

**Minutes  
Regular Session of the Planning Board  
Village/Town of Mount Kisco  
Tuesday June 13, 2006**

Meeting called to order at 7:45 pm Tuesday June 13, 2006 at the Municipal Building Mount Kisco, New York.

**Members Present:** Joseph Cosentino  
Anthony Sturniolo  
Doug Hertz  
Stanley Bernstein  
Ralph Vigliotti  
Sol Gibbons

**Members Absent:** Joseph Morreale

**Staff Present:** Nanette Bourne  
Whitney Singleton  
Michael Stein

**Staff Absent:** None

**1. Minutes**

Chairman Cosentino: Mount Kisco Planning Board meeting. This is Tuesday, June 13, 2006. This is a regular session, and the first thing on our agenda is the minutes of March 25, 2006, that was a regular session also.

Stanley Bernstein: I move that we accept the minutes of March 25, 2006.

Chairman Cosentino: Motion by Mr. Bernstein, do we have a second?

Doug Hertz: I'll second.

Chairman Cosentino: Second by Mr. Hertz, all in favor?

Board All Aye to approve the minutes of March 25, 2006

Chairman Cosentino: Next on our agenda is a special discussion, Connie's Bakery and General Store application. Is anybody here from Connie's? Would you please come up and identify yourself for the record, please?

**2. Special Discussion:**

**a. *Connie's Bakery & General Store – 41 South Moger Avenue  
Application #PB2006-15  
Deena Plotka, applicant***

Deena Plotka: My name is Deena Plotka, and I represent Connie's Bakery and General Store at 41 South Moger Avenue in Mount Kisco.

Chairman Cosentino: We have a cover letter here. You are interested in putting a popcorn machine which is 18" wide, 16" deep and 70" high out side of your door.

Deena Plotka: Correct.

Chairman Cosentino: Just tell us a little bit about that.

Deena Plotka: We are located down the alleyway from Starbucks, and unfortunately we do not get much foot traffic. We also have a clause; well Starbucks has a clause, in their contract they cannot sell coffee or tea outside. The town will not let us put signage in the front or the back of the alleyway stating there are stores down the alleyway, and we were going to have this popcorn machine in our store, and the Board of Health said, no problem and that we could put it outside, but we needed permission from the town. So we applied for an outdoor permit on private property, because our property is not owned by the town but by the Geiners, and the town said we needed to submit an application with you, and either get your permission and/or your blessing to put it out seasonally just to attract a little attention down the alleyway because we're suffering. We've been there since February. We're a little store with a big heart. We donate one hundred percent of our profits to charity. We're a very old fashioned and unique store,

and the machine is very small. It's 16 x 18 inches, and it's old fashioned, and it fits in with the charm of the town. We wanted to ask your permission to be able to put it out seasonally.

Chairman Cosentino: I have a couple of questions. Did you see the memo from Austin Cassidy?

Deena Plotka: I did not.

Chairman Cosentino: He wrote us a memo dated June 1, 2006. It says the device is most likely electrical which means there will be a wire that needs to be safely routed through a routinely closed doorway. How do you intend to hook the electricity up to this? We don't want anybody falling over electrical.

Deena Plotka: Nobody will fall because it will be flush against our window, and if it goes in through the doorway then it will be flush against the side of the door. Actually, there might be a way – there is a brick there that we could put it right through the brick of the wall, so it won't even.....

Chairman Cosentino: I would rather see it in the brick of the wall, not the door.

Deena Plotka: Yes, because if it's flush against the door, it won't .....

Chairman Cosentino: Drill a hole. Have somebody drill a hole through the brick.

Deena Plotka: Okay.

Chairman Cosentino: The device may be hot. Surfaces might be accessible by a child.

Deena Plotka: Well, it will always be attended. It will never be unattended. It only pops six one ounce bags of popcorn, so it will never be unattended.

Chairman Cosentino: Well, you're not going to have somebody out there all day.

Deena Plotka: When we keep it out there, we are going to have somebody out there, so maybe we'll keep it out from ten to twelve; have someone out there maybe from two to four. But otherwise, they won't be able to get into the machine. It will be locked, or we'll bring it inside.

Chairman Cosentino: Now, the concrete is not contoured, is it?

Deena Plotka: No.

Chairman Cosentino: It's completely flat in that alleyway?

Deena Plotka: Yes. Here is a picture. The alley way is thirteen feet wide, and this will only be about twelve inches.

Chairman Cosentino: And you have a letter from your landlord stating that you can have that piece of equipment there?

Deena Plotka: Yes. We wouldn't put it out there without our landlord's permission. I did speak to him already, both Stevens and Geiner.

Chairman Cosentino: You'll need to give us a copy of that. I'm sure my planning board members may want to add something else, but we need a copy of that letter stating that it's okay. If we're going to give you permission, we need to know that they gave you permission. I have no other questions.

Stanley Bernstein: I have a comment. Sol, I think you will agree for safety purposes; not just a hole through a brick, but an outdoor base outlet should be out there; a covered receptacle.

Sol Gibbons: It may also need a ground fault interrupter.

Stanley Bernstein: And a ground fault interrupter.

Deena Plotka: What was the last one, I'm sorry?

Stanley Bernstein: A ground fault interrupter or GFI. By doing it that way – what you don't want to do is run an extension cord through a hole in the brick. If you put the

receptacle on the outside, the door closes tightly. You don't need the hole in the thing, and then for your own safety you may want to think in terms of putting a switch on the inside so you can kill that receptacle at night when the popcorn machine is not being used to eliminate somebody plugging something in to your receptacle on your Con Ed meter, or something even worse than that.

Deena Plotka: That's a good idea.

Stanley Bernstein: So it's dead at night, and then switches it in the morning.

Chairman Cosentino: Anybody else have any questions on this?

Doug Hertz: No, I think it sounds great, and I love popcorn.

Chairman Cosentino: Nancy, will you tell Mr. Cassidy that we gave our blessings on this?

Anthony Sturniolo: Deena, I just have one last thing. The application you filled out is dated May 26. It was received by the Planning Board with the Planning Board stamp of May 31. The cut off date to receive information is May 24. So, in theory your application should have been dated May 24, and then submitted to the Planning Board by the cut-off time for all documents coming in.

Deena Plotka: I think that date that I did it, Austin said it was moved two days because it was a holiday that week.

Anthony Sturniolo: Austin said that?

Deena Plotka: It was supposed to be in by Tuesday.

Anthony Sturniolo: May 24.

Deena Plotka: I gave it in Monday or something because the meeting was Wednesday.

Anthony Sturniolo: No the meeting was Tuesday. In either case, I'm just bringing it up to you.

Deena Plotka: Do I have to change something?

Anthony Sturniolo: No, you don't have to change something, but for the record, you are not the only one caught in a bad timing situation tonight. For the record, the cut-off date of submitting everything is May 24, and that's what it should have been. However, that has nothing to do with the positive feedback that you're gathering from the Planning Board tonight.

Chairman Cosentino: Okay. Good luck.

Deena Plotka: Thank you all very much. Thank you from Connie.

### **3 Conceptual Applications:**

#### **a. 41 Armonk Road – John Martabano – Application #PB2006-13. Edmond Gemmola, representing the applicant**

Chairman Cosentino: Conceptual applications, 41 Armonk Road, John Martabano. Would you identify yourself for the record, please?

Edmond Gemmola: My name is Ed Gemmola with Gemmola and McWilliams, Architects.

Chairman Cosentino: Why don't you just give us a rundown?

Edmond Gemmola: We were here previously; this is going back over a year ago. We have a piece of property; 41 Armonk Road and it's approximately 28,600 square feet. What we have is a dash line which represents right now; that dash line here - a building which is existing, and it's a gas station. I have some photos if anybody would like to see. The gas station is in the corner, there is a curb cut that goes the entire length of the property front.

Doug Hertz: Mr. Chairman, if I might, this is conceptual.

Chairman Cosentino: Conceptual.

Doug Hertz: So if anyone wants to come up and look, this is open for everyone if anyone is interested.

Edmond Gemmola: In terms of zoning, we meet the zoning, and what we've done – we've put a building on stilts. This heavy dash line represents a building above what you'd have. On the footprint would be no more impervious area than exists now. Basically we've calculated the impervious area that exists between the roof, the existing building, pavement, and we've basically (green) would negate any pluses and minuses. The building would be open under; the core partially under partially out in the open. Access with the sidewalk along the street, and access the front to the core, there's an elevator to get you to the second floor. And that second floor, basically again, this is a little large scale for here, the second floor is just under 5,000 square feet; 4,998 square feet. We don't know, it could be a single tenant, it could be a multiple tenant, we don't know at this time what that tenancy will be, but for office professional use, and what we have tried to do is have openings on the street. There would be a driveway here and then a driveway around the right side to get under the building. We have not shown any landscaping on the site plan or any landscaping on this, nor in colors.

Chairman Cosentino: So it gives the appearance of having a large building, and you can't see the parking.

Edmond Gemmola: Correct. And it's just that story above. We are trying to create the illusion of a colonial traditional type building at the streetscape.

Doug Hertz: Can I just ask you a question on the last plan? And it's just a technicality. Your plan says the bottom is listed as proposed parking level, first floor, but that says second floor space.

Edmond Gemmola: It's the second floor.

Doug Hertz: There is one floor above, and that area above in the roof area, and there's nothing above?

Edmond Gemmola: No, just roof; might be mechanical equipment. This is actually the second floor. The fact that it says first floor is wrong.

Doug Hertz: Okay.

Ralph Vigliotti: What's the size of the building, length and width?

Edmond Gemmola: It's approximately 58 feet depth and 85 ½ feet left to right. And there's a slight bump out here, which is 18 inches just for a little articulation.

Chairman Cosentino: So it's an office building – somebody's going to come, push a button, the garage door is going to open, they are going to park, take the elevator upstairs and do what they have to do?

Edmond Gemmola: Well actually we hadn't planned on the garage door. This was just an open parking structure underneath.

Chairman Cosentino: The picture you showed me has a garage door on it, doesn't it?

Edmond Gemmola: No.

Chairman Cosentino: Oh, that looks like a garage door.

Edmond Gemmola: It's open.

Chairman Cosentino: It looked like a garage door.

Ralph Vigliotti: Can you tell me the set back? I'm going to be asking lots of questions on this project. One, I know the area very well, I live down the street. I'd like to say I'm not only representing the Village at large, but I'm going to be representing that immediate neighborhood there in some form. They are going to be questioning me to death about what's going in there. So my questions to you: as one who resides in that area and who happens to be on the Planning Board, I just wanted to let you know up front, we all have different interests in different projects, so that would be in my interest. Tell me about the landscaping. Anything's an improvement to what's there.

Edmond Gemmola: We haven't gotten that far.

Ralph Vigliotti: What's the setback from the road?

Edmond Gemmola: The front yard setback is twenty feet, from the road it's probably at least another ten feet, so it's probably thirty feet plus or minus to the curb, which would be a new curb because there is no curb there now.

Doug Hertz: And you said the dotted line is the existing structure?

Edmond Gemmola: I don't think you can see it from there. There is a dash line that represents the edge of pavement here, and then if you could see it right there that's the existing structure, the garage structure. That would all come down. And the grade, past here is not bad, and then the grade starts to go up towards the Timber Ridge project.

(Viewing of site plan)

Ralph Vigliotti: So that neighborhood, the twenty foot setback, I don't think is enough for that immediate area. I think you need more green space if you're going to blend in to that hillside. What was there was built forty fifty years ago, and that may have been acceptable at that point in time. I'd like to see more green space off the front of the building. Otherwise there's this appearance that it's right on you.

Edmond Gemmola: Well, it's actually back further than what is existing now.

Ralph Vigliotti: That would never happen today at all. That building that's abutting the property. The existing property with the way the gas station is done probably would not have happened today due to deep slopes and everything else and pavement. You have twenty feet from the building to the property line.

Edmond Gemmola: Then another at least ten twelve feet to the edge of the curb, so there is a considerable buffer there that can be landscaped. To move it back, we're trying to maintain whatever trees are there.

Ralph Vigliotti: Well, it may require the depth of the building not being 58 feet.

Doug Hertz: And if I may comment about that, in terms of your calculations, your spaces I don't believe are compliant. These are all listed as sixteen six in depth.

Edmond Gemmola: There's a two foot bumper overhang.

Doug Hertz: I don't believe we allow bumper overhangs, is that correct?

Edmond Gemmola: Well, that could relieve that. It's the same thing. Basically people will park until they feel tires hit the curb. You get more green doing that and less paving. It's an acceptable standard in Westchester County.

Ralph Vigliotti: It's not acceptable here.

Edmond Gemmola: I understand that. I'm just hopefully making a statement.

Doug Hertz: I see your setback line in the front. What does this line represent; this broken line? This is the front yard setback line, this is the property line. The line between - right in the middle of the front yard set back?

Edmond Gemmola: I'm not sure what we have there. Looks like halfway, looks like ten feet, but I'm not sure there is anything that's required that's 10 feet. The buffer from the front yard would be a twenty foot buffer, so we're going to be planting the entire buffer. I have to clarify that.

Doug Hertz: Okay; just a line.

Edmond Gemmola: I might have been a construction line that was left on but I'm not sure.

Chairman Cosentino: It certainly is a nice looking building.

Edmond Gemmola: I think it hopefully will be attractive in the corner, less of an eyesore, I believe than what is there now, and I think there will be considerably more landscaping with it.

Ralph Vigliotti: So the road itself to the property line, Park Avenue, it's difficult to determine where your property line ends because there's no curbing; there is nothing to outline that one the site, not here.

Edmond Gemmola: Actually there is an existing – like a plant or a curb that’s here now. If you were out there, you might be able to see that from here.

Ralph Vigliotti: So it’s generally twenty feet, sidewalk, and then some additional green space which would be grass? Is that what we’re looking at the curb?

Edmond Gemmola: There would be some amount of grass here, which would be in the right of way, the sidewalk, and twenty foot of landscaping and green to the building.

Ralph Vigliotti: What’s the total square footage?

Edmond Gemmola: 4,998. I thought I had that. I don’t have a shot of that, if you were out here.

Ralph Vigliotti: 4,900?

Chairman Cosentino: I love the fact that it’s going to be a one-tenant building.

Edmond Gemmola: At this point it would be nice to get one tenant, but we don’t know what it’s going to be. 250 would give you twenty spaces; we actually have twenty one spaces with the handicapped parking space.

Nanette Bourne: Mr. Chairman, on that parking space count, on all three sides we show a bumper overhang; I don’t believe that’s permitted.

Chairman Cosentino: Yes, we just said that.

Nanette Bourne: Oh, I’m sorry.

Chairman Cosentino: Yes we just told them that the overhang is not permitted.

Ralph Vigliotti: So how much have you taken into account for bumper over hangs?

Edmond Gemmola: Two feet.

Ralph Vigliotti: We have a shortage of four feet, if we’re looking at both sides and two feet to the back.

Edmond Gemmola: When you say a shortage? Yes, we’ll have to move the curb out to that. The curb would now move out to the bumper overhang.

Doug Hertz: Were you trying to retain impervious surface so that we don’t open up a DEP issue?

Edmond Gemmola: We are trying to do that so there’s no net increase in the impervious area. But it also keeps a little more green and a little less paving. The parking spaces are still the same depth when you park right up to the curb. But we can modify that.

Chairman Cosentino: I don’t have any questions.

Stanley Bernstein: What is the pole with the satellite dish in the lower right hand corner?

Edmond Gemmola: Whatever it is it’s existing. I don’t know if it’s a satellite dish. It looks like maybe some kind of solar panel for something, I’m not sure. That was depicted on the survey. I’m not sure what that is.

Doug Hertz: You don’t have anything that shows the topography?

Edmond Gemmola: It could be an existing light, too. No, the only thing I have is –

Chairman Cosentino: That’s a light.

Edmond Gemmola: I have some photographs. That’s the backdrop. Past the existing dash line which is right here it’s fairly level. It’s got some pitch, and then it starts to go up. We have to get it surveyed, get a topo done. That’s the edge of what you could see, that edge of pavement. We thought it was important to try to keep as much tree line as there. We have some room to move in, we can move somewhat towards that.

Doug Hertz: I appreciate your trying to keep the trees that are there, but I also hear Mr. Vigliotti's concern that the setback is. We find the right medium preserving what's back there and keeping a setback that would work well.

Edmond Gemmola: It does meet the front yard set back and the landscape buffer of the second code. What we could do is try to get a landscape plan the next time here, and we can do an alternate study, and then you can take a look at what's there, hopefully a topo.

Chairman Cosentino: That may help.

Doug Hertz: Another question would be, even keeping your lot almost the same, could the building shift slightly rearward?

Edmond Gemmola: Yes, we probably have room to shift it.

Doug Hertz: It looks like it comes to there; you probably have what's looking like ten feet or so, before you even overhang.

Edmond Gemmola: We have some room. We have maybe three or four feet we could push back, because we want to maintain that isle here, so we could push this a little closer.

Doug Hertz: Or it could, if you wanted to keep this front line, obviously so that you're not uncovering the parking lot in front. It could shift ever so slightly.

Edmond Gemmola: We could try some alternatives.

Chairman Cosentino: You're going in the right direction.

Ralph Vigliotti: I agree. You are certainly heading in the right direction. Is there a reason why the building is shifted north on the property rather than further south?

Edmond Gemmola: Well, again, we were trying to utilize; there is a flat bush in here. Without a topo, this was a flat area and in terms of the area used, it seemed like it made sense, it was flat and then it rose up. So we're trying to work with the grades that were there.

Ralph Vigliotti: You know what it is; the building is so close to that little shopping center there, those four stores that I honestly believe that those stores will take away from the look of sophistication of the building.

Chairman Cosentino: Do you see those people that are parking in that store?

Ralph Vigliotti: It's ridiculous.

Chairman Cosentino: That's an accident waiting to happen right there. Here we're parking underneath. Does anybody else have anything?

Anthony Sturniolo: I just have a general comment. I like the look of the building. I like, obviously the concept of replacing that mess with something classy, and you're going to work on shifting and moving some stuff around, but the overall concept, I think is an addition and an enhancement.

Chairman Cosentino: I like the way it blends in with the building across the street.

Edmond Gemmola: We're trying to make it look like something was there a long time.

Ralph Vigliotti: Can the building be moved any further south? I mean, it's a stand-out building. I think it will become kind of a cornerstone as you enter Mount Kisco there. If it were further south, ten, fifteen feet, it kind of gets away from that building next door, and it will really stand out on its own. Right now it's almost like it kind of blends in. Its twenty feet from that other building, which is really an eyesore. There is nothing right about that building. And this building, I'd love to see it sit center to property with green space on both sides, it looks a little more residential. It does right now, I honestly believe the southern portion as you're coming up has that residential look, then all of a sudden that one building is right on it. I think it takes away from the look.

Edmond Gemmola: I appreciate that.

Ralph Vigliotti: If there is any way of pushing that ten feet, eight feet, six feet, I think it will be an advantage to the site.

John Martabano: If we can do it fine, I'm just concerned about curb space in terms of people coming around that corner. There's a dead corner there, but I'm concerned about safety.

Ralph Vigliotti: That's a good point.

John Martabano: That's the only reason we did it that way so you know.

Edmond Gemmola: We'll be happy to do some alternative studies.

John Martabano: If you can, and you could do it. It's just a matter of safety.

Ralph Vigliotti: Are you looking at clapboard on the building, wood, vinyl?

Edmond Gemmola: We haven't gotten that far. We're showing this additional siding. They have some synthetic material that only a woodpecker would know that it's not real, so they have to have some real very nice samples. I could bring some samples, we're open to that. If it's real wood, painted we're open to that. Maintenance wise, the vinyl has – or they have these semi-plank products, which are a concrete plank product which mimics siding, has an embossed grain in it, it's stainable, those are more maintenance free. I could bring some products in and you could take a look at that.

Ralph Vigliotti: I'm just looking for as much architectural detail that gives it an authentic look at least in the front.

Edmond Gemmola: Okay.

Chairman Cosentino: You're only going to fit so much in that area, and that's it. It looks nice. Anybody else?

Whitney Singleton: Mr. Chairman, if they are going to come back with a formal application, I think they should confirm, or we should identify whether or not this is in fact a two story building. I understand the board likes it, but there is one notation of two stories in this zone, and it has the visual impact of three. Most of the buildings in the area are one, and I don't want to see the applicant spend a lot of money in investing plans if that's not consistent with Austin's interpretation. If Austin interprets this to be a two story building, I think that the applicant should get an appropriate .....

Chairman Cosentino: Would you check with Austin and bring these plans to Austin. We want an interpretation. Nanette?

Ralph Vigliotti: What are the plans for the attic? That's a good point made there. What are the plans for the attic space? It is going to be a trussed attic, or is it going to be a full open attic?

Edmond Gemmola: It can be trussed, probably mechanical, because there is no place on the site for mechanical.

Ralph Vigliotti: So it's not going to be for storage of any type at all?

Edmond Gemmola: No. Duct work, mechanical.

Ralph Vigliotti: So that roof line doesn't necessarily have to be that steep. It could change a little bit.

Edmond Gemmola: We could flatten it out. In terms of what it is. It is a two story; it doesn't violate the height in the stories.

Chairman Cosentino: If it doesn't violate the height, putting in a smaller roof may ruin the appearance of that building, because it really looks nice the way it is.

Edmond Gemmola: I agree with that.

Ralph Vigliotti: So what is the actual height now, because it appears to be a three story building?

Edmond Gemmola: The mid point of the roof is twenty nine eight.

Ralph Vigliotti: That's up to where the fence system is up at the top?



Edmond Gemmola: No, mid point of the pitched roof.

Ralph Vigliotti: Tell us what it is all the way to the top of that fence system. What's the maximum height, thirty two?

Whitney Singleton: I think the representative for the applicant is correct in how you measure what the height is. It's two story max.

Edmond Gemmola: Its twenty eight to here and this is an open rail, so it's twenty eight to the ridge. If you figure to the top of the rail, it's thirty nine feet to the top, and approximately forty feet to the top of the railing.

Ralph Vigliotti: That's too high.

Chairman Cosentino: That's counting the rail, though.

Ralph Vigliotti: But that's too high. I don't think we have any building.....

Chairman Cosentino: Do we count the building?

Whitney Singleton: What I was getting at was not the overall height, because I do think that Mr. Gemmola has accurately measured the height. The question is the number of stories. There is a lobby to this building, and it is minimal, but there is a lobby. There's a limitation of not greater than thirty feet in height or two stories. The question is this - three stories? I just don't want to see the applicant go down the road, and find out that there's an interpretation that was wrong.

Chairman Cosentino: Well, check with Austin.

Ralph Vigliotti: Just for the record and I know this is conceptual, it's too high. Forty one feet is not going to look residential there. It will look like an oversized mansion that doesn't belong there. Forty one feet, is that what you said, forty one?

Edmond Gemmola: To the top of the railing, yes. I could gauge what the heights left and right are and what's surrounding it. Residentially it meets the code, but I hear what you're saying though. There was a memorandum, I noticed on the agenda. Is that something we could get a copy of from Austin?

Chairman Cosentino: Yes. We have one here.

Edmond Gemmola: Thank you very much. Thank you for your time and your comments.

Anthony Sturniolo: The memo highlights non-medical and non-dental use.

Edmond Gemmola: Well, we wouldn't have enough parking.

**(Mr. Vigliotti left the meeting at 8:20)**

### **3. Formal Application:**

- a. 919 Mountain Avenue – 9 & 19 Mountain Avenue, Application #PB2006-12  
Doug Hertz, applicant, David Menkin, attorney for the applicant**

Chairman Cosentino: The next thing on our agenda is a formal application, 919 Mountain Associates, LLC.

Doug Hertz: Mr. Chairman, as I am the applicant, I am excusing myself from my role as a member.

David Menken: We're here presenting our formal application.

Doug Hertz: Mr. Chairman, we were here as a conceptual. Based on input from Austin and this board, we made some very slight modifications and the proposed site plan that you see before you represents that. Just to review, we are in contract on these two properties, #9 Mountain Avenue and #19 Mountain Avenue. They currently have three houses, two on nineteen and one on number nine. These are currently two family homes, the front two houses, and the front on Mountain. What we are proposing to do is abandon the multi-family aspects and subdivide #19 Mountain. You will see the lot lines

that we've drawn, and also to propose a small lot line change to facilitate that; to give it a little bit more useful space to what is referred to as Lot 2, the rear lot on #19. We are not proposing any new construction in terms of the building, we are proposing a single car garage to have indoor parking for the front lot what is Lot #1; Lot #2 already has a garage in it. What is Lot #3, #9 Mountain, has a detached barn garage.

Chairman Cosentino: No new cuts for driveway?

Doug Hertz: No new curb cuts are proposed; really no change to the neighborhood.

Chairman Cosentino: Except lot lines.

Doug Hertz: Except lot lines. There will be a small retaining wall in the rear of the property that won't be visible anywhere. And again, we understand when we met with Austin we identified all the variances that were required, and we made application to the Zoning Board, we expect to be heard a week from tonight on those variances. Essentially, these curb cuts exist. The houses exist. We are not reconfiguring the houses except to get rid of the internal barriers that are in there that prevent them from being used as a single family. These will go back. Ideally what we are trying to do is create conforming uses for each of the houses which require them to be on their own lot.

Chairman Cosentino: Legalize the lots.

David Menken: That's right. And in the process, also take some of the parking that currently takes place on the Hillside Avenue and bring that in here.

Chairman Cosentino: Of course, if they're sold, each one will be on its own lot.

David Menken: That's right.

Doug Hertz: That's our only way; obviously if we need to have a single family house it has to sit on its own lot. That's the driver behind this.

Chairman Cosentino: Nanette, where do we go from here?

Nanette Bourne: This needs a public hearing.

Chairman Cosentino: Why don't we schedule a public hearing?

Whitney Singleton: We've already scheduled a public hearing.

Chairman Cosentino: We did?

Nanette Bourne: We talked about it.

Whitney Singleton: I thought the chairman authorized the public hearing.

Chairman Cosentino: We did schedule a public hearing.

Nanette Bourne: How can you do that when tonight's the formal application?

Whitney Singleton: This was discussed in advance of the conceptual. The public hearing has been scheduled for when?

Nancy Placona: June 27.

Whitney Singleton: And the applicants are also going to the Zoning Board of Appeals. There are a number of area variances that require for each of the three lots. As Doug pointed out, in order to make the uses conforming, a number of area variances need to be granted, so it's a trade-off here. They do have a scheduled public hearing with the Zoning Board of Appeals for the variances.

Chairman Cosentino: We also did this because of the summer schedule.

Doug Hertz: Right. We had asked, because of the shortened schedule.

Chairman Cosentino: And your contract vendee, they didn't want to hold on for too much longer.

Whitney Singleton: So your board is going to have a public hearing, or by the time you have your public hearing the applicant should have already been to the Zoning Board of

Appeals and back, hopefully with some feedback. If they don't have feedback, we'll take that into consideration. Your board is not going to act, I don't believe, until the Zoning Board has fully considered the application.

Chairman Cosentino: No absolutely not. I don't think the zoning board will be a problem.

Doug Hertz: Well, we hope you're right. There are quite a number of variances.

Chairman Cosentino: But I think their interest is legalizing the three buildings. It's been like this for sixty, seventy, eighty years.

Doug Hertz: What we hope is that by lowering the density of the usage and making the usage in conformity with the zoning that the area non-conforming in certain area had deficiencies will –

Chairman Cosentino: Is there anything else this board may have?

David Menken: Would you do a SEQRA declaration today?

Chairman Cosentino: Do you want to do a SEQRA declaration today?

Nanette Bourne: As a formal application, yes, you declare your intent to be lead agency.

Chairman Cosentino: I need a motion on that.

Anthony Sturniolo: Mr. Chairman I make a motion that the Planning Board intends to declare themselves the lead agency for an application called 919 Mountain Associates.

Chairman Cosentino: We have a motion by Vice Chair Sturniolo. Do I have a second?

Sol Gibbons: I'll second.

Chairman Cosentino: Second by Mr. Sol Gibbons. Will the secretary call the board please?

Ralph Vigliotti - Motion - Aye  
Tony Sturniolo - Second - Aye  
Mr. Gibbons: Aye  
Mr. Bernstein: Aye  
Chairman Cosentino: Aye.

Board All Ayes to declare themselves lead agency.

Nanette Bourne: If I can just remind the applicant that when you send out the lead agency, the other involved agency is the Zoning Board of Appeals. So, they not only have to agree that the Planning Board will be the agency, but they can't take an action until the Planning Board issues a negative declaration.

David Menken: So that means that they can't take action at their next meeting?

Whitney Singleton: There are certain aspects about area variances that are exempt from SEQRA.

David Menken: Because we're coming back –

Nanette Bourne: We can review that.

Chairman Cosentino: You can work that out, Mr. Menken, Nannette and you. Just let us know.

Doug Hertz: If they are, we may ask to postpone.

**(Inaudible, too many people speaking)**

David Menken: We wouldn't have the variances yet, so you couldn't act, what do we do at the public hearing if we can't act?

Chairman Cosentino: We wouldn't be able to act. But I think we could have a public hearing, right?

Nanette Bourne: You could have a public hearing.

Chairman Cosentino: But we can't act.

Doug Hertz: But we'd like to progress.

Chairman Cosentino: Yes, but the only way to progress is to have a public hearing, and then we'll act when you get your approvals.

Doug Hertz: So if you could just get me up to speed with regard to process. Are you telling me that the Zoning Board won't act without a negdec?

Whitney Singleton: You're exempt.

Doug Hertz: We're exempt?

Nanette Bourne: Because you have all area variances.

Mr. Hertz: Correct.

David Menken: So we don't even have to do a SEQRA and we don't even have to do a lead agency?

Nanette Bourne: No, you still have to do the agency.

David Menken: So you do a negdec?

Whitney Singleton: Yes. The variances that they're seeking from the Zoning Board of Appeals I'll presume not to have impact because they are area variances for residential use.

Doug Hertz: So they can act without a negdec?

Whitney Singleton: They are not going to do a SEQRA review.

Chairman Cosentino: They can't act. Are you on the agenda with them?

Doug Hertz: We are on the agenda.

David Menken: All the notices have gone out, and we are all set for our zoning board members.

Doug Hertz: So we can notice for the hearing on the 27<sup>th</sup>? Thank you very much.

Anthony Sturniolo: Mr. Chairman, one last thing, just for the record. What I am about to say also applies to the previous conceptual application, 41 Armonk Road. This applicant tonight submitted the site plan, subdivision and a short EAF. There is a memo from Anthony Monteleone submitted to the Planning Board, and then there is a letter from the applicant, Doug Hertz to the planning board, and the formal application for subdivision. All documents have been received in a timely manner. They have made the May 24 cut off date, as well as the documents submitted by the previous applicant, which was 41 Armonk Road, under conceptual applications. Those documents made it in time for the May 24 cut off date for documents received by the Planning Board.

Chairman Cosentino: Okay. Thank you very much.

Whitney Singleton: Mr. Chairman, given the fact that these are Type 2 actions for the Zoning Board of Appeals and they will not be subject to SEQRA, would you like to revise the prior motion?

Chairman Cosentino: Maybe we should.

Whitney Singleton: Because you no longer need to declare your intent to be lead agent, you are lead agent.

Anthony Sturniolo: Mr. Chairman, in that case I will make a motion to withdraw my previous motion pertaining to our intent to become lead agency under SEQRA because we are the lead agency under SEQRA automatically.

Vice Chairman Sturniolo – Motion – Aye

Sol Gibbons – Second – Aye

Mr. Bernstein: Aye

Chairman Cosentino: Aye. Okay, thank you again gentlemen.

#### **4. Final Action:**

##### ***a. The Premier Collection – 250 Kisco Avenue – Application #PB2004-03, Sean Coughlin Applicant***

Chairman Cosentino: Final action Premier Collection, 250 Kisco Avenue, Application. Anybody here from Premier? Nobody here from Premier?

Anthony Sturniolo: My question, Whitney. Can we go through this resolution without the applicant's presence?

Whitney Singleton: If there are many things and you feel as though you need the input of the applicant. The applicant has chosen not to appear, and you could put it off if you feel you would be more comfortable with them to answer your questions.

Chairman Cosentino: My only problem is that we're going to possibly pass a resolution with them not being here, and six months down the road they are going to say, "Look I wasn't there, I didn't agree to that. I want that changed."

Whitney Singleton: Well, six months down the road is obviously too late.

Chairman Cosentino: Well, one month down the road, two weeks down the road.

Whitney Singleton: If they don't want to show up, you are more than free to put this off to another date. I think one of the problems that exist with this is that we have had this on the agenda and have curtailed the normal lead time that your board requires for an application. In the interest of resolving this, because there were many issues with the DEP.

Chairman Cosentino: So you don't see a problem?

Whitney Singleton: Well, we tried to do them a favor, and now they are not here.

Chairman Cosentino: Let me rephrase it. Legally, can we do it?

Whitney Singleton: Legally can you take action on an application? Have they been notified of this date?

Chairman Cosentino: I don't know, have they?

Nancy Placona: The agenda is posted.

Anthony Sturniolo: The agenda is posted, so we don't know if they knew that we were going to go through a draft resolution tonight?

Nanette Bourne: I know that their engineer, David Sessions, knew, because he called me last week to see if this was on the agenda, and I said yes.

Chairman Cosentino: How important is this, Nanette, that they have approval tonight?

Anthony Sturniolo: It supports the whole issue with DEP right?

Nanette Bourne: No, they have represented that they are under the two acres and have provided us documentation, and that's a DEP issue, not a Planning Board issue. The issue for the Planning Board that actually is necessary for them to be here is –

Anthony Sturniolo: Strictly the sensitive areas.

Nanette Bourne: Right, even their disturbance outside the limits of disturbance that you approved; that's already done, they have back filled and repaired everything that can be repaired. What is still an open question is what has to do with what you want to do with the trees and when you want that to be done. If you will notice there is a condition that is left blank.

Anthony Sturniolo: Somewhat lengthy, that you put in addressing those issues.

Nanette Bourne: Right. It's because I didn't have any direction from you on where you wanted to go.

Anthony Sturniolo: Mr. Chairman and Whitney, could I ask my questions about the application before we make any decision to go forward on it or not? Is that fair?

Chairman Cosentino: Yes.

Anthony Sturniolo: And if we can't take action, then we don't. But I just wanted to get some clarification on a few points.

Whitney Singleton: There is one thing I want to ask. Michael, do you know whether they are permanently under a stop work order?

Michael Stein: No. There is no stop work order.

Whitney Singleton: So they're out there constructing under the old plans?

Chairman Cosentino: Yes. They poured concrete yesterday.

Michael Stein: They have the foundation poured.

Whitney Singleton: So there is no gun to their head on these issues.

Michael Stein: No. And the retaining wall that's along the western property line has all been constructed.

Whitney Singleton: The retaining wall that's shown in these plans, or the retaining wall that is shown in the old plans?

Michael Stein: These plans.

Whitney Singleton: And they're constructing it without an approval.

Chairman Cosentino: Have you been up there lately?

Nanette Bourne: Yes.

Chairman Cosentino: Did you know that they were constructing without approval?

Nanette Bourne: That's what brought them back here to begin with. They had constructed it in the wrong location that needed – and we all knew that it was constructed without an approval for the construction where it wasn't supposed to be constructed. So, it was an after the fact. This is an after the fact approval.

Doug Hertz: There's no new incorrect construction.

Nanette Bourne: No.

Anthony Sturniolo: That's a good term.

Chairman Cosentino: Ask your question if you want.

Anthony Sturniolo: On Page 1 of the draft in the "whereas" where they refer to fees; are we correct in number 3, where it's marked N/A?

Whitney Singleton: We would be correct in that this is a minor site plan modification. The modifications that are being proposed to the approved site plan do not exceed more than ten percent of the properties' fair market value. In other words, they already paid the fees in their original approval, and they would not be required to pay the fees again.

Anthony Sturniolo: The applicant is here now.

Sean Coughlin: Sorry, I didn't quite realize you were moving that quickly. Do you want me to come up?

Chairman Cosentino: Well, we just stopped the job. Come on up. We're just going through it.

Sean Coughlin: Sean Coughlin of Premier Collections.

Doug Hertz: Are you expecting others?

Sean Coughlin: Don Murphy is supposed to be here. Dave Sessions had a conflict.

Chairman Cosentino: Well, I think we can go through this pretty fast.

Sean Coughlin: Okay.

Nanette Bourne: Do you have a copy of the resolution?

Chairman Cosentino: He can have mine.

Anthony Sturniolo: Whitney, in that case, could we just repeat it, since this has already been addressed, or put something in that space that calls out to it?

Whitney Singleton: The parking thing?

Anthony Sturniolo: Yes.

Whitney Singleton: I guess you could say in there that there was a minor site plan amendment, and therefore no fee was applicable.

Anthony Sturniolo: Okay.

Whitney Singleton: It's a large site plan, don't get me wrong. But the amendment itself is minor.

Anthony Sturniolo: The issue at hand is minor, so if we could put just a little more wordage. On Page 2, there are 5 whereas's toward the bottom of Page 2. The first whereas talks about 24,500 square feet. Nanette, the word "approximate" is that a boiler plate term that we would normally put in to describe the 24,500 square feet?

Nanette Bourne: I think its twenty four five and change.

Anthony Sturniolo: So approximate is okay to leave.

Nanette Bourne: Right.

Anthony Sturniolo: Okay. On Page 4, and I just have one comment to make, and then I think Nannette wants to talk further about items 14, 15 and obviously 16, where it talks about two members of the planning board. Sol, if my memory serves me correct, early on when you came on the Planning Board I asked you and Stan, but primarily you, if you would kind of serve as the liaison on this project regarding trees similar to the position that Stan had and Brian Parker regarding Woodcrest.

Sol Gibbons: I don't recall that.

Anthony Sturniolo: You don't recall that. Okay.

Stanley Bernstein: I recall.

Anthony Sturniolo: You recall?

Stanley Bernstein: Yes.

Anthony Sturniolo: Okay. We need to –

Stanley Bernstein: And at that time I said I would possibly not be able to walk across the –

Anthony Sturniolo: Exactly. Right.

Stanley Bernstein: At Woodcrest I was all over the place like a mountain goat.

Anthony Sturniolo: Right. Five days a week.

Stanley Bernstein: Well, one day a week. I don't know if I can do it physically.

Anthony Sturniolo: Right. So what we need to do is plug in a couple of names as Nannette accurately calls out, to act in the same capacity that Stan once did with Brian

for Woodcrest, and Sol says he doesn't recall it, but I believe that Sol was going to act in that capacity and Stan kind of helping him, but let's approach it fresh from the start.

Chairman Cosentino: Yes, Sol, are you still willing to do it? Stan, you can't really do it.

Stanley Bernstein: Well, not physically. I can stay downstairs and get all the information and process it if you'd like.

Sean Coughlin: Hopefully by that time the driveway will be in place and you'll be able to drive up there.

Stanley Bernstein: Alright, then. If it's physically possible, I'll do it.

Sean Coughlin: In the worst case scenario, I have cars that hopefully can make it. We have plenty of Jeeps we can get you across there if we had to.

Chairman Cosentino: And it will probably be done anyway by then. So we have Sol and Stan back.

Anthony Sturniolo: I have nothing else on Page 4, but Nanette do you need to?

Nanette Bourne: No.

Doug Hertz: Well, we need a date, there, no? It's prior to a date.

Sean Coughlin: Prior to a Certificate of Occupancy?

Nanette Bourne: You need a date. When do you want this plan to be reviewed by these two?

Chairman Cosentino: If you have to change it, we'll change it, but we need a date now.

Sean Coughlin: Okay, whatever is good for you?

Nanette Bourne: Prior to the Certificate of Occupancy, I would think you would want it before a C of O.

Chairman Cosentino: When do you feel you are going to be getting your CO?

Nanette Bourne: What we're really looking for is you are utilizing the services of a landscape architect plus Sav a Tree?

Sean Coughlin: Correct. Sav A Tree was there to take care of the cherry trees which actually are doing pretty well.

Nanette Bourne: We need all of the tree information consolidated on a new tree preservation plan that will contain information from Sav A Tree, from Slaker and you had Cornell coming down?

Chairman Cosentino: We need these planted before October.

Sean Coughlin: I couldn't get Cornell to get back to us. Sav A Tree finally did.

Nanette Bourne: Okay. So some day in the near future.

Chairman Cosentino: How about September?

Sean Coughlin: September 15 is fine with me.

Chairman Cosentino: Put down September 15.

Anthony Sturniolo: That way we'll be able to address the amount of trees that need to be replanted, collected, etc.

Doug Hertz: The other question that that all brings up is there room?

Anthony Sturniolo: Well, that was going to be my next comment.

Doug Hertz: Well, I'll let you make it.



Anthony Sturniolo: Nannette, we should have a sentence in there saying that if there is no room for mitigation on site, mitigation shall take place off site, like we did with Woodcrest.

Nanette Bourne: I think that when this plan is prepared, and when it is reviewed by the Village Engineer and the two Planning Board members, depending on what mitigation is needed, that would be included in the plan.

Anthony Sturniolo: But shouldn't that be in the resolution? Can we hold them to it if it's not in the resolution?

Doug Hertz: It specifically says all mitigation shall be on site in Number 16. My concern is with the limits of disturbance constraint, you may not be able to plant any significant trees.

Nanette Bourne: So you want to say that the preference, the first references on site –

Stanley Bernstein: Well, all you want to say is if it cannot be done, then we should consider off-site mitigation.

Chairman Cosentino: It says over here in the event that the site tree preservation plan is not installed to the satisfaction of the Village Engineer and the Building Inspector, a Certificate of Occupancy will not be issued until required landscaping indication is complete.

Stanley Bernstein: That's fine, but it's still says it has to be done on site. There is nothing there saying it has to be offsite, or it can be.

Doug Hertz: Mid #16.

Nanette Bourne: So if site tree mitigation cannot be done on-site, off site shall be considered.

Stanley Bernstein: Yes. We don't have to have it cut in stone, just a negotiating point.

Doug Hertz: And shall we take out all mitigation shall be on site?

Nanette Bourne: Sure.

Doug Hertz: Otherwise, we're just contradicting ourselves.

Chairman Cosentino: Is there anything else on page 5?

Anthony Sturniolo: I just have one last point on Page 5 and that is, Mike, the retaining wall in the rear of the property on the west end. We know that wall is 100% on the applicant's property; it's not on village property. Is there a need to recite that again in the resolution; the location of that rear retaining wall?

Doug Hertz: Didn't the retaining wall move more to the applicant's property?

Stanley Bernstein: Moved to where it was supposed to be.

Doug Hertz: There are two walls; the retaining wall that was built first.

Chairman Cosentino: They were to eliminate the inner wall.

Doug Hertz: Correct. But we are also talking about the one on the northern end.

Anthony Sturniolo: I'm just focusing on the western part of the property where it starts to abut village-owned property.

Michael Stein: I don't think so. The walls are poured.

Anthony Sturniolo: There, and the plans match where it is.

Chairman Cosentino: Okay we have a resolution here.

Doug Hertz: Mr. Chairman, I would like to make a motion that we approve this resolution application PB2004-03 for the Premier Collection Center, with modifications that have been discussed here tonight.

Doug Hertz – Motion – Aye  
Stanley Bernstein – Second – Aye  
Tony Sturniolo – Aye  
Chairman Cosentino – Aye

Board All Ayes to approve resolution

**5. Public Hearing:**

***a. Old Iron Warehouse – Cary Place – Application #PB2005-02,  
Alan Pilch representing the applicant***

Chairman Cosentino: Alright. Old Iron Warehouse. Would you come up and identify yourself for the record, please? The application is to permit natural and sensitive areas.

Alan Pilch: Good evening Mr. Chairman and members of the planning board. My name is Alan Pilch, with Evans Associates. This project site; I'll just sort of briefly review what is existing on the project site and what's being proposed. The project site itself is .836 acres in size located on the west side of Cary Place. North is up towards here, south is down this way toward a wetland area that's present there. To the west and south of the property is land in the Village of Mount Kisco. On the east side of Cary Place is an auto body repair facility, and to the north are existing single family houses. The property itself is 150 feet deep x 218 to 244 feet in length along Kerry Place. The property itself generally slopes south, the highest point of the property being the northeast corner here. Fill does appear to be placed over most of the property. The only place where fill has not been placed is in the extreme fringes of this property. It was not placed here by the present contract vendee, it was sometime in the past. Only in the most southerly and is there any vegetation. The rest of the site is essentially vacant; there are weeds there presently that are growing in succession, and there is a gravel area in the sort of central portion of the site. There are no wetlands located on the subject property itself. Wet lands are located off the property; the nearest location that wetlands are to the property is the southwest corner where there are about seven feet off the property itself. The 100 foot buffer line is located here; about forty percent of the entire property. This wetland is also regulated by the State of New York. It is freshwater wetland -K12, and an application for permit has been made; a joint application was made to the New York State DEC and the Army Corp of Engineers in 2005. The Army Corp of Engineers actually provided – I'll explain why, but they have provided a nationwide permit for the proposed activity in the wetland, and I'll describe it. What is proposed on this property is a warehouse building which would have an area of 3,049 square feet. The building would comply with the required setbacks in the SC district zone, which are 10' front, side and rear yards.

Chairman Cosentino: What are they using the building for?

Alan Pilch: Mr. Ferrovecchio proposes to use this warehouse building for the storage of construction equipment and some vehicles that he has.

Chairman Cosentino: Internal? Nothing will be outside.

Alan Pilch: That's my understanding. That is correct. He has said to me he wants to store these –

Chairman Cosentino: Put it on the record, nothing's outside; everything is inside. Storage will be inside the building, not outside the building.

Alan Pilch: Yes sir.

Chairman Cosentino: What is the building made of? Is it block?

Alan Pilch: I suspect it would probably be block, although he has not specified that to me, and I will certainly come back to provide you with additional details and architectural elevations for this building. And you can see what it would actually be constructed of.

Nanette Bourne: Have you gone to the ARB?

Alan Pilch: No we have not.

Chairman Cosentino: No need to. They don't have to go to the ARB.

Doug Hertz: Yes they will need to.

Alan Pilch: The entire building is located outside the 100 foot wetlands setback. All the parking is located outside the setback area. There is some circulation area that is proposed the front façade that would use a structural pavers such as grass Crete which would be pervious and allow infiltration of storm water into the ground surface; that is a small area about 700 square feet that is being proposed within that 100 foot wetland buffer. In addition, a storm water management basin is being proposed within a portion of that 100' wetland buffer. It's approximately half of the storm water basin. The buffer line being here, about half of it is located inside, and the remainder is located outside. As we have discussed previously, this property, because it is in a designated Main Street area, according to the watershed regulations, is subject to a storm water pollution prevention plan. It would require before that the approval of the New York City Department of Environmental Protection and to that end, the storm water management basin has been designed to capture and treat runoff at the level of a phosphorous restricted basin, which is what exists.

Whitney Singleton: Are you permitted to treat it within the 100 foot buffer?

Alan Pilch: You are permitted to treat it within the 100 foot buffer.

Whitney Singleton: I thought you were only allowed to retain the buffer.

Alan Pilch: No, you can actually treat it within the buffer, too. Believe me, they will permit it. They can make the comment – this is the New York City DEP among others – they can make the comment that they prefer to see it outside the 100' buffer, but they do look at it on a case by case basis. In this instance, where this wetland buffer that is essentially been cleared and is vacant, they may look upon the mitigation that is being offered as offsetting any potential impact within that wetland buffer, because it has been cleared of vegetation by the placement of the fill.

Anthony Sturniolo: And it also would satisfy DEP zone internal requirements of a phosphorous free zone, which the entire watershed area is under.

Alan Pilch: Correct. The intent here, and what we have done is submitted a storm water pollution prevention plan to the New York City DEP which quantifies the concentrations of biochemical oxygen demand, total phosphorous, total nitrogen, and total suspended solids to them. We would actually compare the existing condition to the future condition, and they are the ones in reviewing it under the watershed regulations make their judgment as to whether the level of treatment is sufficient. What is being proposed here for storm water runoff are two levels of treatment. One is that the storm water run off in the building and parking area, which should flow across the parking area which would be paved except for that portion which would be pervious to a sand filter. The sand filter itself is a couple of feet of sand, but on top of it is topsoil and grass which would be growing on it which would pre-treat the storm water run off then which would be under drained and then be conveyed by storm pipes in the storm water basin where there's additional treatment that would occur before the discharge within the wetland buffer eventually to the wetland itself. And that's how the storm water management plan is revised.

Stanley Bernstein: I'd like to make a comment on the same subject. You of course read the letter from the DEP, and you know what's in there, but I want my fellow board members to hear this. "Storm water Management Practices within the wetland buffers is a practice DEP has consistently discouraged as a construction activity and the associated loss of ground cover may ultimately reduce the beneficial water quality functions that the wetlands typically provide. DEP urges that the project sponsor to consider alternate site layouts to avoid disturbance of the wetlands buffer." That's a pretty clear statement. By the way I don't see our representative from our Conservation Board here tonight. He was expected to be here but we're going to hold this hearing open for ten days. He was going to comment about the very same item. In addition to that, DEP says that the wetland mitigation would involve planting 8,150 square feet of wetland and wetland buffer with native plant material and 1,700 square feet of plantings in the proposed storm water basin. Given that the 1,700 square feet of plantings associated with the storm water basin are intended for treatment of storm water runoff, it should not be considered part of the wetland mitigation. So you have to subtract 1,700 square feet from the 8,150 for your mitigation. And if that is true, how would you mitigate? Do you have an alternate plan for mitigation to pick up the 1,700 square feet?

Alan Pilch: On this property, what we have tried to do is compact as much as possible the development portion of this property to within the outside of the wetland buffer in the upland area. And have limited it to I would say a maximum extent what is reasonable in this property the development area to that upland area. On a site which

presently has only a fringe of vegetation, we believe and I believe that the DEP may concur with it, I don't know whether they will, that re-vegetating a wetland buffer which does not currently function as a wetland buffer because of the fill that has been placed there, because of the vegetation that is present there, that they would see that the amount of wetland buffer mitigation that is being proposed on this property would offset the potential impact of having a portion of a storm water basin there. On this property itself; to answer your question additionally, there is no other location on this property in which to provide additional planting to offset let's say 1,700 square feet of what is being proposed in the storm water basin. That storm water basin presently is a vacant – essentially a weed area at this present time. There is no vegetation.

Stanley Bernstein: When you say weeds, what kind of weeds? Have you surveyed it?

Alan Pilch: I'd have to see what's there presently this year. No it is not purple **loostribe**

Stanley Bernstein: It seems to me that if the storm water basin was put out of the buffer and on the property itself, you'd have a complete buffer to re-vegetate. And if our approval is conditioned upon you re-vegetating that buffer you would have to do it. So in effect you're really getting away with an awful lot of expense by allowing this to go through the way you'd like it to go through. Apparently the State is going to give you approval for the K12 wetland. You seem to be confident. I don't care about the Core of Engineers because they approve everything no matter how bad it is. They are a useless organization. But as far as DEP is concerned, I don't know if they are going to allow you to do this, but assuming you can convince them, your client is gaining a tremendous amount of advantage to the detriment of a wetland buffer. Even though it's not functioning properly now, but in our resolution we can insist that you re-vegetate that buffer and keep the storm water basins out of the wetland. Now, would you consider that?

Alan Pilch: In my opinion, on this particular property, this use would not be feasible on this property if the entire storm water management facility were relocated outside – completely outside of the wetland. What is feasible along this site probably by one half and to me it would make it much more difficult for there to be any, I'll say reasonable use of this particular property because of the fact that the wetland buffer does extend over about 40% of it. I understand what you're saying, if this were to be a property where it was, I use the term a more pristine wetland buffer, yes to me, I agree entirely with what you're saying, that there is value to that wetland buffer. It has real functions that do help to sustain this wetland. But in this case this wetland buffer does not. It's unfortunate that it is this way, but it does not. And a lot of the functions of this wetland buffer that would have been there should remain pristine whenever that fill was placed, would actually be occurring within this storm water management basin. Removal of nutrients from development areas, I would say it would not be feasible to construct.

Stanley Bernstein: Economically. I understand where you're coming from. That's all I have Mr. Chairman.

Whitney Singleton: I have one other question. When you say that you were going to get an **H-1** from the Core of Engineers. I was under the impression that you couldn't get an H1 given the watershed under their regulations.

Alan Pilch: I believe because this is a utility installation that they were able to provide what they termed a nationwide permit. I know I submitted it to the Village. The permit that we did receive from United States Army Corp.

Whitney Singleton: You already received it?

Alan Pilch: Yes we have.

Whitney Singleton: Okay. A professional question, I was just curious. Anything in the New York City watershed was precluded for treatment for a nationwide permit.

Alan Pilch: According to the letter I received from them, they said that the connection to the sanitary sewer and that is what is being proposed. There is a sanitary sewer that connects to the existing sewer which is located about 40' off the edge of the property. They said it can be accomplished under Department of Army Nationwide General permit Numbers 27 and 39, and that an individual permit is not required for the work. I am really quoting what Mike Shelley of the Army Corp. of Engineers said in his letter to us and we forwarded to the Village.

Whitney Singleton: But they're saying that the connection to the sewer line.....

Alan Pilch: That's all that's being proposed. They regulate direct wetland impact, nothing else. They don't regulate buffers. So the Army Corp of Engineers, and there is only one direct wetland impact, and that is for a connection of the sanitary sewer from this building to the existing sanitary sewer manhole, which there already is an easement for. And this connection is point .01 acres of disturbance.

Anthony Sturniolo: When you said you submitted it to the Village, who did you hand this to?

Alan Pilch: I might have forwarded it to you, if I may, a lady named Nancy, I thought I perhaps did.

Nancy Placona: I'm not sure, I don't remember.

Alan Pilch: I'll have to check to exactly see when I believe I did forward it. I may not have the record in front of me now.

Chairman Cosentino: On your application; if you could just re-do it again just to play it safe.

Alan Pilch: Absolutely. It was a letter dated December 29, 2005 from the Army Corp. of Engineers.

Chairman Cosentino: On your application it says type of material, fill soil and gravel. All this fill, all this soil, all the gravel, all the sand, whatever you need to construct will be material inside the garage, not outside.

Alan Pilch: He's not storing soil outside.

Chairman Cosentino: I'll repeat the question. The fill – whether it be back fill, whether it be whatever type of fill – any kind of soil, and when I say soil, any type. Gravel, stone, tools. The only thing we are going to see outside this building is a driveway, I guess, with seven or eight parking spaces?

Alan Pilch: That is correct.

Chairman Cosentino: Everything will be internal in this garage.

Alan Pilch: Yes. That's how Mr. Ferrovicchio is representing to me, and yes it will be.

Chairman Cosentino: Let the record show that no construction equipment, that means trucks, etc., building material, gravel, sand, topsoil, fill, blocks will be stored outside the building. Everything will be stored inside the building. Now the building is 72' deep, it could be between 96 and 124' in width.

Alan Pilch: That is correct.

Chairman Cosentino: And it will be used for no other use than construction.

Alan Pilch: For storage of vehicles. He has construction vehicles, and I know he has some vehicles themselves that he wants to store.

Chairman Cosentino: Do you know how many vehicles he has?

Alan Pilch: No I don't.

Chairman Cosentino: Can you find out and let us know?

Alan Pilch: Absolutely.

Chairman Cosentino: And what type of equipment he has. It is backhoes; it is a large machine that's not going to be able to fit in the garage?

Alan Pilch: I will give you that answer.

Chairman Cosentino: Well, he can't park it there anyway; he's got to fit it in the garage. And the amount of employees?

Alan Pilch: I will provide you with that number.

Chairman Cosentino: I don't have any other questions. Where do we go from here Nannette?

Nanette Bourne: This is a public hearing, you need to open up the public hearing and see if anybody is here to speak.

Chairman Cosentino: Is there anybody here to speak on Old Iron Warehouse? Nobody here.

Nancy Placona: Mr. Chairman, no one signed the sheet.

Chairman Cosentino: No one signed the sheet, I didn't think so. We need a motion to close the public hearing and leave it open for ten days written notice. Do we have a motion?

Stanley Bernstein: I move that we close the public hearing for Old Iron Warehouse at Cary Place, Case No. PB2005-20, and keep the hearing open for written comment for ten days.

Mr. Bernstein – Motion - Aye

Mr. Hertz: Second - Aye

Mr. Gibbons – Aye

Vice Chair Sturniolo – Aye

Chairman Cosentino: Aye. Okay, you're all set. Thank you.

Board All Ayes for permit to disturb natural sensitive areas

Anthony Sturniolo: I would also like to make note for the record that the application for a permit to disturb sensitive natural areas was received by the planning board in time to make this agenda, which is May 24, and also the comment from Beth Evans Associates was received by the Planning Board on May 24, which also was the cut off date for all submissions.

Chairman Cosentino: Also, including that, Nannette, we need to set up a meeting for traffic and signage on Kisco Road probably with Jim Palmer.

Nanette Bourne: Okay, I'll bring that up at our staff meeting on Thursday.

Chairman Cosentino: Bring it up at the staff meeting, signage and traffic control on Kisco and possibly parking on one side of the road. He's going to be familiar with that. Okay. Thank you.

Alan Pilch: Mr. Chairman, may I ask one question?

Chairman Cosentino: Sure.

Alan Pilch: In order for DEP to formulate continuance review of the storm water pollution prevention plan, there will need to be a SEQRA determination. Is there a time or a subsequent meeting that we need to get back for?

Nanette Bourne: This is a dilemma.

Chairman Cosentino: Catch 22, isn't it?

Nanette Bourne: Yes, it's a Catch 22, and in my opinion it's very unfair to the applicant and very unfair to the Planning Board. Janine McCulgan, who had been doing this for you and starting it in advance of the Planning Board, giving the negdec, is leaving the DEP. Somebody else, is coming in taking her place. We will be working to establish a relationship, but in the meantime, he really can't move forward with his application until you do the negative declaration. It's conceivable that once you do the negative declaration it involves some fairly significant issues concerning real environmental issues; the wetlands and the buffer. There could be significant changes that are made to those environmental areas based on what DEP wants. So you're really in a position of what do you do? The applicant submitted a fairly extensive set of environmental documents, which, it's been three months. I saw the lead agency was sent around in February. Several changes and provisions were made, the board was fairly comfortable, and it was a short EAF with a lot of attachments. At your next meeting, if you want to get this thing moving forward, we could bring the whole environmental record in and you can consider the negdec then.

Whitney Singleton: I have concerns that go beyond that, but we can discuss them later.

Alan Pilch: The only thing is, as you know, is that I cannot go forward at all with DEP, you won't take action until DEP provides a strong water pollution prevention plan, and I cannot have DEP even begin a formal review of the storm water pollution prevention plan until such time as this board will provide a negative declaration. So I'm in a Catch 22 where I can't move this thing forward at all.

Whitney Singleton: But we're also in a Catch 22, because how can this board deny any portion of your application if they issue a negdec?

Alan Pilch: All I can say is that what I will do, is every submission I make I will forward a copy to perhaps to the Village Engineer, which is what I did before. I forwarded a storm water pollution prevention plan to his attention, and what I can do is comeback with whatever form it is, and you can re-visit it if need be.

Whitney Singleton: We're not trying to hold you up, but I have seen in recent litigation where people have this uniformly issued a negative declaration and then that's thrown in the board's face in litigation as the board says well, obviously it was determined that there was no adverse impact by issuing a negdec, so how can we now take this determination on the application?

Alan Pilch: I understand what you're saying, sir. But unfortunately, I am in the position where –

Whitney Singleton: I am going to try to resolve something.

Chairman Cosentino: We'll try to solve it by September, October. Okay.

Alan Pilch: Thank you Mr. Chairman.

## **6. Correspondence:**

Chairman Cosentino: Alright, next on the agenda is correspondence. We have the Planning Board calendar for 2006 revised, and I guess that was no meeting in July and no meeting in August, right, Nancy?

Nancy Placona: Correct.

Anthony Sturniolo: Combined on both dates.

Nancy Placona: Correct. That was the only difference. The minutes of the Beautification Committee, the minutes of the Conservation Advisory Committee, letter from Metropolitan Planning Organization, a letter from Austin Cassidy to J.R. Martabano regarding N4 Fitness resolution, Letter for Austin Cassidy regarding George Grenier also regarding N4. A letter from Austin Cassidy to Appleby's about the canopy and the notice of compliance, and conditional negative declaration for Lexus at 275 Kisco Avenue.

Anthony Sturniolo: I have a question for Whitney. Have you heard any feedback from the building inspector regarding his letter to Appleby's?

Whitney Singleton: No, but we can bring that up on Thursday.

Chairman Cosentino: We're going to try to make that meeting on Thursday.

Nanette Bourne: The goal is one hour or one and a half hours max. I will be there.

Anthony Sturniolo: And to start punctually at 9:30. Is that the entire Planning Board or just selected members?

Chairman Cosentino: For the Thursday meeting?

Anthony Sturniolo: Yes.

Chairman Cosentino: I think we're just going to have Nannette, Tony and myself.

Anthony Sturniolo: I won't be there, that's why I ask.

Ralph Vigliotti: Mr. Chairman, before we make motion to close the meeting, I mentioned to Michael Stein I'd like to pull the site plan for, I don't know the address, but it's Hoops

Plus. There are three stores on Armonk; I guess its Park Avenue, which is Armonk Road. There seems to be a number of violations there and I want to pull that site plan and take a closer look at what's going on there.

Chairman Cosentino: I will approve pulling on that site plan.

Whitney Singleton: For purposes efficiency, when you say pull the site plan, what specifically do you mean, improved plans on the board, or do you want the building inspector to compare the site with what was approved?

Ralph Vigliotti: If Austin wants to look at it closely, I'd like to take a closer look at it with the Planning Board. There is a parking issue there that is just getting exacerbated by now trucks that are parking there rather than just cars. Window coverage, the deli now has tables, it looks like a little mini restaurant, and the rear parking lot is becoming a storage lot. There are just some issues that need to be looked at.

Anthony Sturniolo: To underscore what Mr. Vigliotti just said, for me the other night coming down Armonk Road, passing it, the way the parking is skewed out in the road, you literally need to cross the double yellow line, and as we all know that's kind of a winding curving road to begin with, and it's just that parking abuse needs to be corrected.

Chairman Cosentino: Okay, we need a motion to adjourn?

Anthony Sturniolo: So moved, Mr. Chairman.

Chairman Cosentino: We have a motion by Vice Chair Sturniolo. Do we have a second?

Sol Gibbons: I'll second.

Chairman Cosentino: All in favor. Second was by Sol Gibbons. All in favor?

Board All Ayes to Adjourn

Respectfully Submitted By,

Stanley Bernstein  
Board Secretary