking at a collection of storm water from the roofs for irrigation on the site, we're looking at gray water systems to use our waste water and we're going to be looking at sustainable materials both for the exterior and the interior.

Vice Chairman Sturniolo: So am I correct that you are not going to go down the path of getting the building certified Leed?

Richard Rosen: Well, we haven't been instructed by our client to do that at this point.

Vice Chairman Sturniolo: Would you bring up that subject with your client; because that is crucial to this board for a couple of reasons. One, putting aside the cost issue, which I personally don't, and I'm not an expert at this by any means in this field, I personally don't believe it's that much greater, but there is a lot of positives from your point of view, from a marketing point of view, there's a lot of positives from the Village's point of view by having a LEED certified building within the Village. There is also another positive, and the Village and the applicant at large have worked on this project from a collective basis, shall we say, from day one. So having it LEED certified can come out to

be a winner for a lot, a lot of people. And that would be the message I would like you to carry back to your folks.

Richard Rosen: One issue that I would address, and I know Mr. Bernstein has brought this up, I think part of getting something LEED certified, indirectly you brought this up, part of getting it LEED certified is that during construction there is a very rigorous program about materials moving on and off the site; what to do with construction waste, it's not just what goes in the building, it's how the building is constructed, how the site is treated, so I think all those issues can be addressed with the LEED certification. It might satisfy some of the concerns that you voiced over some of the previous discussions.

Stanley Bernstein: Maybe.

Patrick Hewes: The second part of the LEED...sorry the green practice talks about storm water, and it's in the scope.

Richard Rosen: Part of what we would do, and it mentions green roof being looked at by the civil engineer, I think what happens is that we the architect and the civil engineer work together to determine what percentage of the roof practically can be a green roof, and then what sort of collection can be done with that. So they use whatever we can come up with to evaluate what contributes to the storm.

Stanley Bernstein: ...chemical fertilizer use, and of course we can be in contact with the Cornell Agricultural Extension Service, in Cornell they have much literature on the subject. I think we are going to probably promulgate something through AKRF shortly about our requirements in that vein, clean storm water initiative, so to speak.

W. Charles Utschig: Given our proximity to the watershed...

Stanley Bernstein: Everybody's got proximity in Mount Kisco.

W. Charles Utschig: And the set of regulations that we are governed by, not only with them but the DEC and your local consultant, from a site perspective we will comply with the LEED certification for the site components to the lead certification just out of a matter of practice. So, again, it goes to what you were saying. It's easy to LEED us down...

Vice Chairman Sturniolo: We're looking for the full nine yards, and if you'd be kind enough to get back to us on that answer on the 12<sup>th</sup>, next time we get together. Anybody else need to add anything further?

Richard Rosen: The certification with LEED, there is a range of points that get you certified, and you can go from silver up to platinum. I think there are only two platinum buildings in the United States.

Stanley Bernstein: You'll be the third.

Richard Rosen: You don't ask; you don't get. Well, I think the one thing about residential, is it's much more difficult to do residential as the highest scoring LEED building that is say a commercial building, just in terms of the systems and everything that goes into it. So, I would just say if we can achieve LEED certification as a goal, whatever that is, would that satisfy the requirements? It could be silver, it could be gold, it could be platinum, but if we're able to attain...

Vice Chairman Sturniolo: LEED certification and not partial.

Richard Rosen: Yes. You're not certified unless you meet the absolute... you have to go past the threshold and then there are things that happen.

Vice Chairman Sturniolo: As you go up.

Richard Rosen: And I think what we'll do in the process is, there is a whole checklist in process and we can, in the process here, I think we can say what's achievable based on the site, based on the type of building it is, based on the systems that are available and the technology.

Doug Hertz: And what certification that would lead you to get, and what the next increments would be and what the hurdles to that additional certification would be.

Vice Chairman Sturniolo: As you step up to the Taj Mahal, the platinum or whatever.

Nanette Bourne: Following what Mr. Rosen said there is only one certified lead building in Westchester right now, and that's the Ossining Public Library.

Vice Chairman Sturniolo: Another feather in your hat. I'm not saying it sarcastically.

Richard Rosen: No, I understand what you're saying.

Vice Chairman Sturniolo: It helps you from a marketing point of view, too.

Doug Hertz: And it's our most environmentally sensitive piece of undeveloped land in the Village.

Vice Chairman Sturniolo: Okay, we'll see you on the 12<sup>th</sup>.

Richard Rosen: Thank you.

**Special Discussion:**

**Application No: PB2004-03  
The Premier Collection  
250 Kisco Avenue**

Vice Chairman Sturniolo: Next item on the agenda is The Premier Collection final tree location plan. Nanette?

Nanette Bourne: I wasn't at the last meeting, so forgive me if much of this was already discussed. Premier Collection, as we've been discussing; as part of their construction process, got a little bit ambitious with their construction equipment and 13 trees that were not anticipated to be removed were removed. And, the requirement that they were under was to replace twice this size; a total of 162 inches of tree caliber removal, and the applicant was required to plant 324 inches, which is equivalent to 81 four inch caliber trees, and so on. Their landscape architect, John Slaker, said that they are only able to plant 27 of these trees, which means that there is an excess of 45 trees that must be planted or provided to the Village in some financial way in lieu. So, the Village has this shady tree program as part of Mount Kisco's tree city, and you need to direct the applicant as to whether or not you want those additional trees that cannot be planted on the Premier site planted elsewhere in the village, or an equivalent, comparable, tree cost be contributed to the Village.

Ralph Vigliotti: If we require them to plant the 51 four inch trees or 45 4 1/2 inch trees, can we require them, after we've identified the location of where the trees should go, they would plant them?

Nanette Bourne: Yes. The Village hasn't done that; there's no program in place to do that. That could be a recommendation.

Ralph Vigliotti: So they would pay for the trees and the planting of the trees whether they have an outside contractor or not, they would take care of that.

Nanette Bourne: Yes. I think you'd need to make that request of the Village board, because you'd be asking that these trees be planted on Village property. There would have to be probably an expansion of the Shade Tree Program -

Ralph Vigliotti: So you just want an acceptance of Jim Palmer's recommendation of how we are going to take care of the 51 trees?

Nanette Bourne: Yes.

Vice Chairman Sturniolo: The other alternative would be is whatever the dollar amount is to plant those trees and the labor associated with it, have that go into a special fund, and then the Village would use those dollars in an appropriate manner.

Doug Hertz: It would be my feeling that the purpose of this stuff is to have the right forestation, the right trees and the right amount of trees they have of value, and I'd hate to see that money shunted for municipal purposes.

Vice Chairman Sturniolo: Oh, I'm not saying to repave Blakerby lot or anything; it would be earmarked.

Doug Hertz: Intentions being what they are, no matter how good the intentions are, I'd hate to see the money sitting there, and then we do an accounting sometime later on. I'd like to see the trees planted.

Ralph Vigliotti: I agree with you.

Doug Hertz: So if we do have a need for them, and if there is a program in place, let's do it.

Vice Chairman Sturniolo: Joe knows about it.

Joseph Morreale: I haven't taken advantage of it, but I know about it. I agree with you that it should be dedicated to the trees and I think it could beautify the town. The question is how would the plan be developed as to where to plant?

Doug Hertz: I think that's the Village's plan, right?

Ralph Vigliotti: Technically it's the Village's plan.

Nanette Bourne: You would have to make a request to the Village board that they accept these trees and identify where they want them planted. Keep in mind that there are a lot more trees that are going to be coming into the Village as part of the other projects in the Village that have had an ambitious tree removal program, and those trees can't be replaced on the site.

Vice Chairman Sturniolo: Do we have to guess who?

Nanette Bourne: We could be talking about hundreds and hundreds and trees.

Doug Hertz: Well, at a certain point we'll have to – if there's not appropriate space, there's not appropriate space.

Ralph Vigliotti: I think for the first go round you're asking us to move on this, and I think we should move on this. The next go round, if it's another developer who has misused their site plan, maybe we'll address that when we get to that level. But I think we ought to address this and move on it.

Whitney Singleton: Do you want to consider doing a ratio; two-thirds of the value in trees, one third in cash, as a basis for allowing implementation for everything else?

Vice Chairman Sturniolo: I'd like to see the trees and stay away from the money. I'd rule the money idea out, but it's obviously the feeling of the board that we should go for the full tree planting and forget dollars.

Whitney Singleton: So you're going to have a developer, whether it's Premier, Balter, Jobco, whoever it may be, you're going to have their people out there on South Moger putting the trees in the planters.

Vice Chairman Sturniolo: Or maybe the Village does it and the Village is reimbursed from Premier.

Whitney Singleton: Right, that's what I'm saying. Maybe you want to think about a ratio of two-thirds of the value of what they've done in trees and one-third to cover the expense of the installation.

Doug Hertz: But the installation is built into the tree. If you say you're required to put 45 trees on your property, it doesn't cost more to put 45 trees over there.

Nanette Bourne: I think what Whitney is trying to say is maybe having them contributing some product. But contribute  $\frac{3}{4}$ 's of that in product and the rest in the funds to plant it.

Doug Hertz: But the fund to plant should be part of what they're promoting. These are trees planted. So if that means the cost of buying \$200 at a nursery and \$100 in labor, that's a tree.

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

Nanette Bourne: But you don't want their landscaper planting around the Village.

Ralph Vigliotti: This is the first go-round for us. We'll have five or six more of these. I happen to agree with Doug. Our engineer is the arborist for the Village, and I think part of this should be that it should be supervised by the Village arborist; the actual planting of the trees. Now, if this is unsuccessful, and we can outline our expectations, and if we find that this is too difficult to do then the next round we can change it up a little bit. But I just want to see the trees in. I don't want to see it get muddied with a little bit of money here, and then the Village has to oversee, and maybe the costs estimates to plant them or underscore, and or not enough and then we only get 30 trees planted. I think this is a good testing ground for us to really monitor and put a program in place. There are going to be some pitfalls, but I think once we get past this piece we'll have something that's going to work by using this as a pilot.

Whitney Singleton: So where we go from here is your board is going to determine what is owed, so to speak, and you're going to request that the Village Board provide a place and a plan to implement. Correct? And you're probably not looking at anything in '06; we're looking clearly in the spring of '07, correct? Would it be your recommendation to the Village Board that as part of that that they hire a landscape architect undertake this work?

Ralph Vigliotti: Yes.

Vice Chairman Sturniolo: And who would pay for the landscape architect?

Whitney Singleton: That's going back to what I was saying. We don't want just the Highway Department to have delivery of 480 trees.

Vice Chairman Sturniolo: No, it has to be intelligently done.

Whitney Singleton: We want to have the resources available to us, and to do something of quality that you want you're going to have to spend a certain amount on the installation, you have to spend a certain amount in the design and planning.

Vice Chairman Sturniolo: I would come from the point of view that if all the trees were to be planted on Premier, putting aside the cost of the trees and their labor, they still have a landscape architect that they would be paying to address the tree planting on their property. So, let the Village hire a landscape architect to look out for the Village's best interests, and recoup that money from Premier.

Whitney Singleton: But isn't what's provided for here is that we are recouping from whoever the property owner is or developer is, they are required to provide X number of trees installed in a location?

Vice Chairman Sturniolo: On their property?

Whitney Singleton: I'm just trying to figure out the best way for this thing to work on a going forward basis, and kind of what I was thinking is, you suggested the Village Board that we have a plethora of, I believe we have a bank of trees here, where would they like to see it, what location would they like to see augmented in town and addressed in town, and also potentially in addition to that for you to suggest to them that there are areas in town that should be looked at.

Doug Hertz: To some extent the Village already hires Save A Tree. I know in my neighborhood they are losing trees left and right, and there is a month back-up on them taking down trees at this point. All the trees that were planted in the same era are all dying at about the same time, and the Village is replacing them. I don't know what the planning process is that the Village goes through to decide when a tree comes down how it's being replaced if it moves over five feet, or do you put it exactly in the same spot; but the decisions are being made.

Nanette Bourne: On Thursday we'll be meeting with Jim Palmer. We'll give him this memo. We'll tell him that the Planning Board is looking for trees to be planted as opposed to just money contributed, and find out from him how this can be accommodated. And either he will say, no way, can't do it, or...

Whitney Singleton: No, we've already had this discussion.

Vice Chairman Sturniolo: With Jim? You did?

Whitney Singleton: Yes. There is a number of trees along Main Street and Moger that are damaged.

Nanette Bourne: It's a matter of how he wants the trees delivered to him.

Whitney Singleton: And what he was hoping to do as part of their larger project, the Chamber of Commerce for the downtown commerce area, is to figure to kind of include them in the process with a lot of the local merchants and business owners, because it's going to go beyond just trees. There are a lot of other things; sidewalk plants and stuff like that, and general property maintenance issues.

Stanley Bernstein: It seems to me the easiest way is for the Village is to determine the location and the method, and purchase the tree, plant the tree, figure the entire cost and submit that as one tree towards what Premier owes. And they do it with the second tree, and now this is the cost of two trees, and so on and so forth. They bill Premier or whoever for every tree that's planted including the cost of the tree and the planting of the tree, the investigation of the location and so on. That seems the easiest way. It also seems to be me to be the best way to make sure that this is done, that the applicant doesn't take a powder, because if they don't pay, that means they aren't paying their taxes and they can get a foreclosure.

Vice Chairman Sturniolo: And they're in violation of their site plan.

Stanley Bernstein: Yes. It seems to me that this is the simplest and best way to handle it. And you ought to approach Jim Palmer in that respect.

Whitney Singleton: So we are talking about a value and not trees?

Stanley Bernstein: A value of each tree including the entire investigation as to where it goes and the actual planting and everything else will come to a bill.

Vice Chairman Sturniolo: But that is now what we've been talking about prior.

Ralph Vigliotti: Typically each tree is probably somewhere in the \$400 range, and then whatever the cost is to plant it. If we're looking to use these trees to replace trees downtown, it's not going to happen with these 50 trees. There's a lot more labor intense to take those trees down and to plant new trees downtown. We're not going to get the biggest bang for our dollar here. I think, in all due respect, take 50 trees, flag where they need to go on the easiest sites, so it's dig the hole, plant it, do it, and get it done, and I think the Village has to address the downtown issue very differently. We may only get 10, 12, 15 trees out of this if we're looking at a cost factor for downtown.

Whitney Singleton: But we are going to put whatever trees you are going to plant on public property, correct?

Ralph Vigliotti: Yes, but instead of putting 51 trees around the Village, we may only get 10.

Stanley Bernstein: I don't see where we get 10; if they owe us 50 trees –

Ralph Vigliotti: Some are labor intense. If you're looking to remove trees downtown with all the grading systems and the brickwork that needs to be done, it's going to take months and months for that to occur. If we came to 51 trees and the sites are flagged, okay, here's one through 51 and these are the sites and here's the map, this is the day we're doing it, right away in the spring we get 51 trees and put them in two or three business days. Otherwise, we're going to be there forever.

Vice Chairman Sturniolo: The other part of supporting your argument about being there forever is, if you start to bring in the Chamber of Commerce and you start to talk about the bricks that are broken up, the metal grates that are around it, all the levels of pontification that would go on; whereas taking these trees and going and having a landscape architect go through the Village, find X amount of sites where we don't need to go through the bureaucracy part of what we just talked about, and get these trees in place by the spring time and get this project moving.

Whitney Singleton: But what you're talking about is what...along a right of way somewhere.

Ralph Vigliotti: You could probably put 30 trees right on Lexington Avenue without even blinking. You really could.

Whitney Singleton: Yes, along the right-of-way. As strange as it sounds, we do have limited opportunities here. You're talking about public right of ways or in Leonard Park.



Ralph Vigliotti: Some residents may say if it was opened to residents by a certain date, if you would like a tree on your street on a right-of-way. There was a program about 15 years ago, where the Village had X number of trees, you had a certain date if you wanted a tree in the right-of-way on your front property, the Village literally came by and a couple of residents on my street took advantage of that. And you should see the trees today, they are a nice size.

Vice Chairman Sturniolo: Are we in just collective agreement that we need to stay away from the concept of the Chamber of Commerce the metal grates, the bricks and all that.

Doug Hertz: Yes, I'd like to see the trees planted.

Stanley Bernstein: Why don't we get a nice piece of property, condemn it, tear down whatever is there and put in a forest?

Ralph Vigliotti: And grow walnuts.

Stanley Bernstein: No, just put in a forest; the forest that was destroyed to build that abomination to begin with.

Vice Chairman Sturniolo: Nannette, would this be simpler so that it doesn't become this loose open-ended discussion on Thursday, if you could put a short note together to Jim Palmer in advance of Thursday so he knows specifically what the Planning Board is recommending and the direction that we are suggesting?

Nanette Bourne: Yes. That you want sites certain, you want trees.

Doug Hertz: This is the most difficult discussion we've had all night.

Ralph Vigliotti: This is the real stuff.

Whitney Singleton: You know what, Tony? Those trees with the metal grates and everything else that are sitting there as ash trays for Mount Kisco they remain cut stumps with trash cans pulled over on them for the next five, six, ten years until somebody does do something about them.

Ralph Vigliotti: I look at that as being a Village obligation to take care of those trees downtown. This just happens to be a bonus. Let's take this bonus and run with it.

Doug Hertz: It sounds like we are going to have some additional trees down the line, a plethora.

Ralph Vigliotti: And we may not, by the spring, have this in place with the Chamber of Commerce getting involved and the...

Vice Chairman Sturniolo: And the Ironworker's Association of America, and the bricklayers, and...

### **Special Discussion:**

#### **Site Plan Compliance:**

##### **15-21 Armonk Road**

Vice Chairman Sturniolo: The next item is 15-21 Armonk Road. We have a memo from Austin Cassidy that says nothing.

Ralph Vigliotti: Nothing. Can I speak to that?

Vice Chairman Sturniolo: Absolutely.

Ralph Vigliotti: Last May I asked the board if we could pull the site plan in regard to 15-21 Armonk Road because there are a number of issues that I felt were in code violation and violation of the original site plan. Lo and behold, on August 1<sup>st</sup> a memo finally did go out, and it was acted upon literally a week and a half ago, which is three months from the original memo. Now, I'm not sure, maybe I'm not privy to other things that may be going on at that site, however, I go past that site each and every day, and maybe I see things that Austin is not seeing or our Code Enforcer is not seeing or they don't want to see. One there are AC units in the back parking area on the ground, on the surface in the parking lot. That was done when they installed the new roof about eight or ten years ago. There used to be roof AC units on the roof and they were moved and put into the parking lot. We've had numerous discussions about AC units put into parking lots and put alongside buildings. So in the designated parking area there are two or three AC

units which are taking up space in the parking area. There is storage right now that Austin does not mention upon his site visit, in that rear parking lot. It's covered over with tarps and roped off. I question whether or not the delicatessen there is allowed to have tables and allowed to serve food at the tables. I don't have an answer to that. I don't know if the code matches that. The rear attached building to 15-21 Armonk Road has a repair shop; an automotive repair shop. I don't know if that's permitted in the zone. The biggest piece is the cars are parking on Armonk Road and sticking out. They are parking in front of the building and pulling into what is not a legal parking area for that set of stores. They are parked into Armonk Road by six or eight feet. Austin makes mention of it that it is basically the New York State ROW. I don't know what ROW is.

Jannine McColgan: Right-of-way.

Ralph Vigliotti: Right-of-way, I'm sorry. It's probably not allowed on this property, but it continues to happen, and it appears that Austin is okay with that. We would never allow this to happen on any other site in the Village. I know there is some history to this site. About 15 years ago, when the Village sold Park Avenue, a little strip of Park Avenue which is between Ben and Jerry's and the bowling alley, that the owner of this particular set of stores negotiated 8 or 10 parking spaces. That was part of the resolution when we sold that property. There is parking across the way within 30 or 40 yards of this set of stores, so we don't have parking in front. Now, you probably could have one or two cars parked, because its kind of like a triangle opening in the front of the stores where one or two cars might fit, illegally but legally, but as you come up on the triangle, it is like an isosceles right triangle, when you come up on that triangle, some of the trucks are out eight feet onto the roadway within four feet of the double line. It is ludicrous that we would allow, or that Austin would allow this to continue to happen. This is 2006, not 1956.

Whitney Singleton: I think on that score that is something that is going to be a police issue; illegal parking on a public right-of-way. And I think that he's going to need to confirm with the property owner where the property line is or where the right-of-way is and confer with the police department that those cars are parking in the right-of-way and should be ticketed.

Ralph Vigliotti: There should be signs on the railing indicating that it's illegal to park here; please use the spaces provided across the road. It should be striped with a white line so they know that it is illegal.

Whitney Singleton: Is that in fact a state right-of-way or is it a village right-of-way?

Ralph Vigliotti: I don't know if Armonk Road is a Village road.

Vice Chairman Sturniolo: He says New York State.

Ralph Vigliotti: So then it begs the question of do we send a letter to New York State DOT and get a final answer from them? We know what the answer is going to be. They are going to say it's illegal and you need to move on that. The delicatessen there, up until a week ago, had banners and flags covering the windows. Hoops Plus has backboards covering the windows, and we know it's only supposed to be 30% coverage. I don't know what's going on here. Austin went to the site; he has not discussed half of the things that I just discussed. I don't know what's going on. He's remiss. It appears that as thorough as it appears to be, these lost things aren't available in the Building Department because this pre-dates perhaps some of our filing systems, but I'm sure there's a site plan that shows that there is parking in the rear. The parking is no longer striped. There is a gate system now to the upper part of that property. There probably was parking at one time, now it's gated off and locked. There are lots of issues there. We have a new building that will be going in at some point, and that building will have curbs. Folks will travel along the curb line and all of a sudden they have to come out ten feet, and we're going to have a major problem. Austin is usually very, very, very thorough when he does a site visit, and I don't see that here, and I'm really taken aback. The delicatessen now has removed the banners and flags and they put in a built in shelf system in front of the glass. Now they're putting in cans of corn and all sorts of things there in a sense to get back to blocking a view. The Village has 30% coverage. Hoops Plus also was allowed to put in they have a hoop right in front of the building.

Whitney Singleton: Outside?

Ralph Vigliotti: Yes. Now, that was allowed, but if I owned a furniture company would I be able to put a couch bolted to the outside of my building?

Whitney Singleton: Why was it allowed?

Ralph Vigliotti: I don't know. That was done three years ago.

Whitney Singleton: given out for an outdoor display permit, did it?

Ralph Vigliotti: I don't know. If I were to put a couch out in a furniture place, and I wanted to bolt it to the top of cranes, and I owned cranes, is that an outdoor display? I don't mean to be facetious, but where are we going with this? There are lots of things going on at this site. And that section of town over the years has really had a rejuvenation, re-gentrification of the buildings and so on, and this site still does not conform to the original site plan, which for some reason I know it goes back to 1952. There's got to be a site plan showing the parking, the striping of the parking, how the front is used. Never mind the infractions of the code, which is the coverage of windows and so on. And the time that it has taken for this to reach this level, which is six months.

Vice Chairman Sturniolo: To amplify on a point that Ralph made, and I don't mean to sound like we're directing this toward you, Whitney, but somehow what I find most offensive in the November 6 memo that we're talking about is the very end conclusion to it where it states, "*I see very limited options for either the Board or the owner at this time. There are topographic and logistic issues in the rear that do not make it user friendly,*" etc., etc. To me that sounds like Austin is making the case for the owner not to do anything about the property to clean it up. It's passive it's one abdication of responsibility, and it's a passive way of just making this whole thing go away. I mean, Ralph had a litany of things, and I don't see one point that Ralph brought up that this memo addresses, and we've waited 100 years for this memo. To me it is lacking in substance. And what Ralph said in the last five minutes goes to the heart of the matter. If you want to go into the building and look around, you'll see the same things that Ralph saw if you want to go in, and if you want to look, and if you want to care. Ralph cares; the memo doesn't care.

Whitney Singleton: To quote Ralph, not to be facetious, how would be the most effective way to do you think would be for us to deal with this issue? And I'm quite honest, I think, should we discuss this at our next staff meeting, but I don't believe that Austin is going to be there, correct? So dealing with this on Thursday is not feasible. I don't want it to go three weeks, a month, two months, and then have you bring it up again in a month and a half. I am just trying to very honestly assess the best way to deal with the situation. Do you want me to write a memo?

Ralph Vigliotti: I think you should. I want to go back to Apple Antiques. It's interesting. In the packet, Apple Antiques gets a Code Violation for covering their windows more than 30%, and this set of stores was in violation for the last six months.

Whitney Singleton: Because that 30% coverage issue goes to signage. It doesn't go to other items. And it actually, if you want to get into the minutiae of signage, it's a question of whether it affects to the inside or outside or is it hanging on the inside? There are little nuances to this. But I don't want to get off topic.

Ralph Vigliotti: If there are code violations on the site, they should be rectified. It's as simple as that. We would have done this with any other site plan that we pulled. We've pulled site plans at 666 Lex because there were 13 trees that were dead and they didn't replace.

Stanley Bernstein: They still haven't. It still looks like a mess.

Whitney Singleton: Maybe that will change.

Vice Chairman Sturniolo: Ralph, do you want to just provide Whitney with all points?

Whitney Singleton: Why don't you and I just talk on the phone?

Ralph Vigliotti: Alright, I'll give you a call tomorrow.

Vice Chairman Sturniolo: And then you could draft a response.

Ralph Vigliotti: The biggest item of all of the items there is the unsafe parking condition in front of the building. All of the other pieces are real, but the and the lighting is, don't forget this doesn't match any lighting code that we have established now for that area. So it's dark. And it's dangerous. If DOT is aware of this, they would not allow that to happen. The bottom line is it has evolved. I'm sure in 1954 no one was parking in the front, because it was a Culligan Water Treatment. They sold water filters and so on,

people were parking in the back to purchase a water filter, there was plenty of parking across the street, and they weren't parking in front. But this has evolved; if somebody gets hurt there; if there is a fatality there due to that, this has been acknowledged by this board, by me, and the Village is going to be held responsible for doing nothing.

Stanley Bernstein: On the record.

Ralph Vigliotti: Is this part of tort law?

Whitney Singleton: Yes. When you put up some written notice, then we're liable.

Ralph Vigliotti: We're liable. We really, really are; and we're doing nothing.

Whitney Singleton: Actually, the encroachment on the right-of-way is on state right-of-way so it's the state's issue, but I understand what you're saying. It's a concern; it's been a longstanding concern. And it's been a problem for a long time. If it's that area that you're talking about, especially towards the southern end of the building, it doesn't just protrude out, it protrudes out on an angle, so you've got a corner when you're driving buy. I know what you're talking about.

Ralph Vigliotti: And 50 years ago there wasn't a lot of traffic on that road.

Vice Chairman Sturniolo: And because the deli is opened at those oddball hours, there are a lot of construction type workers that go there and patronize there, and they are not all in small, tiny little cars. They are extended cap pick-ups. Even the cars that are parking in the right-of-way are even bigger than what the normal is. That makes it worse. But if you two could get together on the phone. Under correspondence there is a letter from Ron Asaro, as a resident of Knowlton, and basically what he is saying is that he had an agreement with Warshauer that he was going to plant X amount of trees on his property to act as screening, and he also objects to the lighting. I drove up there tonight, and I think some of the other Planning Board members have noticed that the light is extremely hot, it's an extremely white unpleasant light that they chose, it has an industrial security type look to it, and coming up the road it can be glaring, even to the eyes of a driver heading up the road. Nannette and Jannine, if you could look at the site plan, look at the photometric plan and see where we stand with that. And Whitney, I need your guidance. How do we encourage Mr. Warshauer to ring his doorbell and discuss additional plantings on his property?

Nanette Bourne: There was a memo. He's short 11 trees.

Vice Chairman Sturniolo: And he can contribute to some trees to the village as well.

Nanette Bourne: He needs to plant 11 trees or be part of this Village's plan 11 trees on this site should include...

Vice Chairman Sturniolo: The Asaro issue?

Nanette Bourne: Yes.

Whitney Singleton: That might be feasible.

Vice Chairman Sturniolo: Plus we're trying to address the Asaro issue and not, just more trees to the Village.

Whitney Singleton: If I could speak off the record on this?

Vice Chairman Sturniolo: Is there a motion to close the meeting.

Stanley Bernstein: So moved.

Meeting adjourned at 10:50 PM.

Respectfully Submitted By,

Stanley Bernstein  
Board Secretary