

Minutes  
Meeting of the Planning Board  
Regular/Work Session  
Village/Town of Mount Kisco  
Tuesday, October 11, 2007

Meeting called to order at 7:55 PM, Tuesday October 11, 2007, Municipal Building Mount Kisco, New York.

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

**Members Absent:**            **Ralph Vigliotti**

**Staff Present:**                **Nanette Bourne**  
   **Anthony Oliveri**  
   **Whitney Singleton**

**Final Action:**

**Pure Indulgence**  
**305 (293) Lexington Avenue**  
**PB2007-13**

**Present:**            **P. Daniel Hollis III, Shamberg Marwell Davis & Hollis**  
                                 **Joan Terrell**  
                                 **Ray Terrell**  
                                 **John Martabano, on behalf of the Landlord**

Chairman Cosentino: We have a resolution before us for Pure Indulgence.

Daniel Hollis: We have an exhibit for you this evening. This is an exhibit of what we hope to expect if a resolution is favorably considered.

(The exhibit consisted of two table centerpieces made of chocolate and other confections.)

Doug Hertz: I have a note within the resolution on the second "whereas." The square footage of the resolution doesn't match the square footage that is listed in the letter from Robert Davis.

Daniel Hollis: 1850 is the right square footage.

Doug Hertz: And a couple of times in the resolution the number 1716 is referenced.

Nanette Bourne: We asked that to be clarified because we took it from the previous resolution.

Doug Hertz: Right. There was an office that was going to be taken out of it.

Daniel Hollis: There was going to be an office there for our own use and we gave that up at or before the end of the fitness application.

Nanette Bourne:        So the official square footage is?

Daniel Hollis: 1850 for Store Seven.

Doug Hertz: So that comes up in the second "whereas" and then further on in number six.

Joseph Morreale: Does that at all affect the parking?

Daniel Hollis: We made our calculations based upon the area of use. When we did our evaluation of that we used 1850 I believe as to the number. The total number of spaces there remains the same regardless of the number of square footage.

Doug Hertz: It wasn't the building size that changed; it was the allotments of where the dividing walls essentially were. Nevertheless, an amount of parking was designated per store.

Joseph Morreale: It says Store Seven - twenty spaces. So even with the square footage adjustment it doesn't matter.

Daniel Hollis: You can make an adjustment if you wanted to just for a baseline purpose and make that the total number required would then be twenty one and change; thereby making it twenty two. The issue remains the same. The overlap is the important issue. I have no problem with you changing the resolution in that regard.

Vice Chairman Sturniolo: I would like to see, Nannette, in the resolution that we incorporate predicated on the fact that the parties are going to be limited to weekends and school holidays when the banks are closed, and the parties are not to exceed two hours, and the parties' attendance shall not exceed fifteen children. I'd like to see incorporated in the resolution that there is only one bathroom to be used.

Ray Terrell: We have two bathrooms.

Vice Chairman Sturniolo: I understand that. But I'd like to see one bathroom only, not the availability of two.

Daniel Hollis: In other words during the parties only one bathroom would be available for the party goers?

Vice Chairman Sturniolo: No, one bathroom at all times.

Richard Torres: Why?

Chairman Cosentino: I think Austin said as long as they are serving food there, they need a "his" and a "hers."

Ray Terrell: The Health Department requires that.

Daniel Hollis: I would have thought you might have wanted it the other way. I thought where you were going was because there are a bunch of little kids using the bathroom, you wanted one remaining adults and staff only so people could go wash their hands in between events.

Vice Chairman Sturniolo: No, the other way around.

Daniel Hollis: I understand that now but I do not understand the reasoning.

Chairman Cosentino: Because there is a counter there.

Vice Chairman Sturniolo: But the second bathroom has an impact on either parking or the availability of seating inside the restaurant.

Whitney Singleton: Under the Board of Health requirements you have to have a second bathroom whenever the occupancy in the store exceeds nineteen. If you have one bathroom you cannot have seating for more than nineteen people. So the bathroom does actually limit or confer the ability to go beyond that threshold.

Daniel Hollis: The use of the space for the bathroom cuts down the ability to use the space for something else, too. If it's bathroom space, it can't be used for table space.

Vice Chairman Sturniolo: Whitney, does the bathroom space drive the parking issue, which is really what this whole subject is about?

Whitney Singleton: The bathroom does not drive the parking. What drives the parking is a combination of the square footage which is not going to change regardless of what's there and the capacity for seating. The capacity for seating goes up one parking space requirement for every three seating capacity. So by virtue of having a bathroom you can seat people. That's what you're getting at.

Daniel Hollis: But the bathroom itself is not the breakpoint, the space for the bathroom doesn't allow us to get over nineteen. We already have the space for the number of people that would require two bathrooms.

Whitney Singleton: What happened, Dan at the last meeting - the plan shows tables; it doesn't show chairs. We were trying to figure out what the seating capacity was of this facility because that's how we calculate what your parking requirements are. And what Bob had done was just assume that there would be a maximum seating capacity at every table, and that's the way the resolution had been drafted was to show seating for 32, but you never represented what the actual seating was going to be.

Daniel Hollis: We'll commit to it being no more than 32.

Joan Terrell: That's right.

Whitney Singleton: That part is fine. The question is whether or not that's too much for what the Planning Board is looking at.

Daniel Hollis: I went through Bob's notes of the meeting and our application and what we submitted, and I think that you have a concern in this center, if the three stores weren't utilized by the bank. The bank's presence for three stores is the driving force. Hollis' first theorem of parking is that it's bi-lateral. Parking drives utilization and utilization drives parking. If there is not a proper balance then people don't utilize it. If there is not parking people won't utilize, and then there isn't a parking problem. But in this case, because of the overlap of uses; I ate dinner there tonight at Basilico to make an accurate representation. A lot of traffic in and out of Basilico, take out stuff, bank closed. I think there was a class at the Pilates, and there were one or two women in the nail salon. Our own observation and the study we had done and just any observation any of you might make, is that nearly at any time that you go there, even at times the bank would be the busiest, we still have 40% available of the 57 spaces that remain available for parking. You never find parking in the back, ever, unless one of the employees of one of the stores is using it. The bank people even park in the front, by my own observation. So I think that I would be concerned that you would have a concern about the parking, but for the mix of uses. The mix of uses in this particular shopping center is luckily for us, appropriate enough, so that there will never be a drain on the available spaces.

Vice Chairman Sturniolo: Tonight was a rainy dark night when you were there. You've been there obviously for lunch. Do you find that the striping on the parking lot is easily visible, the parking spaces?

Daniel Hollis: I'm having cataract surgery next Wednesday, so the answer for me might not as it might be a week from now. But I've not observed it to be honest with you one way or the other. I'm not there at lunch as often as I am at night. We can re-stripe it. We're glad to re-stripe it.

Vice Chairman Sturniolo: Does it appear, JR, to you to need re-striping?

John Martabano: We've been re-striping our shopping centers and our properties routinely. I've complained to my brother about his lack of quality paint, we're not getting two years out of a stripe job lately, but if you want it striped that's not a problem.

Vice Chairman Sturniolo: Just clean it up, freshen it.

Nanette Bourne: Do you want me to add that as a condition?

Vice Chairman Sturniolo: Can we add that as a condition to the Change of Use Permit for this specific location? Only because the re-striping encompasses the entire site plan.

Daniel Hollis: We'll agree to it.

Whitney Singleton: They've stipulated to that.

John Martabano: We'll do the whole lot.

Daniel Hollis: We're not just going to do 32 spaces.

Vice Chairman Sturniolo: Mr. Terrell, do you intend to have, forget outside dining, but a stool, a seat, a chair a triangular something, a stump of a tree, a milk crate out in front of your establishment?

Ray Turrell: No.

Joan Terrell: No.

Ray Turrell: The space between the door and the stairs is very narrow.

Daniel Hollis: Do you want an added condition in that regard? That's fine; just to safeguard it so everybody knows the rules. That there will be no seats provided outside.

Vice Chairman Sturniolo: No seating of any type outside the establishment, and it's an issue over and above permitted or non-permitted outdoor dining permits. Is that fair to you?

John Martabano: Their particular operation doesn't really require it, that's fine with me.

Daniel Hollis: If God forbid eight, ten years from now I'm back because the bank is gone at the end of their lease, and we have something going in there that wants outdoor dining; that's a different issue. So this is not a prohibition against it there, in the center, ever, it's with regard to this use, for this store at this point.

**MOTION to make a negative declaration as to the impacts Vis a Vis SEQRA on Pure Indulgence's application.**

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

Vice Chairman Sturniolo: Mr. Chairman, regarding the Motion regarding the resolution of approval for change of use permit for pure indulgence at 305 Lexington Avenue, filling in the dates associated with numbers three and four, and we've already incorporated an additional condition pertaining to outside seating, and predicated on that, I will make the motion.

Doug Hertz: That would include the changes we've discussed earlier.

**MOTION that the Planning Board approves the resolution for a change of use permit for pure indulgence at 305 Lexington Avenue.**

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

Chairman Cosentino: Good night and good luck.

**Final Action:**

**134 Main Street  
Isidoro Albanese  
PB2007-06**

Present: Clifford Munz, Architect, Munz Associates  
Isidoro Albanese, CEO, Bellizzi

Chairman Cosentino: I had a couple of questions. This is something that this board doesn't do but you're going to have to do in any event. Did you actually talk to the people next door? I'm sure they know you're going to put up a building.

Isidoro Albanese: Its new owners, now. It was sold. Even the people at the restaurant haven't even contacted the new owners. They don't even know where they are, they don't have any telephone numbers. I talked to Joe previously, but the new owners, I don't even know who they are. I left a message with Joe.

Chairman Cosentino: This board really has no jurisdiction of how you do that, but as a neighbor so you don't start putting something up and the guys says, hey what are you doing, and he gets an injunction.

Isidoro Albanese: I have a message for them to give me a call.

Vice Chairman Sturniolo: When did you leave the message?

Isidoro Albanese: A couple of days ago. We went into the restaurant and asked the people in the restaurant, because we did an inspection downstairs, and asked if they had the number.

Vice Chairman Sturniolo: Does Village Hall have the name of the new owners on the tax roll?

Isidoro Albanese: I think they closed because they said it was sold but they don't know who the new owner is.

Whitney Singleton: I have the name of the new owners. I don't have it here.

Chairman Cosentino: Also, Martabano on the other side. Of course you have to notify the Village and get a permit anyway.

Doug Hertz: The only thing that I thought was an open question was the parking in Blakeby because that shifting – doesn't that require Village permission? Where does that stand?

Clifford Munz: Please clarify, I'm sorry.

Doug Hertz: Aren't you shifting the two spaces?

Clifford Munz: Eliminating one. There were four. Eliminating one that would give you four in the front.

Doug Hertz: Whitney, because their design eliminates a spot in Blakeby, which isn't theirs, what is the procedure? Let's say we approve –

Whitney Singleton: I have to plead ignorance. I wasn't aware that they were removing any spaces. I thought they were using an existing permit.

Vice Chairman Sturniolo: Can we open up the plans and see?

Whitney Singleton: I'm looking at it now.

Isidoro Albanese: It's not on the plans.

Whitney Singleton: I thought there was an existing curb cut that they were using.

Clifford Munz: The curb cut is there, but in order to make the sweep in the crosswalk, you have to make that sweep out there to be able to see left and right to develop that one spot.

Isidoro Albanese: But we're getting rid of that curb cut in the back on the other side.

Clifford Munz: There's only one now.

Doug Hertz: My question, Whitney, is what's the procedure?

Whitney Singleton: They would need to petition the Village to do that.

Chairman Cosentino: Don't you have the cart before the horse now? How can you approve a set of plans and then they have to petition the Village?

Whitney Singleton: This is the first I'm finding out about this.

Chairman Cosentino: I know that. It's a matter of a question. I have a draft resolution before us, and the question that, rightfully so, Doug brought up, is that if they have to go through the Village Board to eliminate a spot, you can't really approve a set of plans that the Village Board never approved of to remove the parking space.

Doug Hertz: Or did we approve them, and their building permit is held up pending Village Board approval?

Nanette Bourne: You either can send them to the Village Board and get permission to come back, which is what you've done in the past, or you can make it a condition that prior to the issuance of the building permit you need to get –

Chairman Cosentino: Don't you think this should have been done before?

Whitney Singleton: Absolutely. Unfortunately this is the first I've seen it. I don't generally read plans.

Clifford Munz: It's always been there.

Whitney Singleton: I don't generally read plans.

Isidoro Albanese: We even had the option up here where we're getting rid of this curb cut to put that back over there but we said lets leave that room there for them to lose one, we would be shifted.

Chairman Cosentino: Yes, but it's changed now.

Whitney Singleton: That's not your property.

Chairman Cosentino: You can't do something to somebody else's property, and it wasn't brought to our attention. Now that it's brought to our attention it creates a problem, because I can't have this board approve a set of plans that the Village Board doesn't approve on Village owned property. It wasn't brought to our attention.

Vice Chairman Sturniolo: Mr. Chairman, we went through a similar situation regarding Village Board permission, although it's not a parking space, and that dealt with 29 Carpenter Avenue when the applicant wanted to do something on Village property. Before anything was approved they had applied to the Village Board for a request, the request was granted, and then subsequently they were allowed to proceed. The methodology is the same, the issue of parking space versus what took place at this other location is different, but the methodology is the same.

Chairman Cosentino: Our hands are tied.

Isidoro Albanese: If everything is out here, can we just do everything else inside except for this which is going to be done at the end anyway?

Chairman Cosentino: I can't have this board approve something, and if I'm wrong, Whitney, correct me, but I can't approve a set of plans telling them they can go ahead and do what's on the plans, if in fact, they can't.

Whitney Singleton: They won't have access to the site.

Chairman Cosentino: I don't think he'd be issued a building permit.

Isidoro Albanese: Since we're giving them four spaces in the front and one in the back, why wouldn't they okay it?

Chairman Cosentino: It doesn't make any difference.

Doug Hertz: I'm sure they will be okay, but we can't okay it for them.

Isidoro Albanese: When is the next meeting?

Whitney Singleton: The 22<sup>nd</sup> of this month.

Isidoro Albanese: So why don't we make it contingent on them doing this? So this way we don't have to come back next month and lose the whole winter.

Chairman Cosentino: Understand something. This board has no authority of approving Village owned property unless it goes to the Village fathers.

Isidoro Albanese: But I wouldn't approve that.

Chairman Cosentino: I'm approving a set of plans and it's on the set of plans. I want to do it for you, really, but I can't.

Isidoro Albanese: But at the same time I am able to put in for my permits, which is going to take at least two weeks.

Chairman Cosentino: You're not going to get any permits for it.

Isidoro Albanese: I won't get the permit before that, and his permit is going to be contingent on me...

Chairman Cosentino: No he's not going to give you a permit contingent on that.

Isidoro Albanese: I know that. But he won't give me the permit and I won't start any work until the Town Board on the 22<sup>nd</sup> gives me permission.

Chairman Cosentino: That's right. Then you have to come back before us. That has to be changed on the plan.

Isidoro Albanese: Then we lose another whole month.

Chairman Cosentino: I can't approve a set of plans taking Village owned property.

Clifford Munz: In two weeks you meet again. We've all had a few months on this thing. It's a work session, which you don't normally vote on. We can go to the board and talk to the Mayor; we'll talk to whoever you want.

Chairman Cosentino: Honestly, I don't think you're going to have it approved next week.

Clifford Munz: In the next two weeks?

Chairman Cosentino: I don't think they're going to approve it at the next meeting. I think this is going to have to go before the Village Manager, the Village Manager is going to look at it, and the Village Manager is going to recommend to the Village Board and that's going to take a month. I'm not going to promise two weeks on this, I don't think it's going to happen in two weeks. As much as I'd like it to, I don't think it is.

Isidoro Albanese: I have everybody lined up, and if we don't get this done this thing doesn't happen this year.

Chairman Cosentino: But you don't want us to do something illegal on our side. We can't do it. I can't approve a set of plans giving Village property away.

Isidoro Albanese: On most resolutions there are always contingencies.

Chairman Cosentino: Contingencies on something that we can handle here.

Isidoro Albanese: But that's something for me to do, and if I don't do it then I have to come back next month or next year.

Whitney Singleton: If they get on the agenda for the Village Board for the 22<sup>nd</sup> of October, what kind of lead time are you going to want before your board sees this again?

Chairman Cosentino: We'll make the recommendation, we'll help. When he gets the approval, have him call Nancy and Nancy will contact us.

Nanette Bourne: I think what Whitney is saying is if for some reason on the 22<sup>nd</sup>, they are successful in getting the approval from the Village Board and they arrive here on the 23<sup>rd</sup> – the only thing that would be new would be a letter on the 23<sup>rd</sup> which would be the same day. It would be unprecedented for the Planning Board to get a piece of information on the day that they meet.

Vice Chairman Sturniolo: The timing is incorrect for the Planning Board.

Isidoro Albanese: If I can get it done, can we do this? If I bring it to you that day when you guys have your session and you vote on this at the same time as we are here tonight, and we go through everything as if we're going to vote on it, just to make sure that we have everything in place, too.

Vice Chairman Sturniolo: That's like a straw poll.

Isidoro Albanese: I know there were some engineering questions. I want to make sure that everything from him is okay. I don't want to come back here and they say well, we're missing this little puzzle piece.

Chairman Cosentino: I can't blame you one hundred percent for this. This board should have been notified, or it should have been brought to our attention that that was happening.

Vice Chairman Sturniolo: That's the onus of the burden of advising the Planning Board is with you because you're doing something on property that you don't control and the Village Board controls.

Isidoro Albanese: But we said that we're eliminating one space here and we're adding three spaces here.

Vice Chairman Sturniolo: But trading doesn't give you the empirical right to do something on Village property without permission.

Isidoro Albanese: But I thought we were getting permission here.

Vice Chairman Sturniolo: You thought from whom? We can't give you the permission.

Isidoro Albanese: During the planning, if there was something we can't do –

Vice Chairman Sturniolo: This board is not empowered to do that. The Village board is empowered to do that.

Joseph Morreale: It sounds like there are two things we are being asked to do. One is to take on a proposal during a work session and secondly to do a very quick review of something we get the same day.

Why don't we just put it off until the 13<sup>th</sup> of November?

Vice Chairman Sturniolo: Absolutely. I agree with you Joe. I have a list of questions.

Isidoro Albanese: If we're only here tonight, and basically we were ready to vote on this resolution tonight.

Joseph Morreale: But we can't.

Isidoro Albanese: Right. So, if we get to the point as if you were going to vote, tonight, basically we are going to take ten minutes of your time on the 23<sup>rd</sup>, whenever the meeting is, for you to just say, "yes."

Chairman Cosentino: I'm going to have to do this and I'm sorry. I don't want to have to table this. If I table this it's going to take you two months for you to come back. I'm putting this off until November 13 because that's a regular session and we can approve it. There is nothing else I can do to make it sooner; I wish I could. If I do this here, I have to do it for every other applicant that comes before me, and I can't do that. If I can help you out here, I would do it. I can't. It's impossible. I'm going to put this down for November 13. That's the way it has to be. There is no other choice. I wish I could do something different, but I can't. My hands are tied.

Isidoro Albanese: So on the 22<sup>nd</sup>, if I get permission from the Board or before it to do this, you're telling me that I can't – all the information is here for you guys to read.

Vice Chairman Sturniolo: There is also a lead time for the meeting of the 23<sup>rd</sup>. November 27 is work session. Everything needs to be submitted by November 13.

Isidoro Albanese: But everything is here already.

Vice Chairman Sturniolo: It's not here. There are a lot of other things. November 13, which means that the work session, you can't vote on it, so the voting would be at the next regular session, which would be December 11?

Stanley Bernstein: The very next meeting this month is work session. The first meeting in November is a regular.

Vice Chairman Sturniolo: And that's when it can be voted on. But the submission for that November 13 has to be October 24. So that means whatever you need to do with the Village board needs to be submitted to us by the 24<sup>th</sup> of October.

Nanette Bourne: So that would mean if you were successful on the 22<sup>nd</sup>, you'd have to have a letter to the Village on the 24<sup>th</sup>, two days later.

Doug Hertz: It's one thing to require submissions where we have to go through detailed plans. All we're asking for is an acknowledgement of approval; we don't do that for ARB



approvals, we don't do that for any other jurisdictions. We're not asking for documentation, we're not asking for records, we're asking that they get their approval by a date. And that's really all that we require by other boards. I don't know why we're requiring it separately from the Village board. I think that's onerous on the applicant. I don't think that's right, and I don't think that's what we've done in the past.

Chairman Cosentino: You're saying they shouldn't go to the Village Board?

Doug Hertz: No, I'm saying that their Village Board approval does not have a calendar problem.

Chairman Cosentino: We don't approve unless ARB approves first.

Doug Hertz: That's correct, but you don't require them to be approved by the submission date. You require them to be approved by the voting date. On every other board. ARB approvals are not required to be done by the submission dates for our regular meetings.

Joseph Morreale: So if I hear you right, you'd be willing to take this on on the 23<sup>rd</sup>, the next meeting; the work session.

Doug Hertz: The next meeting is a work session, but what I'm saying is whether it's a work session, and that's a question for Joe. That's not what I was getting at. But at the next regular meeting, I do not believe that they have to submit a letter from the Village Board by the submission date which is the 24<sup>th</sup>. That is not what we've been required for other boards to do.

Vice Chairman Sturniolo: Why not do it tonight?

Doug Hertz: They haven't been approved. They don't have to be approved two weeks prior. They have to be approved before the meeting. For ARB they have to be approved before the meeting.

Vice Chairman Sturniolo: Do we want to compromise our submission dates?

Doug Hertz: But it's not a submission date.

Vice Chairman Sturniolo: It's a letter that's going to come into us and –

Doug Hertz: We don't get a letter from the ARB that it's been approved.

Vice Chairman Sturniolo: ARB is not my concern or issue.

Chairman Cosentino: But I think you're mixing apples and oranges here. If somebody goes before the ARB, they are taking Village owned property; you're going to need a letter from the ARB. They're taking Village property.

Doug Hertz: That's not what I'm saying. We're requiring another board approve something that's out of our jurisdiction. Period. Whether it's the ARB, or the Zoning Board. We don't require the Zoning Board submission two weeks prior.

Chairman Cosentino: It's their jurisdiction, the Village Board to approve taking Village owned property. We're asking for a letter from the Village Board stating that they approve of them taking Village owned property and having it on the plans here.

Doug Hertz: I understand. In the same way we don't require the ZBA writes a resolution when they are given a variance. We don't require that variance to come in two weeks before our meeting.

Joseph Morreale: So in other words, we can still do it on the 13<sup>th</sup>, and they just get that letter in before the 13<sup>th</sup>.

Doug Hertz: Why we need two weeks to review the letter saying yes or no, I don't understand. We're not reviewing it for substance; we're reviewing it for compliance. I'm not suggesting we do it on the work session, I'm suggesting we do it on the regular meeting but that we don't require them to submit the letter two weeks before.

Chairman Cosentino: Even though it doesn't help them out.

Doug Hertz: It does if they don't get the letter by the 24<sup>th</sup>. Then we're kicking them off the regular meeting agenda.

Chairman Cosentino: He said he could get it by the 22<sup>nd</sup> if we wanted it.

Doug Hertz: My point is: I think we're requiring of them something we haven't required. Admittedly this is slightly a gray area, but this is my interpretation of it.

Chairman Cosentino: Only this is: documentation is required a certain amount of days before a meeting.

Stanley Bernstein: Only if you have to read it and digest it.

Vice Chairman Sturniolo: Suppose the letter from the Village Board is not a yes or no letter? Suppose it has a lot of questions?

Doug Hertz: Then we have to review it and they can't get an approval. And we need to discuss it.

Stanley Bernstein: So we would have to make a separate discussion.

Vice Chairman Sturniolo: But why give that preemptive assumption that the letter is going to come in black and white? Why not be proactive and cautionary that the letter potentially may need further review and/or investigation.

Doug Hertz: How about putting it on them? If the letter is not a "no" in which case they don't proceed, but if it's a "yes" they can proceed, and if it's a maybe, it better be in by enough time for us to review it.

Vice Chairman Sturniolo: Then that's going to become a burden on the applicant to interpret the letter and the interpretation of the applicant is going to go one way or another.

Doug Hertz: I can't read my variances, but it doesn't mean they don't say I'm allowed to or not allowed to. If the Village Board wants to refer it back to us for further study, or to meet, then it requires further study and we don't make the meeting date. We all get that. Maybe you're happy with the submission date of the 24<sup>th</sup> and I'm just barking up a tree for nothing.

Isidoro Albanese: I'd rather not if we don't have to, just in case they lose the letter, they forget to write the letter, somebody is on vacation. Anything can happen; as I can see tonight.

Vice Chairman Sturniolo: I would think the Village Board is going to look at this very hard and fast. There are a lot of other issues playing into what is going on in Shopper's Park right now over and above your little 134 Main Street, and I think they are going to look at that and other issues associated to the northeast of your property and to the southwest of your property at Shopper's Park and see how everything kind of dovetails together, including the overall traffic flow and lighting parameters in Shopper's Park. It's not going to be oh yes, fine, Mr. Albanese, you've got it or no, Mr. Albanese you don't have it. My opinion, opinion only, I'm not the Village Board obviously; my opinion is going to be very detailed scrutinization of this request that you're putting in.

Doug Hertz: In that case they won't get their yes or no by the time, and it's a moot point.

Isidoro Albanese: Can we shift those parking spaces down to five feet? The way it is right now without losing a parking space there?

Vice Chairman Sturniolo: Even if you do you have to redo the plans.

Nanette Bourne: You can't change Village parking. That's the whole point.

Whitney Singleton: The authority is invested in the Village Manager. The curb cuts are authorized by the Village Engineer. All traffic promulgations are authorized by the Village Manager. I can assure you that the Village Manager, whatever his point of view, will require the approval of the Board of Trustees.

Chairman Cosentino: Nannette put this on for November 13.

Isidoro Albanese: Say tonight we weren't voting on this. Is there anything else – I know there were some questions last time on the engineering – I want to make sure that we're set with everything else so we don't come back next time and say –

Anthony Oliveri: We were good on all engineering issues.

Doug Hertz: I'm with Mr. Albanese on this. If there are any other board members that have issues, let's bring them up now. Why string him along?

Chairman Cosentino: Let's get something straight here. I was ready to vote for this tonight. I had no other questions and I don't think this board had no other questions. You brought it up on the parking, and it was never brought up before.

Doug Hertz: Quite frankly, I feel crappy about it, but it is what it is.

Chairman Cosentino: You did your job. I'm saying it put a fly in the ointment, that's all, and we have to get it straightened it.

Doug Hertz: I understand. I just want to make sure there are no other flies that are going to be brought up on the 13<sup>th</sup>.

Stanley Bernstein: There are a couple of things.

Chairman Cosentino: Whitney, on Doug's question, if you can help me out with that, let me know.

Isidoro Albanese: There is never been ruling at a work session before?

Vice Chairman Sturniolo: We need to move off that subject. I'd like to address some concerns that Doug raised, and I have some concerns. Doug is absolutely right.

Chairman Cosentino: I'm just wondering if Doug didn't bring it up, and we approved these plans, what would happen, who was going to pick it up when you start digging on Village property?

Vice Chairman Sturniolo: (applauding) That's what I say to Doug. I'm glad he brought it up.

Stanley Bernstein: They would stop all construction. Austin would be over there and they would stop all construction.

Clifford Munz: Let me ask this question. Are they going to stop me from demolition?

Chairman Cosentino: That's up to the Building Department. We have nothing to do with that. November 13. I wish I could help you out more than that, but I can't. My hands are tied.

Clifford Munz: Why were we not advised three months ago?

Chairman Cosentino: Why weren't we advised?

Clifford Munz: There was nothing kept. This was out in the open.

Chairman Cosentino: In about two minutes I'm going to table this and you're not going to come in for two or three months. It's not your fault; it's not our fault, its one of these things that happens. Thank you, Doug.

Stanley Bernstein: Nannette, on page 4, item 23, there is a typo. It says sub, it should be sump.

Chairman Cosentino: Under correspondence; Naranjo, 77 Smith Avenue; minutes from the Beautification Committee; letter from John Dahlgren; letter from Stanley Bernstein to the Planning Board Staff re LEED Certification with attachment; application from Rene Dubos, Center for Human Environmental, Inc.

Vice Chairman Sturniolo: Mr. Chairman I'd like to make a comment on the Renee Dubos Center for Human Environment. I read the decision of the judge and I've read a couple of newspaper articles; not that the newspaper is the end all for accuracy, but I'm happy with the decision and most importantly I'm happy that Mount Kisco's Village Attorney had a very instrumental and a big part in advocating the decision that the judge handed out, and I tip my hat to Whitney.

(Applause)

Stanley Bernstein: One word on the green buildings and LEED Certification. We had a discussion in the spring about how the Planning Board should get involved in LEED Certification and green buildings, and I mentioned at that time that the CAC was

preparing something, and this is it. Patricia Lee, who was the Leader of the Adhoc Committee that fought Trump on the golf course over at Byram Lake, did most of the work. There is a disk that Sol has. He graciously agreed to burn copies for anyone who wants to read it. It's pretty much the same as what's in here. I don't think there is any thing additional although I haven't looked at it. I think what we should do is look it over and then have some sort of a discussion on this. This is something that is important, it's the coming thing. There is going to be very little new construction left in the Village but whatever is new we should have our finger in it and try to somehow implement these recommendations that are here. As you all know the library is going to have geothermal put in and the new abomination up on Kisco Mountain is going to do a LEED thing, so we should be apprised.

Nanette Bourne: The library is not going to be LEED certified.

Stanley Bernstein: No, but they are doing geothermal heating.

Nanette Bourne: You required that of Westchester Residence and Club.

Stanley Bernstein: Yes, and I think it's something that we should be informed about so that we can keep on top of any other new development that comes in and cause them to do it.

Vice Chairman Sturniolo: And it ties into Westchester Residence and Club. The Planning Board took the initiative to bring LEED Certification to their attention, and requested that they address that concept.

**MOTION TO ADJOURN**

Meeting adjourned at 8:45.

Respectfully Submitted By,

Stanley Bernstein  
Board Secretary

dm