

Minutes
Regular/Work Session of the Planning Board
Village/Town of Mount Kisco
Tuesday July 11, 2006

Meeting called to order at 7:50 pm Tuesday July 11, 2006 at the Municipal Building
Mount Kisco, New York.

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

Members Absent: **None**

Staff Present: **Nanette Bourne**
Whitney Singleton

Staff Absent: **Michael Stein**

Joseph Cosentino: This is Tuesday, July 11, this is the Planning Board, this is a Regular/Work Session, and we're going to skip one item first and go directly to Nanette.

Nanette Bourne: As you all know, the entire Village is within the New York City Department of Protection Watershed which means that applicants that appear before you are required to get a permit from DEP. They are required to prepare and submit a storm water pollution prevention plan. Over the last many years, we have had a very good working relationship with Janine McCulgan who is the Engineer who was assigned by DEP to cover the Village of Mount Kisco. She was familiar with our projects; there was very free and productive interaction between Village Staff and Janine and projects that she was concerned with, projects that the Village was concerned with. Janine McCulgan left the DEP a week or so ago, and they have assigned a Staff Member who is here, Penny Kelly. I don't know a lot about her background except she has been with DEP for long time because I met with her probably about ten years ago.

Penny Kelly: I've been with the Department for twelve years.

Nanette Bourne: So I knew you when you were with the department for two years? Penny and I had a conversation about applications that were before you. I know over the last couple of meetings you've been encouraged by applicants to complete the SEQRA work as a means for applicants to be able to take their NegDec and go to DEP and start the DEP process, which is not the way we've done it. We had a much more flexible relationship with Janine. In talking with Penny there is no reason why it can't continue exactly the way that it is.

Penny Kelly: We encourage applicants to come and talk to us as they are talking to you so that if we have any concerns through our permit process, we can make the Board aware of those concerns. We think it's more productive to have that discussion between us. Sometimes we get copies of correspondence to you, and we will copy you on correspondence that we send to the applicant so that you know where we are, and it in no means inhibits the process. The only thing that's different for us is that SEQRA must be complete before an application is deemed complete. However, that doesn't mean that we're not going to review it until that time and give you some comments.

Joseph Cosentino: I understand.

Nanette Bourne: It's going to continue the way it's been, and I think the Board's concern is they have been in a position in the past where they have granted an approval subject to a DEP permit, and that DEP permit has required site plan changes which created an ongoing problem for several years. They are trying to avoid that.

Penny Kelly: Hopefully the applicants will appreciate that they are not going to go back and have to do things over regarding which one they are going to do first.

Tony Sturniolo: So Penny that will eliminate the term we use - the Catch 22 - between DEP and the NegDec.

Penny Kelly: We're hoping to minimize that kind of thing.

Joseph Cosentino: Thank you very much and thank you for coming.

Penny Kelly: Thank you for having me.

Conceptual Application:

- 1. New Zion Realty
96 Lexington Avenue
Application #PB2006-19
Brad Schwartz, attorney for the applicant, Dan Koppleman, engineer,
Scott Davidson, applicant**

Joseph Cosentino: The next thing on our agenda is New Zion Realty, 96 Lexington Avenue. We have a letter from Brad Schwartz to me. This is a conceptual application. We have a copy of the survey here, site board plan. Good evening.

Brad Schwartz: Brad Schwartz from on behalf of Zarin and Steinmetz on behalf of the applicant.

Joseph Cosentino: Just let me let my board know this is the property we were talking about. It is now rented by Datahar. It's a very difficult piece of property for parking. We have Scott here who came in a few years back and wanted to go up the other end of town but chose not to. He has an upholstery shop. He goes to his client's house mainly, and parking is very, very low for this site. From there I'll let you continue.

Brad Schwartz: I'll bring you to all my planning board meetings.

Dan Koppelman: Dan Koppelman from Dan Koppelman engineers.

Brad Schwartz: Scott is the Managing Member of New Zion Realty just for formality purposes. New Zion is the contract who purchased the property at 96 Lexington. Scott is proposing to re-locate SH Davidson Interiors, which is an upholstery business which is currently located at 350 Lexington, and he seeks to move into 96 Lexington under this application. This will require a Change of Use Permit from Datahar's current educational facility at 96 Lexington to what's called a service establishment, which is an expressly permitted use of New York Code. As Mr. Cosentino mentioned, the issue here is going to boil down to parking. The site is constrained physically. There are six parking spaces that currently exist that are all substandard. Part of this application proposes to do some minor site work and re-striping of the spaces to make all six spaces compliant; one of which would be an employee space. However, even though those six spaces are admittedly substantially short of the code required nineteen, based upon the requirements of the building. However, based upon Scott's operations, as Mr. Chairman pointed out, the actual business operations, our parking demand is only for five spaces, two employees that drive to work, Scott who uses his van to drive to work, and he picks up furniture from his customers, and the last two spaces would be allotted to his customers who come to pick out fabric to be used on the furniture. So we believe that the onsite parking spaces which would be code compliant are sufficient to support the use, however, we would need, if your board would provide conceptual sign off with positive feed back tonight, this application would require a variance from the Zoning Board to account for the short fall of parking spaces that we are pretty much stuck with here.

Joseph Cosentino: Well, let's face it. If we were to say you need twenty parking spaces or fifteen parking spaces, the building would stay vacant forever.

Brad Schwartz: Absolutely.

Joseph Cosentino: The reason for the six spaces, and I was on the Board then, was because that was all we were able to fit after the fact. And I think there was a variance for that, if I'm not mistaken.

Brad Schwartz: There was Datahar did receive a variance.

Joseph Cosentino: There was a variance given for the six parking spaces. The main concerns for the residents on the street that constantly complain rightfully about parking; I don't see this happening with this particular application here, only because of the amount of people that work here.

Brad Schwartz: And the difference in the nature of the business. You are not going to have the oversize vehicles transporting handicapped, etc.

Joseph Cosentino: I think it's a use that probably would be about the best use for that particular building.

Brad Schwartz: We certainly concur.

Doug Hertz: You currently have the business in town?

Scott Davidson: Yes.

Doug Hertz: And the way it's set up currently, how many clients are coming in to visit your space?

Scott Davidson: Maybe I get two a day.

Doug Hertz: And this is going to be a larger; how much square footage do you have on the current space?

Scott Davidson: Usable space, it's almost twice what I have now. Most of it is for storage. I have a really heavy room problem that when I pick up people's furniture, I get ladies who say can you pick up my sofa, and I say no I can't because I can't fit it in here. I'm in the Geiner's 1011 building downstairs. I only occupy a quarter of the space down there. It's maybe not quite 3,000 feet, so it's a little small for my needs.

Doug Hertz: But you don't expect that you're going to get more walk-through clients?

Scott Davidson: I never was retail. I do most of my work in the house. It's a referral business; I work with decorators and designers.

Doug Hertz: The increased square footage; are you going to increase the business?

Scott Davidson: That's more for my ability to store people's furniture. Right now it's quite cumbersome in there.

Brad Schwartz: In fact, Mr. Hertz, there is a proposed floor plan that shows the interior uses, and there is nothing allotted to retail.

Doug Hertz: I didn't mean retail. What I was getting at was, if his business were going to be expanding based on the additional ability to handle large volume.

Scott Davidson: It's not for that purpose.

Doug Hertz: So you would expect that two or so customers a day is going stay the same?

Joseph Cosentino: What I gather, and only because I know some people that went there, most of his business is done going to the house; draperies and stuff like that. Very little is done internally.

Tony Sturniolo: If it's only two people a day on an average, you've pretty got much 2,330 square feet of showroom, and the showroom is designed to hold bolts of material.

Scott Davidson: Bolts and some sample books that the companies give me.

Tony Sturniolo: Approximately 2,300 square feet of showroom, you've got two full size bathrooms and a kitchen and five employees.

Joseph Cosentino: It's there already.

Tony Sturniolo: But you're not going to demise the kitchen or the bathroom?

Scott Davidson: No, because the employees have lunch during the day and they can use it. It's not in my way structurally where my work area would be, so I was just going to leave it. It's a great space to have lunch during the day. Right now they kind of eat near the furniture, so it's a great little kitchenette area for the employees and me to use.

Tony Sturniolo: Then on the second floor there is another 680 feet of more storage to store couches or chairs.

Scott Davidson: The board needs to understand that I work with foam and cotton and Dacron. These foam things are huge. They are nine feet long, when we stack them up

they could almost go to, well, not this ceiling, but they are huge. The rolls of Dacron are three or four feet around when they come in, and they are 60 inches long. They are huge and they take up a lot of space. Right now I've got them jammed up all over the place. My organization for me is everything; because the more organized I am the more efficient myself and my people are. So, storage is key. I stock a lot of bulk with foam and cotton.

Tony Sturniolo: Brad, when is Ability moving to 120 Kisco?

Brad Schwartz: Mr. Cassidy just signed the plans that we submitted following your board's approval. So now Ability and Mr. Greenburgh are bidding out the job to contractors. The short answer is going to be sometime in the fall.

Tony Sturniolo: In the cover letter on Page 2, the 4th paragraph, without getting into a full discussion at this time, there is a line further down that says also the proposed use would insure no further parking problems at the subject property so long as S.H. Davidson Interiors is operating there, then there is a footnote below that that talks about there are also metered parking spaces in front of the subject property along Gatto Drive that could be used for short term parking if in the event that additional parking spaces are ever needed on a particular day, but you say the max you would have is two people at any given time, and only three throughout the day. But you kind of cover yourself by bringing up the fact –

Scott Davidson: I can't guarantee that I won't get three at one time.

Tony Sturniolo: You know what would be a simple way to address the parking issue that you have for your deficiency, would be if you made the building smaller and have more parking.

Brad Schwartz: Even that, the code compliant number would be 19. If we reduced it, obviously the 19 would drop.

Tony Sturniolo: Say you knocked off a couple of thousand square feet of building and created parking spaces? One of the concerns as one member of this board has is that residents in that immediate vicinity – they've gone through hell over the years – and I have a very serious concern about it. Whitney what's the name of that parking permit issue that New York State was able to grant, where the residents of Gatto drive have a sticker or a tag?

Whitney Singleton: Legislation for New York State Assembly for residential parking permits system.

Tony Sturniolo: And that's designed specifically to address their unique situation.

Whitney Singleton: Due to the parking demands in the downtown area, we specifically reserve certain residential streets solely for permit parking, Gatto Drive being one of them. So there is basically a problem, not per say by Datahar but just businesses in general, commuters in general on the streets. Parking is now relegated solely to residents.

Tony Sturniolo: To protect their residential needs.

Joseph Cosentino: I think that protects the residents there.

Tony Sturniolo: The other question I have is, Brad, do you believe there is a four-space variance that presently runs with this land?

Brad Schwartz: If I recall correctly, the variance that was granted to Datahar was for ten spaces and it was tied specifically to Datahar's use. There is no variance that was granted to Datahar **that** would be applicable to Mr. Davidson's business. We would need to go in and get our own individual variance that would probably similarly be tied to Mr. Davidson's operation and occupancy of the building.

Tony Sturniolo: One of the notes that the building inspector highlighted is a bullet point called the plan offers a proposal for an additional two staff parking spaces in the building as the ready accessibility of these spaces is compromised by existing exterior spaces.

Brad Schwartz: One item that we showed on the site plan, which we didn't include as part of our parking count, but we showed it just in the event that your Board would feel acceptable with it, is there is currently a garage on the property that is sealed off by a wall. We could remove that wall and provide two additional spaces, interior, that Scott could use for his vehicle, customers or it could be employee spaces as well.

Tony Sturniolo: How would you get into that? Would you have to drive over existing parking spaces?

Brad Schwartz: Yes. It would have to be the employee coming first thing in the morning and last to leave. It would only be for an employee in that circumstance, it couldn't be for customer parking.

Tony Sturniolo: So the exterior spaces would have to be left vacant so you could drive in, open the garage door, bring the vehicle in, close the door and then those spaces would become available.

Joseph Cosentino: That wouldn't be compliant to our parking standards, our code for a parking space.

Brad Schwartz: This is why we didn't include it.

Dan Koppelman: But for his operation, if this board agreed, he would like to do it. It was a garage in the past, it's blocked off now, and he'd like to do it.

Joseph Cosentino: That's another issue right now, but you can't count it as a parking space, and it's not complaint.

Doug Hertz: On that same point, is there any way to think about configuring the striping on the spaces so you can access that garage?

Dan Koppelman: Quite honestly, we would lose these two in order to access these two. So it wouldn't gain us anything in terms of parking.

Ralph Vigliotti: Is that because of the opening of the garage door?

Dan Koppelman: Both. The opening is here, this is the side of the building here that's there now, and this is blocked off. As you can see, this is the site, this is the building, and this is the only place for pavement parking. We have access to the street here, access to the street here, and there is no other way of configuring this thing. We are really to the max, that's the problem.

Brad Schwartz: Again, we are bringing these six spaces into compliance. We are maximizing the amount of code compliant spaces on the site.

Dan Koppelman: There is a potential to put another space, one more space here, but it ruins the corner, in my opinion.

Joseph Cosentino: You wouldn't want to put a space there. It takes away from greenery.

Dan Koppelman: It takes away from greenery; it puts a vehicle obstructing site lines at the corner of an intersection; so from an engineering standpoint I didn't want to do it.

Ralph Vigliotti: When Mr. Sturniolo mentioned taking down a section of the building, I kind of chuckled to myself for a second. Here we are ten minutes after that comment, and my chuckle has gone away. I almost feel that how it was represented by Mr. Sturniolo has some merit. We are at a crossroads with this building. You can't continue to have one building that has a variance for six spaces and now it's being purchased and/or leased and now we're going for another variance for the six spaces. Where do we kind of get a gain on parking? It's all about, not the building itself, it's about the neighborhood. I honestly believe, and I wish you all the luck in the world that your business will thrive and do very, very well, that potential showroom will become a showroom and more of your clients will take advantage of coming to the showroom rather than not. We are at a crossroads, and I hate to be a second on locking a section of the building down, but this garage has some interest. And if it's a little bit more of the garage literally coming down – that's why I was asking, how big is the garage door versus the garage itself?

Dan Coppelman: It's shown here. This pod was the old garage currently used for storage. The double doors were taken out, two individual doors were taken out, and a single door exists there now. So the proposal would be to reestablish that. There is a structural element here, so you would have two single doors. But even if you tore down the garage, you still can't use it for parking because I still have the conflict of spaces 4, 5 and 6 where I couldn't get to those spaces even if the garage wasn't there and even if the building wasn't there. I still couldn't get into those two spaces.

Tony Sturniolo: The code says 19. You're claiming because of the uniqueness of your business you only need five, and you're asking, and this is obviously only a conceptual, and you're basically saying to us, let's collectively figure out a way to massage around 14 more parking spaces in an area that everybody - that most people in this room, everybody on this planning board - knows is a serious concern with the residents and their ability to access parking and traffic on Gatto Drive. I don't mean to sound like Ralph and I are bouncing back and forth with one another on this, but there is just a gut feeling that either the building is too big for what you're doing, or you don't have enough parking spaces. That's why I go back to the idea; why not make the building smaller so you don't need any parking space variances.

Joseph Cosentino: Well, if I could just answer that question. And I'm not here trying to say he should have this. I'm going to repeat what I said before. If you leave it the way it is now, nothing will really fit into this. Economically, if the person is going to spend a million or more to purchase a building to get the square footage what it is, he's going to have to go back to the landlord and say they want me knock down part of the building, and we're going to have to re-negotiate and do something. What puzzles me is that the ZBA gave 10 spaces for a much larger use, which really didn't work out. I was here on the board, and they said they wouldn't impact the area, which they did.

Whitney Singleton: In 1995 they granted a variance for four spaces.

Joseph Cosentino: I don't know what the ZBA would really do. There is only one way to find out, go before the ZBA regardless what this board says.

Brad Schwartz: From your board we need a Change of Use Permit to go from educational facility to a service establishment. The Zoning Board would be the body to grant the variance for the parking space requirement. Our argument would be, and it is, that we understand what happened with Datahar and the oversized vehicles and parking problems and traffic issues over at Gatto Drive -

Joseph Cosentino: The main thing that I have to get off my mind. Does this protect the residents from what happened before? What are the pluses and the minuses? I wouldn't want them to go through what they went through before. I hate to repeat myself, but it doesn't seem like they would with something like this there. I don't know. I don't think so.

Tony Sturniolo: One of the ways to address your question, Mr. Chairman, is this last bullet point in the building inspector's memo. I think he's kind of answering.

Joseph Cosentino: Okay, but have we corrected that problem? That's the point. Have we corrected the problem that existed? I don't know the answer to that, and that's the issue.

Brad Schwartz: I guess some of the questions I would ask Scott to answer as far as truck deliveries, a fleet vehicle for pick up and drop offs, if you could describe that, about the usurer van to go out and pick up.

Scott Davidson: With all due respect to everyone here, basically this is what it is. My father was in this business for 45 years, and I came from Chappaqua. When I came up to Mount Kisco I already had three thousand customers. The day I moved I sent out a mailer, and I was busier there than I was when I was in Chappaqua. I function off of two parking spaces out on Lexington. In front of Geiners building is Mount Kisco Supply, now Davis and Warsaw, and the deli is across the street on a little bit of a diagonal. I usually park my van out there; you guys have probably seen it. There is maybe two more spots in front of the hardware store. I have existed there for eight years on those two parking spaces. Very few people ever walk around to the back of that parking lot by the garbage. What I do is, I go out and pick up furniture. I get one UPS delivery a day, maybe twice a week a FedEx. I have no carpet rolls delivered. I'm the one picking up all the furniture. So it's just me with my little van that goes in and out. That's it. I'm like a ghost town compared to what's going on down there now.

Tony Sturniolo: One of the concerns that this board would be faced, and we obviously, like any other applicant, wish you well financially in your endeavors, but as things grow, it may not be the one or two vans anymore. We need to be a little bit proactive in our thinking. As you go from 3,500 square feet to this, if you're successful, it's going to be more traffic. And that's what we're dealing with. And this is a conceptual, and I just have one more point to add, Mr. Chairman, and then I'll end it. Brad, the second page in your letter, the third paragraph - if I said to you the phrase divides and conquers, would I be painting your paragraph properly?

Brad Schwartz: Absolutely not.

Tony Sturniolo: Okay. Could you explain to me why?

Brad Schwartz: We're following the process. We're here tonight for conceptual review. We can't even go to the Zoning Board until we come here, make an application, the application has to be reviewed by the building inspector, and the building inspector would then have to issue a Notice of Denial, which then triggers, which is what we formally appeal to the Zoning Board. We are not asking you to send us to the Zoning Board with any positive or a negative recommendation. We are following a process. Once we go to the Zoning Board, and if we get a Zoning Board variance, we would then come back to the Planning Board and continue review here. This site plan application cannot proceed if we don't get a Zoning Board variance.

Tony Sturniolo: So your last line – we would likely refrain from submitting a formal application to your board until such time as we may obtain a variance –

Brad Schwartz: Let's just recognize that we are here tonight for conceptual. Unless Austin or Nanette advises us that we must submit a formal and pay the costs associated with submitting a formal application to your board first before going to the Zoning Board, of course we would do it. But we would prefer to go to the Zoning Board first and then come back so as not to waste anyone's time.

Stanley Bernstein: One small point. You should be aware that this move is going to cause a considerable amount of walk-in traffic. You may not want it, you may not discourage it, but you're in a visible location, and you're right on the corner, and there will be a lot of walk-in traffic. Visualize cars stopping, double-parking just to pop in and see what you're all about. That's another problem that we have to face.

Brad Schwartz: There will be no sign inviting the public into your store.

Scott Davidson: I have one sign that is currently outside. I'm not having any grand opening like McDonalds or something like that.

Stanley Bernstein: We were presented with this problem when it came to the florist in the middle of Lexington Avenue, and they wrote a sign that discouraged walk-ins. I forgot what the sign was; I think Nannette wrote up verbiage on it. It's something to be said, because there will be people stopping, coming in and see what you're all about where they don't now.

Tony Sturniolo: Could we look at another variation if part of the building is demised.

Dan Coppelman: I don't think there is anyway to demise enough of the building so we don't need a variance. It absolutely needs a variance. The question will come up; we might reduce the differential between 19 to 6. You could demise part of the building to maybe 15 to 6. It's still going to be a substantial variance. I guess the only question is, by tearing down part of this building, either anywhere you go; it doesn't give you necessarily more parking. It's just going to be less building that you need. Because we're built right up to the line here and right up to the line here. This already exists. It's physically sitting, stuck into this site. And I do mean shoehorned into the site.

Brad Schwartz: Anyway, it will eliminate some of the storage space that Scott is looking to take advantage of at this location.

Tony Sturniolo: Could the building be wrong for your needs? Could the building be right for Mt. Kisco's needs?

Brad Schwartz: In looking at a scale here, are you suggesting the Village would purchase the building?

Tony Sturniolo: No, not at all - not at all.

Brad Schwartz: I mean, as far as the Village's needs for parking issues, again, we believe that the nature of this use would solve parking issues over at Gatto Drive. The Zoning Board would also limit its variance to Mr. Davidson's use and occupancy, so it's not going to open up for another service establishment, which is also going to stress the limited use on the district, so they won't allow another more traffic intense use to come in without appearing back before your board, and if that application were part of the Zoning Board. We are focusing in on the uniqueness of this one business operation and the fact that, in response to Mr. Cassidy's questions, there is not a fleet of vehicles, it

does not have truck deliveries coming all day long. He goes out, picks up the customer's furniture and brings it back. He does the upholstery work on site. This use does not generate a lot of traffic. We believe it is the best service establishment of this kind for this site given for the traffic issues at best, or the lack thereof.

Ralph Vigliotti: It's unfortunate. Our experiences tell us the number one issue with any plan that comes before us is parking - number one. And our experiences working with parking consultants and traffic engineers and so on is, although we are not the professional designers of parking lots and traffic engineers, nine times out of ten we are right on the money. I hope you are not discounting what we're saying.

Joseph Cosentino: I think the main issue here that we have to find out in what we already did; well the ZBA is one issue, of what we already did to the area if it helped. If it didn't help, then we may have a problem. But I think we need to go back to the residents there and find out what we did - if it did help.

Brad Schwartz: Again, I want to bring out the contrast in the nature of the vehicles and the traffic that was used for Datahar what we're suggesting is going to be used here, frankly, it's night and day.

Joseph Cosentino: I agree. Its apples and oranges.

Doug Hertz: From my perspective, I think you're right. I think on paper this is a fairly good fit. This may be because you're planning to use most of this as storage and not a lot of employees. The concern that I have, and I think other board members have, is should you succeed beyond your wildest dreams, that the use could become more intense, that the parking requirement could become more intense. There's the potential for that. There may be ways that we can construct - should the board wants to approve - there may be ways to construct something so that we limit certain things, but it gets very, very difficult. Policing is not what we want to be in the business of doing.

Brad Schwartz: Scott is already turning customers away because of storage space.

Scott Davidson: I'm just listening. I'm already kind of maxed now. I'm one guy. I don't have partners, my wife helps me out once in a while, but I'm looking for storage space, not a million new customers. I just want some more storage space. I'm probably not going to do a heck of a lot more. Everybody knows me in the area anyway. They already know where I am, so yes, they'll probably want to maybe stop in and see me, yeah, you're right. They might want to do that, but it's not going to last forever, and certainly if they did, I'm not looking for that much customer expansion; I'm just looking to re-locate down the street for more storage and more efficiency of the building. And that's the honest truth.

Brad Schwartz: And along the line of what Mr. Hertz is saying, again we could again restrict any approval to this used to the interior space plan so that other rooms won't be turned into retail space. I can understand monitoring a certain issue, but I think the most that we can do is put in language that would ensure that there would not be any increase in parking.

Joseph Cosentino: Well, anyway, this is a conceptual. I think you need to come in with a formal application and we'll start working on it.

Brad Schwartz: Nanette that is the procedural question that Mr. Sturniolo put in earlier. Do we go to the Zoning Board before or after formal application?

Nanette Bourne: You have to submit the formal application.

Brad Schwartz: And I will delete the sentence in my letter and we will make a formal application.

Doug Hertz: You can't get a denial letter -

Brad Schwartz: - until a formal. Very good thank you.

Formal Application:

- 1. John's Best Restaurant
353 North Bedford Road
Application # PB2006-
Ted Strauss, representing the applicant, Mario Sandolo,
applicant**

Joseph Cosentino: John's Best, 353 North Bedford Road, would you come up and identify yourselves for the record please?

Theodore Strauss: Mr. Chairman, my name is Theodore Strauss; I am the architect working with Mr. Sandolo.

Mario Sandolo: Mario Sandolo.

Theodore Strauss: This application had been previously approved by this board in 1997, and it had lapsed. This is precisely the same as you had previously approved, except for one thing and that is the rear area of the original parking is now proposed as gravel instead of being paved. Otherwise, the applications are identically the same.

Joseph Cosentino: As far as framing, construction is the same, correct?

Theodore Strauss: Correct. One additional item - we had previously had approval on from DEP, the question has arisen as Coppelman engineers have been the site engineers on this project, as to whether or not the DEP approval had to be renewed as well, or up until just this evening, as a matter of fact, the decision was that there was to be a letter issued of no authority on the part of DEP. Ms. Kelly, whom you met earlier, and I spoke to just before the meeting started, researched and found that we in fact do need to renew the permit because of the fact that the addition of the building is an impervious surface. So we will proceed immediately to renew the permit.

Joseph Cosentino: You've got to back up a little bit. Since then, we have a code in the Village, and Mario is a friend of us all, but our code requires blacktop and curving. If we don't do it for one -

Theodore Strauss: Understood.

Joseph Cosentino: That's a problem, and I understand that, but it's not us it's the code.

Theodore Strauss: Understood. If that is what code is, then we will comply.

Joseph Cosentino: Unfortunately, we don't have a choice. And we'd like to tell Mario you don't have to blacktop or do anything else, unfortunately, this is what it is, and we're governed by it.

Theodore Strauss: Frankly, I was a little surprised that this was even done as gravel, because I fully understand that position. In that case, the submission before you would then be identical to the prior submission that was approved. And that application and that approval - all of this had been blacktop. So this would remain identically the same. Now, if the board is of such mind, we would request, obviously that you grant a renewal subject to the issuance of a new permit from DEP. Again, this would be identically the same.

Joseph Cosentino: The problem is he's going to need an engineering plan now.

Tony Sturniolo: Mr. Chairman, we've done Grass Crete in a number of projects, code notwithstanding, all over the place.

Joseph Cosentino: Have you seen the area?

Stanley Bernstein: Yes, I've been there many times.

Tony Sturniolo: I think Grass Crete because it's a non-impervious surface regarding the issues that DEP would be concerned with.

Joseph Cosentino: Plus economically he's going to go for a lot more money than blacktop. But if we feel it's the best, I don't know I haven't talked to Nannette about it. How does the DEP feel about this?

Penny Kelly: Grass Crete has been approved as a pervious surface.

Ralph Vigliotti: I would think the DEP is telling them they need a pervious surface such as Grass Crete, that's one thing. Otherwise, I'm not a blacktop fan, but we've done blacktop in a lot of places, and I'm not uncomfortable with it.

Joseph Cosentino: I'm not uncomfortable with it, but the cost is a big difference. I think cost here - he doesn't own the property, I think cost is expensive.

Theodore Strauss: You mean the cost of the Grass Crete?

Joseph Cosentino: Yes. It's expensive. I think we need an engineers report on how it's going to be done, the curbing, the drainage, etc., and as far as the building, I don't think it's going to be a problem with the extension, it's been approved once already, but I just think we need to get an engineering report on the parking lot and the drainage.

Doug Hertz: I can't tell by looking at the site plan. I thought maybe theirs was slightly different. Has our parking code changed between the last approval, or are these code compliant spaces?

Nanette Bourne: It's hard to tell.

Joseph Cosentino: By this. That's why I want an engineer's report.

Doug Hertz: I don't see measurements on the spaces.

Joseph Cosentino: I don't either.

Nanette Bourne: And I don't see any handicapped spaces.

Joseph Cosentino: So, what you're going to have to do is to sit down with Nanette's firm and go over the handicapped spaces, the size of the parking spaces, and an engineering drawing of the parking lot and drainage. The last plan I've seen was 1995.

Ralph Vigliotti: I have a question. If the parking is compliant and we're able to add a little bit of green space where there is parking almost up to the curb line in front of the building, on two sides of the building, the parking spaces are almost right on you. I'd like to see a little bit more green space if possible where those first parking spaces on either side are, when you go in.

Theodore Strauss: I think you will recognize that this is very handsomely landscaped now, and in fact, the first parking space is at least ten to fifteen feet beyond the edge of the pavement. The new plan will clarify that.

Joseph Cosentino: It is.

Doug Hertz: I was on the board when we approved this, and John Slaker did quite a lot of work. They installed the landscaping as part of the improvement.

Joseph Cosentino: Also, in your engineer report we want to see a fence, some barrier so a car can't go over the embankment in the rear. Other than that he's all set.

Tony Sturniolo: The existing handicapped spaces are on the southwest corner by the exit, am I correct?

Theodore Strauss: Yes. We will clearly designate those as well.

Joseph Cosentino: Good, you're on your way. Thank you very much.

**2. Bank of New York – 55 Main Street
Application # PB2006-14
Peter Carras, Insight Engineering, Frank Picucci, property manager
of Bank of New York and applicant**

Joseph Cosentino: Would you identify yourselves for the record please?

Peter Carras: Peter Carras from Insight Engineering. I'm here with Frank Picucci, Property Manager, of the Bank of New York. This site is located on the corner of Main Street and Rt.117. Mr. Picucci was here last month I believe, two months ago, with a landscape plan, and he was asked to prepare essentially an amended site plan showing proposed landscaping in the front of the building. We've done that. We've showed existing conditions. There are a few site related items that we're going to rectify, one being the non-conforming parking spaces with a new striped island. Second is a striped island for the handicapped parking space right here. We are proposing a refuse enclosure around the dumpster. One change the applicant would like to make is if the board feels it's appropriate; modify the wood stockade fence in the rear with a chain-link fence with privacy slats. This is in a non-visible corner in the rear of the building. Essentially the change is because that chain link is going to hold up much better over time.

Joseph Cosentino: We would prefer that anyway.

Peter Carras: Good. We will make that change. But we essentially have a landscape plan in the front. I think we have generous sizes for the plants and hopefully the board can move on this application.

Joseph Cosentino: Nanette did you look at this all; or Mr. Slaker or somebody?

Nanette Bourne: I haven't looked at it from the last evening.

Joseph Cosentino: Well, I think that's important that you look at it from the landscaping view. So you'll need to contact Nanette and let them look at the landscaping.

Doug Hertz: Is there any change in the signage to the front of the building with this?

Frank Picucci: No, not at this time, nor any of the traffic signage on site.

Tony Sturniolo: One of the concerns I have – are the parking spaces all 9'6" x 18'6"?

Peter Carras: The only area that it wasn't was right here. There are three striped spaces currently, and they don't conform, and that starts to impact this traffic isle. We are going to eliminate that space and put a striped island on the end. So yes, we will have all 9 1/2 spaces.

Joseph Cosentino: Are you going to be losing any parking space by doing this?

Peter Carras: We are, but it's a non-conforming parking space. Right now there's a stripe for three; they'll be two under the new conditions. The approved site plan from 77 showed two parking spaces right here. At some point between then and now that was re-striped.

Tony Sturniolo: Similar to the previous applicant about the concern of blacktopping being a requirement of the planning board, you've got a mix of Belgian block curbing and concrete. The requirement of this Planning Board is poured in place concrete curbing.

Peter Carras: Okay.

Tony Sturniolo: Not the Belgian block. The other comment I have is, in the back, where cars start to turn around, there is a retaining wall and there is like a sign that says no parking. The plants are constantly growing on top of that sign. That sign needs to be more visible as well as your designated fire lane.

Peter Carras: Just to hit that point, you're talking about that sign right here on the rear retaining wall?

Tony Sturniolo: Yes, that one. You can't see it. But once you start to do the fire lane striping it will highlight.

Peter Carras: We could flip the vegetation further up the retaining wall, too.

Tony Sturniolo: The front lighting of the building. There were a couple of 1,000 watt car lamps down below. Are they going to be replaced?

Peter Carras: Yes we are going to replace those as well as the replacement light for the flagpole.

Tony Sturniolo: Could we see a photometric light plan for that to make sure that the foot candles, the exterior illumination is in conformity within Village Code?

Peter Carras: In relation to the property line? Certainly.

Tony Sturniolo: And then the landscaping, obviously as the Chairman said, sit down with Nanette and work that out.

Doug Hertz: If you are going to meet with Nanette's firm regarding the landscaping, you may want to review the lighting. Not just photo metrically, but to make sure that it complies in other ways with the new code.

Peter Carras: I don't know if you're familiar with what they are – what they are is ground mounted lights that up light the base of the building.

Doug Hertz: Right. And the new code that's being composed requires that light not to basically land off site. No cut offs and glare.

Peter Carras: Just so I'm clear. The board is asking us to replace the Belgian Block curb.

Tony Sturniolo: In place, concrete.

Frank Picucci: That was in the original site plan, the Belgian Block. I don't know if anybody noticed that.

Tony Sturniolo: It was?

Frank Picucci: It was. That's why I was surprised too. I know you made a statement last time.

Tony Sturniolo: I think it's going to help us all, and if you bring this closer to me. I went through there yesterday. But where you have the block here and where you have the block here, over the years with the pavement and additional coats of paving, the Belgian block on an average is maybe 1 1/2" maybe 2" high here at the most. It doesn't even conform what Belgian Block at normal 4 1/2" or 5" would do. So if you do the whole thing in concrete curbing you're starting fresh and clean.

Peter Carras: Just one question on procedure. Will this application in its minor scope require a public hearing?

Joseph Cosentino: I don't think so. Nanette, this doesn't require a public hearing, right?

Nanette Bourne: No.

Peter Carras: So we'll make the revisions and re-submit. Thank you.

Continued Review:

**1. 275 Kisco Avenue
Lexus Dealership
Application #PB2005-15**

Joseph Cosentino: Next is 275 Kisco Avenue, Lexus. This is only a conditional negative declaration confirmation.

Nanette Bourne: Chairman, the conditional negative declaration requires that we circulate it for 30 days, and if there are no objections, then you are in a position to affirm the negative declaration, and to my knowledge there have been no objections. So you're free to affirm it and SEQRA would be closed unless there is some information that comes to light that makes you want to re-open it.

Joseph Cosentino: Okay, so we just need a motion on that, right?

Tony Sturniolo: Motion – Aye.

Joseph Morreale: Second – Aye.

Sol Gibbons: Aye.

Ralph Vigliotti: Aye.

Stanley Bernstein: Aye.

Doug Hertz: Aye.

Joseph Cosentino: Aye.

Board All Ayes-

Special Discussion:

Joseph Cosentino: On special discussions a letter from **Christina Gotterman** to me and the planning board regarding outdoor display. Is anybody here for that?

Tony Sturniolo: That's another late letter.

Joseph Cosentino: That letter's been late anyway. We're just acknowledging it, that's all.

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

Joseph Cosentino: Old Iron Warehouse, Cary Place. We have a letter here; we need to schedule a site visit. We might as well do the SEQRA determination, Nanette?

Nanette Bourne: This was the discussion that you had earlier regarding this Catch 22, and as you've heard, Penny Kelly the representative from DEP, there is nothing to preclude the applicant from making progress with the DEP, so you can submit your SPPP.

Alan Pilch: Alan Pilch, Evans Associates. We submitted our storm water pollution prevention plan on February 14, 2006. At that time we were told that it would not be a formal application until such time as a SEQRA determination was made.

Penny Kelly: It won't be a complete application.

Alan Pilch: I'll just say that review ended with that very sort of preliminary letter that we received, and it was like no further discussion appeared to be feasible at that time. I guess what I'd like to do is see if we can pursue this further from the review process, so the review could be more in depth than just what we had at first. It's really up to this board to determine how to proceed from this point forward, obviously. We could just continue with our review before this board, or the site plan, and then if we come to a point where you are satisfied with the site plan, and then are willing to take action with prospective SEQRA or approval or whatever your action is, at that time then we will be in a position to have a complete application with DEP and then can pursue that either way.

Nanette Bourne: Maybe there was just some administrative problem with your application, but if you have an SPP with DEP you're going to be requesting that they begin their review. The board doesn't want to entertain site plan issues until they hear back from DEP as to any DEP issues that could affect the site plan.

Alan Pilch: You know the difficulty we had.

Penny Kelly: We're not going to review every detail without SEQRA being completed, but I think that what DEP has done historically is be able to identify any issues that they think are big enough. I don't think the board wants to know whether your rip rap aprons are sized appropriately, and that's what's going to happen in the review process. What's going to happen in the completeness process is, and I believe this to be true of any review, to be able to identify any problems or issues that should be resolved while the board is looking at it, and it would have to be resolved for the project to be approved.

Doug Hertz: So at this point, you can continue and you would flag anything that really is going to impact the site plan at this point.

Penny Kelly: I think that would be true.

Doug Hertz: So we can continue reviewing site plans and neither side will be stopped at this point.

Nanette Bourne: Actually, I think that you've done a fair amount of site plan review, and I think what is necessary for you to continue is to get this feedback from DEP because the critical issue has been brought out before and which is included in the conversation advisory commission letter has to do with the locating the detention basin in the buffer.

Penny Kelly: And that would be something that during completeness review, we would say, I think this is an issue and call me and talk about it. That's a big enough issue that would impact the board's review and DEP.

Tony Sturniolo: So the conversation then basically or the review process I should say is open enough to accept further input from DEP so we can work with it before a final answer is given by this board, shall we say, and neither of us have a hard mandate or a hard closed door that everything has got to be in here before this gets shot.

Penny Kelly: The significant design issues would be brought to light.

Tony Sturniolo: During the review time period. So adjustments can be made, compromises can be sought, etc.?

Penny Kelly: Revisions could be made.

Stanley Bernstein: Mr. Chairman and I know Ms. Kelley got a copy of the CAC letter?

Alan Pilch: I have not.

Stanley Bernstein: Would you like me to read it into the record?

Joseph Cosentino: Why don't you just give him a copy of it? It's already into the record.

Stanley Bernstein: Just to paraphrase it's concerned with the storm water management basin being put in the wetland buffer. I've made the same points at previous meetings, I think it's all in the minutes, and you've probably read copies of the minutes. It's a serious point, and we'd like it to be looked at very, very thoroughly. Another thing, all these papers from the Corp of Engineers, just seems to be superfluous. All we needed was a cover letter. This was the second time that we got this. I don't know how many trees are involved in this.

Penny Kelly: I don't think that was his –

Stanley Bernstein: Well, it may not have been, but it seems ridiculous, one hundred pages of superfluous information.

Alan Pilch: I apologize that that it appears that way. Initially when we received the correspondence from the Army Corp. of Engineers it was, I believe dated December 29, 2005, I believe in the first week of January I sent a single copy in, but it was requested that I forward additional copies.

Stanley Bernstein: All we needed was the cover letter.

Alan Pilch: I sent in the entire package to be complete. I understand your concern.

Stanley Bernstein: And this is twice. We had it in our last packet as well as in this packet. So take it under advisement please, we want to save some trees.

Joseph Cosentino: Thank you Stan, that was good.

Whitney Singleton: I think we're at where the applicant is comfortable with his ability to proceed with the DEP at this point in time? You've been very patient, don't get me wrong. It has taken awhile to resolve this issue, but I had grave concerns about NegDec'ing this thing, prior to some of this information.

Alan Pilch: I understand your concern regarding that. Formal application was made in December, we already had a public hearing on the Permit to Disturb Sensitive Natural Resources Wetland Permit application, and we did close that public hearing. I understand this board's concern, and I know these are things that we do have to resolve with this board, but there weren't any comments from the public, there didn't seem to be the project of such a nature that would be the sort of project that you would bring a positive declaration on, so I was just trying to advance to see the causes, so we can move it forward and knowing that the DEP too would only move so far until such time, it seemed that it was impossible to do that. But I understand your concerns regarding that. But so long as we can actually move forward and review it a level of detail that's sufficient that would plug into what you've reviewed, then I don't really have a problem with that. I just want to make sure that we can move forward. This is something that I guess we'll have to work out with the DEP.

Penny Kelly: Right because I think one of my - right, yeah, we don't want storm basins in the wetland –

Alan Pilch: I understand, but we should talk about that. When you see it we'll talk about it.

Penny Kelly: Okay.

**2. Neil Carnow – 487 Main Street
Neil Carnow, and Lisa Murray, representing the applicant**

Joseph Cosentino: Okay thank you. Alright Letter from Neal Carnow to the Planning Board regarding 487 Main Street.

Neil Carnow: My name is Neil Carnow. I am the architect for the project.

Lisa Murray: My name is Lisa Murray. I work for the owner of the property.

Joseph Cosentino: What is your position with them?
Lisa Murray: I'm an Asset Manager.

Neil Carnow: In 1993 my client required this property along with the leases for the then current tenants, which was the Chinese Wok Restaurant. The current is Mailboxes, Etc., and the former, D'Agostino Carpets. As you know the Chinese Restaurant and D'Agostino Carpets are no longer in the shopping center. In 2005 we did some design work for the purpose of re-doing the exterior of the building, brought that to the Architectural Review Board, met with them, received approval for both the design work and for subsequent meetings for signage. In discussing the project –

Joseph Cosentino: Excuse me one minute. Donna, would you ask the Architectural Review Board to send us a copy of the approval?

Neil Carnow: In subsequent conversations with Mr. Cassidy, as we were preparing to submit the construction documents for the work, and having some discussions with him about the potential tenants that we were looking at at the time, he raised the issue that there was some concerns that this board had with respect to tenant mix proposed for the site and parking and other issues, and he said, "Would you please send a letter to the Planning Board asking for a discussion with them to address these issues?", and we said, "Certainly we'd be happy to." And that's really what generated the letter that I sent a few weeks ago for the previous meeting, and why we're here tonight is really to address the concerns. If I might also say that after the last meeting, we had subsequent conversations with Nanette and Mr. Singleton, and again with Mr. Cassidy with respect of how to try and deal with the parking requirements on this site, and any potential of future mix of new tenants. The result of that discussion was the concepts of having us analyze this property with the former mix of tenants, the restaurant, the carpet store and the mailbox store with the current code requirements; determine the number of cars required with that mix. That would become the threshold number of cars allowed on the site. And then, within the context of the zoning ordinance, any of the allowable uses in whatever proportion could be used in the building so long as the sum total of the required parking under the new code would not exceed that number.

Tony Sturniolo: Nanette and Whitney and Austin blessed that arithmetic philosophy of adding the spaces based on the Chinese Restaurant, the carpet store and the mail box store?

Neil Carnow: The concept was initiated by Mr. Singleton. He spoke with Mr. Cassidy. I don't know if he spoke with about it or not.

Nanette Bourne: They spoke with me about it, and the example is that there was a Chinese restaurant that was – what was the square footage?

Lisa Murray: 34, 32 hundred square feet.

Nanette Bourne: Okay, so that Chinese restaurant of 3,400 square feet would require X number of parking spaces. If the restaurant were cut down from a 3,400 square foot restaurant to a 1,700 square foot restaurant, it's an imperfect way, but we were trying to get to a point where we understand whether or not there is a change in intensity of parking.

Tony Sturniolo: The same logic then applies to the carpet store?

Nanette Bourne: Right.

Tony Sturniolo: And the mailbox store is staying as is?

Neil Carnow: It stays as is, and the former requirements and the current requirements –

Joseph Cosentino: I don't know if that formula works. Let me tell you why. We did that formula somewhat across the street. And then you had one business that is doubling now what it was supposed to be doing. What bothers me, if you take the Chinese restaurant and you split that store in half, and you have one store that does the 1,700, but the other store doing more than that half? How does that mix?

Nanette Bourne: There is no way of zoning for success. There is no way of predicting a successful business.

Joseph Cosentino: But we could have the same thing here that happened across the street. You could get a store that sells pillows and sheets, and right next door put a

Dunkin Donuts. You know Dunkin Donuts is going to generate more traffic, or a pizza shop or something like that.

Nanette Bourne: But at the baseline, you are trying to establish a baseline for former uses.

Joseph Cosentino: But shouldn't it be based on each individual tenant?

Nanette Bourne: That would be the baseline then we would examine the change.

Joseph Cosentino: But that's not what he's saying here.

Neil Carnow: That's exactly what I'm saying.

Joseph Cosentino: In other words, each tenant you get you're coming back here?

Nanette Bourne: It could be that that's what happens.

Joseph Cosentino: I say each tenant you get you've got to come back here.

Neil Carnow: Well, we could certainly do that. The concept that was discussed with us was that –

Joseph Cosentino: Yeah, but you're here now. I understand that also.

Neil Carnow: The total of the required cost did not exceed the total allowable.

Joseph Cosentino: I understand that. But the mix may change.

Tony Sturniolo: The variable is what is going in there, what the type of business is, not just replicating X amount of parking spaces associated with a Chinese restaurant versus the same amount of parking spaces with another restaurant. The other restaurant could have a higher intensity and higher usage.

Joseph Cosentino: You take for instance the Chinese restaurant. They weren't there in the morning, but they were busy at night. You may get a facility there that does morning, noon and night. They have a lot more parking spaces. So it think its safe for this board to know what's going to go in there so then we can analyze how many parking spaces you really need.

Tony Sturniolo: And I think, Mr. Chairman, if I'm correct that was one of the mandates that you said at the last meeting, basically, come back when you know what you are going to put in there tenant-wise, so we can look at it.

Joseph Cosentino: I don't agree with them at all on their philosophy.

Neil Carnow: Can we agree on the total mix? In other words, when my client –

Joseph Cosentino: The only thing you can agree on is what you're going to have there. I'm not going to have what happened there that happened across the street. You people were very nice. You came before and explained to all to us, and we appreciate that. I have to tell you that.

Neil Carnow: I'm trying to work with the board.

Joseph Cosentino: We don't want to happen what happened across the street. On a Saturday you can't get into this place, only because of the mix. Before this particular mix came, it was okay. This mix came and now it bottlenecks, and it's an accident waiting to happen there.

Neil Carnow: Mr. Chairman, I understand what you're saying. Some of the problems we face on a reality basis, just quickly, on the ownership of property are, as you would fill up the building and you would get to say two-thirds full, you may then find, depending on the position of this board, that the remaining 2,000 feet or 2,500 feet is not leasable.

Joseph Cosentino: We won't know that till we get there. We won't know that until its going to be rented out. You won't know that, nobody will know that until we know what's going there.

Whitney Singleton: I'm sorry; I was with the Village Manager for awhile on another issue. With regard to the relaying of the space, you do have a provision in the code as to

how it has to be analyzed. It's the same thing as the Lexington Avenue property that we had tonight; it's the same with any other re-use of the existing premises. The analysis that is done is done by the Building Inspector based upon the use, and if they come in – on a 10,000 square foot building, and they put a restaurant in 200 square feet, then it takes up all the parking and they have to leave the rest of the building dormant. If they come in with warehousing for the entire 10,000 square feet, then they have a surplus of parking. That's gets analyzed on a case-by-case basis, and Austin cannot and will not allow a tenant mix in this building or use mix.

Joseph Cosentino: The only thing I'm asking here, Whitney, and you were out of the room; I'm sorry you were, I don't want to happen what happened across the street. You can't get in there on a Saturday. You know it, I know it, and everybody on this Board knows it because of the mix.

Whitney Singleton: I have no disagreement with that at all.

Joseph Cosentino: And we don't want to have that happen here because of the mix.

Whitney Singleton: And I think that's why its set forth in the code, both under Change of Use Permits and the parking regulations, when they come in, before they were the furniture store and a restaurant and a UPS store, if they come in with a more intense use for a smaller portion of it, they are going to have to go with a less intense use.

Joseph Cosentino: Why did that happen across the street? I hate to put you on the spot, but why did that happen across the street?

Whitney Singleton: Very simply because – the honest truth?

Joseph Cosentino: Yes I want the honest truth, because I want to help them out.

Whitney Singleton: Because D & D Motors should have never gone in across the street. It was insufficient parking when they went in, and then this board approved –

Joseph Cosentino: So we compounded the matter and made it worse?

Whitney Singleton: That's absolutely right.

Joseph Cosentino: Well, we don't want to do it again.

Whitney Singleton: This board allowed a Change of Use. They had to come to your board; your board gave their approval. They had an increased parking requirement, just like everyone else who comes in here and says it won't be a problem and increase the parking.

Joseph Cosentino: Well, we need to know what the mix is.

Ralph Vigliotti: We need to know who the tenant is. That's the big piece here. I can't see how we can move any further without knowing who the tenant is.

Joseph Cosentino: Do you have tenants yet?

Lisa Murray: We have prospective tenants. I'm not willing to sign a lease until I know that I can.

Joseph Cosentino: Well, we need to know.

Lisa Murray: We have Dunkin Donuts who is interested in it. We have a franchise New York City Blockheads Burritos, we have Curves, a women's sports location interested.

Joseph Cosentino: Those are heavy hitters. Does that answer your question? Those are heavy hitters.

Whitney Singleton: I don't have a question. I'm telling you what the code allows.

Lisa Murray: Are you saying that we can't propose those for usage or what?

Joseph Cosentino: I'm not saying you can't have it, I'm just saying we have to sit down and find out what the parking requirements are going to be.

Tony Sturniolo: And the second part of the parking requirements are going to be what is the traffic impact on the roads, because the parking impact for somebody who repairs violins or stores or sells harps is one thing, and the traffic is commensurate with that.

When you talk Dunkin Donuts and the Burritos then you've got a whole traffic issue as well. So, again, getting back to what the chairman said, we really need to know what we're dealing with.

Lisa Murray: And I appreciate that. I am at the site all the time, I make no left-hand turn, I know the tenants that we had there previously had a very low usage. There's a rug store, makes one sale and it sits for three and a half months. And the Chinese restaurant was more take out, and not a lot of traffic. We've been marketing this space for over a year for tenants.

Ralph Vigliotti: As successful as Dunkin Donuts would be at that site, it will be a nightmare to have a Dunkin Donuts there with the number of vehicles going in and out. It's not someone going in and sitting down for a two hour or hour and a half meal. In and out every two minutes.

Joseph Cosentino: That parking lot is full every morning, you can't get a parking space, and I go there.

Ralph Vigliotti: A Dunkin Donuts at that site would be a horror show; making left-hand turns, even making right-hand turns during AM peak, PM peak and evening peak. You need a low use. If you're looking at a restaurant, it has to be. The parking lot is filled but we don't have people waiting in line making a left-hand turn after they got their cup of coffee and donuts. Folks, you really have to – that's why we need to know what the mix is, and we need to know who the tenant is.

Lisa Murray: Well that's why we started out going to Austin Cassidy. It's not as though... It's not as though we're not cognizant of the fact that you need to be satisfied.

Joseph Cosentino: And we do want to help you out. But understand our point. We don't want to have a monster there that we will create. We created one; we don't want to create another one.

Lisa Murray: So if I'd gotten in here before the bagel place across the street that would have been okay?

Joseph Cosentino: I'm just using that as a reference.

Lisa Murray: I know.

Neil Carnow: In order for us to sort of do our own analysis, because as we may get a variety of tenants that come in so they can pick and choose who to bring here; if we can get an understanding of the board of the basic concept of the threshold number of cars is agreeable to the board, at least then we will understand as we start to get people, that we will know at least mathematically that we're in the right ball park.

Doug Hertz: There is a formula set forth in the code. You can just do the math based on the usage as it exists already.

Whitney Singleton: I've already discussed with the applicant.

Joseph Cosentino: But I think the use is going to be more than what is in the code.

Whitney Singleton: You don't know what the use is, Joe.

Joseph Cosentino: And you don't know if it's not. And it's our job to find out what's going to fit there and what's not.

Whitney Singleton: That's why when anyone comes in to the Building Department, and they say they want to take a particular space, one of the reasons you don't see anything in the downtown area is because there is no first floor parking requirement. You trigger a Change of Use Permit. That is what triggers your review. Now, when you see other uses that go from one restaurant to another restaurant, or they go from retail to a service industry or whatever they have to do, a lot of times that doesn't come back to your board. And the reason that doesn't come back to your board is because they are small camp tenants with a parking requirement which either equals or is less than the parking requirement that previously existed. And so long as that happens and so long as they don't alter the site itself, they don't need to come back to your board. And I've gone through with the applicant that they cannot exceed, cannot exceed, I was very clear with them and they understand this and we almost got into a problem but we didn't – they cannot exceed parking requirement.

Joseph Cosentino: But you don't know what the parking requirement is going to be for the use, and for the other one.

Whitney Singleton: The restaurant - one per 75.

Ralph Vigliotti: And we know 1 per 150 for a Dunkin Donuts will not work. I've been the 30th person on line at Dunkin Donuts off Bedford Road with cars backing up looking for parking spaces. So the 1 per 50, the reality is - it all comes down to use. If it's a Pizza Hut versus a sit down four star restaurant, versus a Dunkin Donuts, its all the difference in the world as far as parking. And that's what we're here for, to make sure.

Joseph Cosentino: We were talking of a use a little while ago; they wanted to tear a guy's building down because he didn't have enough parking. Whitney, is it a fact, or is it true that - there are no more fast food restaurants on 117?

Whitney Singleton: No - we are allowed to have fast food restaurants; we're not allowed to have drive thru's.

Doug Hertz: Maybe there are two different things going on here. Whitney is there no differentiation in the code between a regular sit down restaurant and a fast food restaurant or a Dunkin Donuts?

Whitney Singleton: Yes there is.

Doug Hertz: There is a differentiation in parking requirements?

Whitney Singleton: I think what the problem here is, and if Austin were here he'd tell you the same thing - and Joe and Tony and a couple of others would remember this. What you're looking at here is two uses that technically qualify under the same particular heading. Restaurant, fast food restaurant or whatever, personal service; whatever you want to call it, yet, your board correctly recognizes that some businesses are more successful than others. And that's perhaps why the Chinese restaurant is no longer there. Even though they were a restaurant, they did not have a turn over and the parking and the crowds that let's just say Coco Rumba has. Yet, they still get analyzed the same way when there are parking problems. Austin talked about the past about Boston Market. It had been doing a phenomenal business and there were enormous problems. Now they don't do a phenomenal business, and there are no problems. But you still have to analyze the use.

Joseph Cosentino: But that's what we're saying here, that we have to analyze the use. But we don't know what the use is.

Whitney Singleton: But the use is defined in the code. That's what the parking for that particular area is. And if they have a finite number of spaces, I believe it's in the ball park of 50 spaces up to 70. If there are 50 spaces at the site, they could put a fast food restaurant in 50 square feet or 200 square feet and leave the rest of the building vacant.

Joseph Cosentino: On 1600 square feet how many parking spaces are needed on fast food?

Whitney Singleton: 1 per 75.

Doug Hertz: That's 22.

Whitney Singleton: Or it's 1 space per 3 person capacity, whichever is greater. We have a formula here for fast food and for regular restaurants.

Joseph Cosentino: How many did you say 22? How many spaces do you have there?

Neil Carnow: Forty eight.

Joseph Cosentino: You have 22 there, and Burritos, whatever it is, say it's the same thing. That's 44 parking spaces right there without renting the rest of the building out.

Whitney Singleton: And if that's what they chose to do Joe, put moth balls in the rest of building.

Joseph Cosentino: And that's the way it works.

Doug Hertz: But they have that formula, they know that formula. They can do that math.

Joseph Cosentino: Obviously they didn't have that formula, Doug, because when he mentioned two places, Burritos and Dunkin Donuts, I get 44 parking spaces and he doesn't have 44 parking spaces. And I'm sure economically you don't want to leave the rest of the building empty. I wouldn't.

Lisa Murray: Correct. These are prospective tenants; they haven't signed anything and it all comes down to being before the board here, getting it passed. I'm not going to sign anything.

Joseph Cosentino: And we can appreciate that. And that's why we need to know what is going to go there so we can help you out. Help us out and we can help you out. We don't want to see an empty building.

Ralph Vigliotti: It's not just parking. The use will generate a full traffic study. Whether there is egress, whether there is no left-hand turn, all of that. You have to be prepared for that.

Lisa Murray: We're aware of that.

Ralph Vigliotti: One of the uses you just mentioned, the Dunkin Donuts, the parking may work, and ending moth balls to the building. What may not work is the ingress egress coming out onto 117.

Whitney Singleton: I explained this to the applicant. There were two issues here. There's the issue of whether or not there is on site parking and how it can get broken down depending on square footage of each individual needs. They understand that. And I also suggested to them to come back to your board voluntarily to evaluate the issue of the ingress and egress. I explained to them that there have been changes independent of anything that they're doing, a generalized increase of traffic on Main Street, especially in this particular area, and for the uses across the street coupled with the fact that the point of ingress and egress is on a curve there and it might be cyclist's issues. I suggested to them to come back and discuss those issues voluntarily to the board so that it won't become an issue later on, and that's one of the reason that they're here tonight.

Joseph Cosentino: Okay, but I think in all fairness to the applicant, I think the next time you come back you need to give us a mix of what's going there so we can help you out.

Neil Carnow: Logistically, it gets to be somewhat difficult.

Joseph Cosentino: What's difficult? The guy comes he says he wants to rent your building, and another guy says he wants to rent your building, you bring those two and we see what we can do and see what the parking is. Then you know what the parking is with them two.

Neil Carnow: What tends to be difficult is getting those answers on a monthly basis.

Lisa Murray: As opposed to negotiations, it can be very time lengthy and sensitive.

Joseph Cosentino: Well, you know what situation we're in.

Neil Carnow: We understand and believe me we do appreciate it.

Joseph Cosentino: When you get the information you can share it with us.

Doug Hertz: At least traffic and parking.

Joseph Cosentino: We want to get this done for you as soon as possible.

Tony Sturniolo: The other thing is as you go into your traffic research, you are going to find out that there is an expansion project going on very close to your building, and that's the hospital. That's expanding, there are going to be more people working, more patients in and out and a greater desire for coffee and doughnuts and all that. That also kind of has to be addressed, traffic wise.

Neil Carnow: By the way as a matter of indication, it is our understanding that Dunkin Donuts comes under the category of food retail, not fast food.

Joseph Cosentino: I don't know I'm not an attorney.

Neil Carnow: That's what we've been told. Also, we have taken a look at the condition of the ingress and egress to the site and just on a quick basis, if we moved the ingress point it would no longer align with the center across the street, so you'd get this off-staggered condition which we think would be worse. It would move it further into the curb and would also put the access of traffic right at the curb line of the building.

Joseph Cosentino: Repeat that question to our attorney that you just said.

Neil Carnow: It is our understanding that Dunkin Donuts came under the category of food retail rather than fast food, especially since the discussions that we have with them, they have no intent to put in seating. Is that right?

Lisa Murray: Correct.

Whitney Singleton: Let me comment on that. The determination has been rendered by Austin.

Joseph Cosentino: To whom?

Whitney Singleton: Previously, for pizzerias, bakeries and delicatessens. They come under food retail. It's a specific code section, specific parking permission.

Joseph Cosentino: So Dunkin Donuts is not going to be having seats in there, though. Or they're not going to have Baskin Robbins ice cream?

Lisa Murray: No.

Joseph Cosentino: I don't know, I would challenge that.

Whitney Singleton: I understand your concern. There seems to be a fine line between retail and fast food, and the differential required parking is a one hundred percent difference.

Joseph Cosentino: Yes it's a fine line and I have to challenge that.

Doug Hertz: This is a new category, a fast food retail.

Joseph Cosentino: Yes, that's a new one. I'm not happy with it and I'll challenge it, but that's beside the point. Okay is there any other questions here?

Nanette Bourne: The challenge to Austin is - Austin's job and responsibility is to make that determination, and so challenging that is more than just sending back a memo to Austin saying you disagree.

Whitney Singleton: It would be in the event of the actual issue of a building permit consisting of that opinion you would have to file an appeal to the Zoning Board of Appeals.

Tony Sturniolo: Why would you think that it is something you could be faced with down the immediate road? Do you sense a breeze in the air that we may have to go that route?

Whitney Singleton: No. No. Nanette was just pointing out what the proper procedure is. One of the reasons I think there's a whole lot of steam on this thing that doesn't need to be there. I had a lengthy conversation with the applicant, I discussed it with Nanette, I discussed it with the Chairman, and I believed I may have discussed it with the Vice Chair a little bit, one of the reasons the applicant is here is because we want them to be here and they volunteered to be here.

Tony Sturniolo: I disagree. The reason why the applicant is here is that we wrote a memo to the Building Inspector when we got wind of something happening at 487, and we basically said we want to see and know about what is going on as opposed to granting permits.

Joseph Cosentino: That's what happened.

Whitney Singleton: The reason they are here tonight is because I had a discussion with them and I had a discussion with Planning Board members and staff, and they are here tonight because I stressed to them that there are certain parking requirements under our code that are black and white, but that doesn't necessarily mean that they are

sufficient or insufficient. Like when we talked about the Boston Market, and I would agree with you that a Dunkin Donuts does not only good business but it does fast business. There are a lot of cars moving in and out with a Dunkin Donuts. I understand your concerns in that regard, and that's why I discussed with the applicant to come in here and explain their willingness to work with your board and the concerns over egress and ingress and that your board wants to make sure. Not to give them a hard time - which your board wants to make sure that whatever goes in there, individually or collectively, that that site works and functions in Mount Kisco. That's why they are here.

Joseph Cosentino: Absolutely Whitney, we understand that. But as a board we can't function if we don't know what's going to go there. That's the problem.

Tony Sturniolo: Absolutely.

Neil Carnow: Mr. Chairman, I also have one other question that I have to get resolved tonight. In the conversations that I've been having, we've been told the concept as I said in the beginning tonight is to analyze the former uses under the current code. And that number of cars is what will become the threshold number. That number is greater than the 48 cars that are on site. At 1 car per 150 square feet of the least intensive use, you would generate more than 48 cars in the center. So in order for us to be able to have any reasonable expectations of renting all of the space in the center, albeit even with the least expensive or least intensities on the site, we need to have the understanding that we will move forward with the initial content.

Tony Sturniolo: And that formula that was given to you?

Neil Carnow: The formula was analyzed -

Tony Sturniolo: But who said that?

Whitney Singleton: Let's be clear about what I said. They have a pre-existing site at this particular location. And what I told them was under Section 110-38 of the Code, they cannot propose any utilization of the site which would have a higher parking requirement that currently exists at the site. It's the same thing with every other site.

Tony Sturniolo: That makes sense.

Joseph Cosentino: Not know what the mix would be.

Whitney Singleton: Right. It doesn't matter what the mix is, they cannot exceed the parking requirements which exists currently for the uses that were there. That's their threshold. They understand.

Joseph Cosentino: And how many parking spaces are we talking about?

Neil Carnow: We have 48 on the site.

Joseph Cosentino: So you're talking about 48 parking spaces, that's the threshold.

Whitney Singleton: No, no no, Joe. They have 48 parking spaces which was required when they went into the site. Our parking calculations have changed throughout the code, and they would be required to have approximately 81 today. But because they're pre-existing non-conforming, they are allowed to ----- . So they can't exceed the number of parking spaces that are currently used now on the site.

Joseph Cosentino: So how many parking spaces are we talking about, 48?

Whitney Singleton: 56, I don't know what the number is.

Neil Carnow: It could be, depending on how the restaurant space is analyzed, because the restaurant space is analyzed in either of two ways, depending on the intensity. One is on a square foot basis of a customer area; the other is on one car for three seats. That number of persons is determined by the building code requirement for assembling use without fixed seats. So whichever one of those numbers is higher is what your code requires. Whether it's the square feet basis or the number of seat basis.

Joseph Cosentino: What's the pleasure of the board, do you want to go along with that formula?

Doug Hertz: What does it result in?

Neil Carnow: It results in the ability for us to have a mix of tenants.

Doug Hertz: Not conceptually. What specifically? I mean you analyzed your use, what numbers did you come up with?

Neil Carnow: I came up with a maximum of 63 persons.

Doug Hertz: And how many exist on site?

Neil Carnow: 48.

Joseph Cosentino: So you don't have enough parking. I'm confused now, you don't have enough parking. If you come up with 63 and you only have 48 you're short. Am I right, Whitney, or what?

Whitney Singleton: No. It's not clear to everybody here. What 110-38 requires, let me just read it so there is no misunderstanding. *No existing use shall be changed to a different land use or such change would require a greater number of parking spaces than the pre-existing use.* The pre-existing use required – I don't want to get into what their calculations are, because it doesn't matter. Austin does the calculations. Let's just say that the number is 50, and they have 45 spaces. If they had 45 spaces, but their pre-existing use required 50 spaces, they are allowed to continue that pre-existing use of 50 spaces so long as they don't discontinue the use. For a period of a year or more they can go in with a new tenant mix with a parking requirement that does not exceed 50.

Joseph Cosentino: Say he's got 48 approved and he needs 68. Where do you go from there?

Whitney Singleton: No only would that trigger a Change of Use Permit before your board, they can't even do it.

Neil Carnow: As I understand this 60 or 63 or 58 cars replaces that initial number of existing cars on site as the threshold number of cars allowable. It's not what's required, it's the maximum allowable.

Whitney Singleton: We're talking apples and oranges here. How many are you required to have now?

Lisa Murray: 60. Let's say 60.

Joseph Cosentino: No, no. How many are you required now? Let's get the numbers, 48 you said?

Neil Carnow: Analyze the former tenant under the current code let's say 60 cars would be required today. With those same tenants at that same size.

Joseph Cosentino: How many cars do you presently have there?

Neil Carnow: 48.

Whitney Singleton: If he comes in with a use totaling 48 spaces, he's fine. If he comes in with a use totaling 52 spaces he's fine. If he comes in with a use totaling a cumulative parking requirement for 60 spaces, he's fine. If he comes in with 61 spaces, he's dead. No only is he dead in the sense that he has to come back to your board, he's dead in the sense that if he comes back to your board, he physically cannot provide more spaces on the site. The site is maxed out.

Lisa Murray: So what we had hoped to achieve tonight was to find that threshold number so that we can go back and we can say I have this threshold number, and now I need to fit a tenant mix.

Joseph Cosentino: The threshold number is going to be what you have now.

Neil Carnow: The threshold number, if I'm hearing correctly, should be 60. We will meet with Austin.

Whitney Singleton: Austin may come up with a number that says your parking requirement is 55.

Lisa Murray: Right, we're just using a for instance, but there is a differential.

Joseph Cosentino: But Austin can't go over 60.

Lisa Murray: Or whatever number he calculates.

Neil Carnow: The 60 was a hypothetical number for this discussion. What we need to do is sit with Austin and have him with us generate that number. That's the number we will all agree to and to come to the threshold number for parking on the site. That way we can understand as we have interested tenants, whether or not they will begin to generate more parking requirement than what we think we want, and we can start to wean out potential tenants that we know will be problematic for the board.

Lisa Murray: Or only seek tenants that will not be problematic.

Doug Hertz: Whitney, can I just ask you something? If they can find a way to bring Dunkin Donuts in, and it still works numerically for a parking count regardless of traffic; if they're parking stays under the threshold, there is no traffic review?

Whitney Singleton: Under the code, they have not triggered a new review by your board.

Doug Hertz: So the answer is yes.

Whitney Singleton: The answer is yes. And, Doug, unequivocally, yes. This was the primary reason that I wanted the applicant back here before you, and probably what I tried to impress upon them most. There are food retails, and then there are food retails.

Doug Hertz: And there are restaurants whose parking use will dovetail with another use of the site, with non-arriving time schedules. We urge you to look at that, and look at it seriously for your tenant mix.

Neil Carnow: We understand.

Ralph Vigliotti: Our concern goes even deeper than that. Within 50 yards of that restaurant is a crosswalk that allows children to enter the park. On the master plan for the hospital, the hospital impedes there will be more traffic generated. The use that you seek is our concern. Whether you match the 60 parking spaces or not, that use is going to trigger a traffic study. I am questioning whether or not a Dunkin Donuts is a fast food versus retail, and I personally want to get a more definite answer on that. Because that particular use that you may be seeking is going to cause a nightmare there. A nightmare is already there. So be careful what you seek, because it's going to generate even a larger review by this board.

Joseph Cosentino: Thank you for coming.

Lisa Murray: Thank you.

**3. The Richmond Group
272 North Bedford Road
Steve Kiss, representing Richmond Group**

Joseph Cosentino: Alright, the Richmond Group, 272 No. Bedford Road. Would you identify yourself for the record, please?

Steve Kiss: My name is Steve Kiss, and I'm Director of Construction. Mr. Cassidy called me on Friday and asked if we could appear before the board to answer any questions the board may have with respect to the operation of Richmond.

Joseph Cosentino: Tell us a little bit about the operation.

Steve Kiss: Richmond Children's Center cares for developmentally disabled people. We have a main residential facility in Yonkers which houses about 90 people. We have some group homes which house anywhere from 6 to 12 people, and we have a day program which takes care of therapy and education for the disabled.

Joseph Cosentino: How many people are going to be occupying the facility?

Steve Kiss: We'll start with 35 and eventually – we expect it to take two to three years – it will go to a maximum of 70.

Joseph Cosentino: The area you are going to be taking is where the center moved out of?

Steve Kiss: Yes. We're taking the 2nd floor and the 1st floor. The 2nd floor will take care of our day program, which is an educational program, and the 1st floor will house administrative offices.

Joseph Cosentino: How many will be employed there?

Steve Kiss: The administrative offices will be about 30 – 35 people, and the daycare technicians and supervisor to the day care area will start out at about 10 people, and eventually, when we get to 70, we will probably up it to 20.

Joseph Cosentino: So we're taking parking for 80 cars, approximately.

Steve Kiss: It should be less.

Joseph Cosentino: 30, 60, 65, 70, 75, 85 cars - yes.

Steve Kiss: 30 people in administration.

Joseph Cosentino: 30 to 35 to 20.

Steve Kiss: No, 30 -35 in the administration; that's going to stay the same. The 2nd floor, which is the day program, as far as employees are concerned, will go from approximately 10 to 20. So you're looking at 50 – 60.

Ralph Vigliotti: How will the children be transported?

Steve Kiss: We will operate handicapped vans. We go into the homes, pick the children up, and some of our own group homes will transport the children from that particular group home to the facility and then leave the facility and go back to the home.

Tony Sturniolo: And where do the handicapped vans park at the conclusion of the business day?

Steve Kiss: We've designated – I didn't have a chance to get a large scale site plan, but I did try to mark one up so to give you an idea – we expect that 8-10 vans would be parked. We're not 100% sure of that.

Joseph Cosentino: The vans would need a parking lot to load and unload.

Steve Kiss: Load and unload. You can see we've created a 2nd entrance to the 2nd floor. Right now there is currently one entrance onto the 2nd floor area. We've created another entrance on the other side of the building, so as the vans come in, we will utilize both exists as loading and unloading. We anticipate that any vans that will be lined up ready to go will be lined up within the parking lot.

Joseph Cosentino: Is this building approved by the State for the handicapped?

Steve Kiss: Yes. Our renovations will also further meet those regulations.

Joseph Cosentino: Including bathroom, etc.

Steve Kiss: Bathrooms are accessible, we're putting in on the 2nd floor down at one of the building, there's a 3-4 step differential in elevation. That will be removed, that will be ramped. There are ramp entrances from the outside in.

Joseph Cosentino: And Austin has a set of plans for this?

Steve Kiss: Austin has these plans; we've submitted them quite some time ago.

Ralph Vigliotti: Will you be taking over the whole building or just a portion?

Steve Kiss: We will have about 30,000 square feet, the spa and the school will stay.

Nanette Bourne: Will that totally occupy?

Steve Kiss: Yes, I believe that will.

Ralph Vigliotti: And what would your percentage be rather than square footage?

Steve Kiss: I'm not sure what percentage the building is; at least half.

Nanette Bourne: But it's the same percentage as –

Steve Kiss: As what the council agreed on. We're taking space that they had and utilizing it in its entirety.

Tony Sturniolo: Does our code provide for this medical use?

Steve Kiss: We believe so. I believe our architect has had conversations with Mr. Cassidy, and I believe we complied with your zoning.

Joseph Cosentino: Whitney, that complies with the code? Richmond, the facility?

Whitney Singleton: I only see the correspondence that they put in. I haven't conducted any analysis on sufficient parking and everything else.

Nanette Bourne: Austin's analysis is that it's an educational use replacing an educational use. Your issue concerning this being a medical use – do you provide medical treatment?

Steve Kiss: No. It is a day program. Its training, its therapy, similar to daycare. Trying to teach them how to feed themselves, stuff like that. There is no medical facility; there is no physician on staff. We do have a nurse on staff in the event of an emergency, but the staff is what we call direct care supervision, hands on teaching, various exercises; no medical.

Tony Sturniolo: We mentioned Datahar, then there's 120 Kisco Avenue, and there is A Home and Ability Beyond Disability and a host of others. What's your business plan? Why Mount Kisco? Why do you see this as the location?

Steve Kiss: We are currently located in Yonkers. That's where our main facility is, and our group homes are starting to be established. We have a group home on Chestnut Ridge Road in Mount Kisco, we have a couple in Yorktown, we're building one in Peekskill, we have one in Ossining, in addition to our southern tier, and we're looking to move more up county so we will be able to service our area a little easier. Actually, we are a little cramped for space at our main facility, and that's part of the program of the administration by moving some administration out and turn over some existing administrative space to be used for programming for the people who will be left in the Yonkers facility. The ultimate goal is to bring the Yonkers facility down to sixteen people so that we can get down to two people to a bedroom instead of three by giving them more programming space. So by moving administration up here – and actually what happened is that this building and the space kind of just fell into us – and worked because of the studios up by the 2nd floor, the only thing we're doing to those at this time is putting in hung ceilings and making them aesthetically a little more pleasing. Utilizing those large rooms; it's very difficult to find space, because a lot of our people are in wheelchairs, so we need mobility and space for them to get around.

Tony Sturniolo: What are the hours of operation?

Steve Kiss: The school is going to be normal school, 8:30, 3:30.

Tony Sturniolo: Monday through Friday?

Steve Kiss: Yes. And administration will be the same as regular office hours.

Joseph Cosentino: Now, they are going to have schooling upstairs in wheelchairs, right?

Steve Kiss: Correct. Some of them are ambulatory, most of them are not.

Joseph Cosentino: They have elevators there?

Steve Kiss: Yes.

Joseph Cosentino: What I would recommend is that you call the local ambulance corp. and find out if a stretcher will fit in the elevators.

Steve Kiss: There is direct access from the rear parking lot to the 2nd floor where the therapy areas will be. There will be no therapy on the 1st floor; it's all on the 2nd floor.

Joseph Cosentino: So if an ambulance came, you could roll them right out to it.

Steve Kiss: Right out. We have the wide automatic doors; all of the doors on the 2nd floor are being changed to a 36" width.

Joseph Cosentino: So you're not taking them down any stairs?

Steve Kiss: No.

Tony Sturniolo: Are there exterior activities?

Steve Kiss: We take them out of the building on exterior activities. There are recreational trips. Some people who get around a little bit better are taken to in some instances a "Y" type of recreation.

Tony Sturniolo: Via the buses, or whatever?

Steve Kiss: Yes. Those same vans that will bring them in and out morning and afternoon could be utilized during the course of the day to take them on field trips or what have you. We do try to get them out as much as possible so that they're not locked in.

Tony Sturniolo: Do you anticipate any residency in this building?

Steve Kiss: No, absolutely not.

Tony Sturniolo: No night watchman, nothing?

Steve Kiss: No. The building currently has an alarm system and a fire alarm system. We may have maintenance or cleaning personnel up to a certain time.

Joseph Cosentino: Okay, any other questions?

Nanette Bourne: The reason why they are here was that Austin was making a determination that this was an educational use replacing another educational use.

Joseph Cosentino: If that's his determination, that's his determination.

Nanette Bourne: Then they would not be coming back before us.

Joseph Cosentino: No, they will not be coming back before us.

Steve Kiss: Then our understanding was pending this approval; the building permit application would be processed further.

Nanette Bourne: Yes. This isn't an approval, it's just an acknowledgement.

Steve Kiss: Thanks a lot.

**4. Memorandum from Ashley Ley and Nanette Bourne, Dated: June 26, 2006
Re: Planning Board Procedures**

Joseph Cosentino: Nanette is there anything lengthy on Ashley?

Tony Sturniolo: There is a lot that we held off to discuss about the procedural memo.

Joseph Cosentino: Do we want to do that tonight?

Tony Sturniolo: I think we should because it's the stepping stone for how we are going to continue to conduct our business. And we agreed at the last meeting that we were going to take the memo, bring it back and everybody is going to bring their comments to the board.

Joseph Cosentino: Brad, are you here for anything? I don't want to hold you till the end.

Brad Schwartz: I appreciate that Mr. Chairman. There are two letters at the end of your agenda tonight, one regarding the Lexus Application.

Joseph Cosentino: I'm not going to entertain it. It's correspondence, we got the letter, and we'll read it. I'm not going to get between you and two people. That's from Toyota?

Brad Schwartz: Yes.

Joseph Cosentino: I'm not going to entertain that.

Brad Schwartz: That's fine. And the second letter was regarding Crème.

Joseph Cosentino: Okay that's different. That's correspondence. We'll read that and get back to you on that.

Brad Schwartz: Okay fine. I appreciate that.

Joseph Cosentino: Okay.

Tony Sturniolo: Regarding the memo. I hope I'm not the only voice here, because we all said at the last meeting we're going to discuss this. The first line says *application fees and escrow fees shall be consolidated on a single table and examined*. My rhetorical question is who is going to do the examination, and how is that going to be done? We attempted that escrow fee examination and permit application fee, and I think you even wrote a memo to various staff members –

Joseph Cosentino: I'll be honest with you. There is a lot of these questions that you're going to be asking that I have no answers to, and I don't think anybody here does have any answers to them because nobody came back with them.

Nanette Bourne: I think the first thing is maybe for an agenda item is just to bring all this stuff, and consolidate it for us all to work at and see what makes sense.

Joseph Cosentino: They've taken everybody away from us, Tony. We don't even have Nancy anymore. We've just got taking minutes and that's it.

Nanette Bourne: So if you'd like for our next meeting, I can assemble all of the fees so you can look at them and see if they seem rational.

Tony Sturniolo: Well, okay.

Joseph Cosentino: I spoke to Jim and said Jimmy; you're taking everybody away from us. How are we supposed to function?

Tony Sturniolo: Well, then looking at the final action, I have a concern about when we talked about the planning board shall retain the discretion by the first Monday, how do we insure that that is not going to be abused by an applicant or, rubber stamped that it can always come in late without some stronger language in there? That's one thing. And then the other thing is at the beginning of that paragraph where we talk about additional material requested by the Planning Board for final action must be submitted 15 days prior, etc., I think the applicant needs to write a justification memo to explain why things may come in a little bit late. I think that needs to be incorporated in that paragraph, and then, the same thing on page 2, where it goes continuing review for small minor applications. I think we need a justification memo attached to it so when something comes a little bit late, not done on a regular basis, we have an explanation why the Planning Board shall retain the discretion, and we have an explanation of why the Planning Board needs to exercise that discretion. Under Conceptual Review, I still get the feeling that all the applications are different – the forms – some forms on the internet look one way. If you go downstairs to the Planning Department and pick up a form it's a different form. I think we should have consistency between the hardcopy forms that an application picks up and what the applicant can download from the website.

Nanette Bourne: The conceptual review forms had not been on the internet until recently. I will check with Nancy if she has some old forms that need to be replaced.

Tony Sturniolo: So we have consistency; outstanding violations and fees. The Planning Board will not see any application that has outstanding violations from the Building Inspector or Village Engineer. It's fine to say that, but where's the meat, where's the guts behind it, and how do we achieve the fact that we will not see any application that has an outstanding violation.

Nanette Bourne: I have a question on that. Tonight you looked at Bank of New York that had an outstanding violation. They were told to come in.

Tony Sturniolo: Right, right. Good example.

Nanette Bourne: So it becomes a chicken or the egg, because you don't want them to fix their violation – they can't fix their violation without getting an approval. So you do want them to declare this as a formal application, right?

Tony Sturniolo: Absolutely. But where we say we will not see any application that has outstanding violations, I think maybe that language needs to be explained a little greater to site an example like tonight.

Nanette Bourne: So where is that line?

Tony Sturniolo: I don't know. I'm just throwing it out to all of us. Somehow we need to achieve the mechanism to be able to address what we saw tonight versus somebody who blatantly violates.

Whitney Singleton: I think you can follow that, Tony, by saying unless the subject of the application, the purpose of the application is to address the regress, the outstanding violation.

Tony Sturniolo: Well, you could.

Whitney Singleton: That's not the only one. We had Premier in here and then we were --
-----.

Tony Sturniolo: Right, and that can become a double sided sword, too, where somebody gets a violation from the building inspector, you did this, this and this is wrong – and you are supposed to stop it immediately, but if you call the Planning Board and ask to put them on their agenda, then it immediately goes away. My thinking is not to make it that loose that you negate or water down a summons or violation that they receive.

Whitney Singleton: I understand your position.

Tony Sturniolo: And then at the last paragraph: setting the Planning Board agenda regarding the first sentence. I think it's something that staff will review upcoming potential agenda items at that bi-weekly meeting, and I would like to see the word potential in there, just so it doesn't appear to be automatically cast in stone. Because ultimately, the chairman will say yay or nay as far as what goes on the agenda, but if we could insert potential agenda items. Anyway, those are my general thoughts and I'm more than willing to obviously listen, discuss them and whatever everybody else has to say.

Doug Hertz: Not to comment on yours, Tony, but I had one thing, which is I'd like to be able to see when a formal application comes before us, I'd like to be able to see prior resolutions and prior site plans for that site, because often times there are constraints that have been put on the site that we are not aware of. Unless Austin happens to stumble across them, or the applicant voluntarily brings them forward, we often don't know.

Nanette Bourne: You want to see the site plan of record?

Doug Hertz: Yes.

Nanette Bourne: Some of them are unavailable and some have been put in storage. I can find out how difficult the process is in getting them.

Doug Hertz: I'm not saying that this has to happen; I'm just offering this out as a discussion point.

Tony Sturniolo: It's a valid point so we know where the baseline is, what's been approved, what hasn't been approved before you continue a conversation.

Nanette Bourne: I think that's a good idea.

Doug Hertz: Obviously on very old projects, it's going to be a bit of work. It seems, too the applicant probably has them, and the applicant could probably provide all of that, although do we trust the applicant to provide the village's official information? I don't think so.

Joseph Cosentino: Alright. Anything else? Nanette, I'm going to put this on for the next agenda so we can do it again.

Nanette Bourne: So I'm going to make the revisions that we talked about tonight or what would you like me to do with this?

Joseph Cosentino: Make the revisions. We'll just get them the next meeting.

Correspondence:

Minutes of the Beautification Committee

Joseph Cosentino: Under correspondence, minutes of the Beautification Committee, letter from George Grenier. I have a problem with that letter.

Tony Sturniolo: So do I.

Joseph Cosentino: The last – curtail the advertising of birthday parties. We need a letter written to him saying to cease all birthday parties. He puts down to curtail advertising of birthday parties.

Tony Sturniolo: He said he didn't know. We made it perfectly clear.

Joseph Cosentino: He knew perfectly well what we said.

Tony Sturniolo: He agreed. He stood there and shook his head yes.

Joseph Cosentino: It was Mr. Vigliotti. It was in the minutes that said no birthday parties.

Ralph Vigliotti: I don't think I said that.

Joseph Cosentino: Yes, you did. It's in the minutes.

Tony Sturniolo: I remember him shaking his head that he knew about it and he agreed.

Joseph Cosentino: It was you.

Ralph Vigliotti: It was me?

Joseph Cosentino: Yes. You say a lot of things.

Ralph Vigliotti: Did I say no birthday parties?

Joseph Cosentino: Yes, you certainly did. So a letter has got to be sent to him saying, I don't know how you want to word that, Whitney to make it strong. Whitney - on Grenier? We need a letter sent to him saying absolutely no birthday parties. He's at Cortio Advertising. He has to know that he can't have any. Okay A & P Market. We have pictures of that – I guess that's being taken care of by Code Enforcement.

Tony Sturniolo: Mr. Chairman, I have a question on that. Whitney, what's your take on that report? It surely is not your responsibility to address it, but it doesn't go to the meat and potatoes of what we've been struggling with at Mount Kisco Commons since last January. What do you think the purpose of those pictures are?

Whitney Singleton: To document the violation.

Tony Sturniolo: And what about all the other violations? In other words it's the only one that the Code Enforcement Team found?

Whitney Singleton: The violation on this particular one, where it was sent - a copy of a particular thing, I don't know who decided to put it in the agenda. I have no idea. I don't know – who did it come from? I don't know if it's Patti Tipa.

Tony Sturniolo: Yes, why is it here? And hopefully it's not to placate the Planning Board with other issues at that location.

Whitney Singleton: I am pretty certain that Ron Buxton did the inspection. Somebody crossed it out and said refer to the Planning Board Secretary. I'd have to confer with Nancy on that. But certainly it constitutes the violation of their existing site plan. They should be given a Notice of Violation and they should be prosecuted.

Tony Sturniolo: How does this document and pictures go from our packet to somebody who is going to issue the violation?

Whitney Singleton: It shouldn't ----- of the packet, to the preparation for those in violation signed by the Building Department. And if the violation is not corrected, the prosecuting -----.

Tony Sturniolo: Without any input from the Planning Board? In other words, that's something that automatically that should take place.

Whitney Singleton: Well, hopefully we've dropped in a resolution --- they can determine the violation without having to ask -----

Joseph Cosentino: As of yesterday, some were still out there.

Doug Hertz: So is this on here just for informational purposes for us?

Whitney Singleton: I don't know.

Tony Sturniolo: Whitney, what about the violation of Appleby's, what's happening?

Whitney Singleton: Austin has identified to Appleby's that, what they are doing there with both the signage and with the **inaudible** for a lack of a better term, or do not violate the site plan **inaudible** rectify the situation immediately. And he has written to them that they are **inaudible** can cease to operation **inaudible** in that regard.

Stanley Bernstein: They haven't ceased their operation?

Tony Sturniolo: Not as of tonight.

Whitney Singleton: The building inspector needs to issue those violations.

Tony Sturniolo: And he said that two weeks ago, he was ordering immediately. Once again, I get hung up on what's the mechanics to achieve good government and the communication paths.

Joseph Cosentino: Alright, a letter from Anthony Chiappinelli to me and a Planning Board date of June 21, 2006 and the construction of 363 North Bedford Road, Sleepy's. A letter from Brad Schwartz to me and the Planning Board dated June 27, 2006, got a traffic analysis; a letter from Brad Schwartz to me and the Planning Board dated July 5, 2006 regarding Crème de la Crème, approval for agenda by Whitney Singleton with explanation. That's all I see.

Tony Sturniolo: Mr. Chairman, I make a motion that we close the meeting of July 11th.

Stanley Bernstein: The minutes are a draft and they are not complete as yet. But they will be.

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

Ralph Vigliotti: I'll second.

Joseph Cosentino: Second by Mr. Vigliotti. All in favor: All: Aye.

Meeting adjourned at 10:20 pm.

Respectfully Submitted By,

Stanley Bernstein
Board Secretary