Minutes
Work Session of the Planning Board
Village/Town of Mount Kisco
Tuesday, February 27, 2007

Meeting called to order at 7:40 pm, Tuesday, February 27, 2007, at the Municipal Building Mount Kisco, New York.

Members Present:	**Ralph Vigliotti**
	Stanley Bernstein
	Sol Gibbons
	Doug Hertz
	Joseph Morreale
Members Absent:	**Chairman Joseph Cosentino**
	Vice Chairman Anthony Sturniolo
Staff Present:	**Nanette Bourne**
	Anthony Oliveri
	Whitney Singleton

Ralph Vigliotti: Good evening, it's February 27th. This is Work Session of the Planning Board. Let's work our way through the agenda. We have three sets of minutes this evening:

Acceptance of Minutes:

November 14, 2006:	**Motion:**	**Stanley Bernstein**
	Second:	**Sol Gibbons**
	Aye:	**Doug Hertz**
	Aye:	**Joseph Morreale**
	Absent:	**Ralph Vigliotti**
November 28, 2006:	**Motion:**	**Stanley Bernstein**
	Second:	**Joseph Morreale**
	Aye:	**Doug Hertz**
	Aye:	**Sol Gibbons**
	Absent:	**Ralph Vigliotti**
December 12, 2006:	**Motion:**	**Stanley Bernstein**
	Second:	**Sol Gibbons**
	Aye:	**Doug Hertz**
	Aye:	**Ralph Vigliotti**
	Absent:	**Joseph Morreale**

Final Action:	**Bank of New York**
	55 Main Street
	PB2006-14
Present:	**Scott Blakely, Principal Landscape Architect**
	Frank Picucci, JPMorgan Chase

Ralph Vigliotti: We have final action this evening for Bank of New York. We have a cover letter from Scott Blakely to the Planning Board in regard to landscaping and lighting. Has everyone had an opportunity to review? Okay, additionally, a letter from David Stack also in regard to planning and lighting. Why don't we kind of work our way down from Mr. Hertz down if anyone has any questions in regard to either landscaping proposed and lighting that is required.

Doug Hertz: My only comment is I'm glad you guys are making the lighting change. I think we're looking good.

Stanley Bernstein: Yes, it looks okay to me. I've gone through it thoroughly, and I could find no complaints at all, just the one light in the corner. They're bright – maybe another bulb, dim it down a bit. It's not noticeable; it's in the corner by the retaining wall. You can actually see it. Yes, that's the one.

Ralph Vigliotti: What is the status gentleman on planting? How soon? The weather is going to break soon.

Frank Picucci: Beginning of spring, obviously as soon as the weather clears.

Scott Blakely: We put together a schedule of construction, and we're looking to start as soon as the weather breaks.

Frank Picucci: We have until June; I believe it was, to complete everything?

Ralph Vigliotti: Yes, but you don't want to wait that long.

Joseph Morreale: I'm fine with the lighting plan; it's good to see you adjusted. I would like to ask a question now that Bank of New York is now part of Chase. Do you know what the future is?

Frank Picucci: We were moving ahead to convert the branch fully to JPMorgan Chase.

Joseph Morreale: So in other words you're planning on staying there?

Frank Picucci: If there is a consolidation down the road, it's going to be years. As of April 1 it's Chase.

Doug Hertz: There's Chase on two corners.

Ralph Vigliotti: Yes, they've cornered the market.

Frank Picucci: There is a lot of duplication throughout the Westchester area.

Ralph Vigliotti: There is plenty of money to go around. If there are no further questions, we have a resolution for approval.

Stanley Bernstein: There is some wording on Page 2, Item 11. The applicant shall replace all of the existing concrete and Belgiam Block curbing within the property with new concrete curb. It should say new concrete curb poured in place. It should not be pre-cast. This board always wants it poured in place.

Nanette Bourne: What if you're within the property with new poured in place?

Stanley Bernstein: The wording in every resolution that I've ever done, whenever it comes to curbs it says new concrete poured in place as opposed to pre-cast and put in place.

Ralph Vigliotti: Stan, did you pick up anything else in the resolution?

Stanley Bernstein: No, that's all I found.

Ralph Vigliotti: Gentlemen, any other questions in the resolution.

Doug Hertz: The only question I did have – what was the resolution of planting within the right of way? Right now you've kept everything out of the right of way. We've put language in there, "if necessary the applicant shall seek Village Board approval to install landscape in the Village right of way. They are not showing it, and we're not requiring it. Do we need to keep that language in there? Does it matter?

Nanette Bourne: We just left it as is.

Doug Hertz: Okay.

Scott Blakely: I don't see a problem with it.

Doug Hertz: It would just be a dead clause.

Ralph Vigliotti: Doug, anything else?

Doug Hertz: Nothing else here.

Ralph Vigliotti: Stan? Look pretty good?

Stanley Bernstein: Yes.

Ralph Vigliotti: So we are ready to move. If there are no other comments on the resolution as it's typed here.

RESOLUTION FOR APPROVAL:

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

Ralph Vigliotti: Gentlemen, good luck. We're looking forward to the spring to see the new plantings.

PUBLIC HEARING

Buckingham Properties
Morgan Drive Lot 3
Application # PB2005-19

Present: **Brad Schwartz, Zarin & Steinmetz**
Jon Dahlgren, Tim Miller Associates
Edward Cohen, Buckingham Properties
Jeffrey A. Nachman, Nachman Engineering
Robert S. Wasserman, ECC
Joseph Bonifacio, K G & D Architects

Ralph Vigliotti: Were all public notices sent out and received?

Brad Schwartz: Yes, in fact, Mr. Chairman I am going to submit to your board secretary now the green cards as well as the Affidavit of Publication from the Journal News demonstrating that the public notice was published, and served.

Ralph Vigliotti: As soon as you set up, if you would be kind enough to give our secretary all the names of everyone that's here.

Doug Hertz: It doesn't look like we have anyone from the public, other than involved parties.

Stanley Bernstein: It certainly does not.

Ralph Vigliotti: Gentlemen if you have a business card it would be greatly appreciated to help with our minutes. At any moment someone from the public may arrive so we'll take full advantage of the information you are going to present, and it will be an excellent review for all of us. So it's your time.

Brad Schwartz: Thank you, Mr. Chairman. We appreciate the opportunity to present before your board this presentation. I know it has been postponed now for a couple of different meetings. We have our whole development team with us here tonight, and I'll kick start the presentation by Jon Dahlgren, he'll then turn it over to Rob Wasserman to discuss the remediation plan and Jeffrey Nachman is here as well to discuss structural engineering issues.

Jon Dahlgren: I'd like to just review for the board briefly the purpose of why we're here, the wetlands application and then how that's related to proposed remediation. We're here with the wetland application. The cause and purpose of the application is to remediate three structures that are on the property. The structures are from a former sewage treatment plant, as you know, this is Pond One, and then two tanks that contain sediment. Each of the tanks contain approximately two feet of sediment in the bottom. This is about 4 feet deep and these two are about 18 to 20 feet deep. You'll see here the shaded areas are areas of disturbance. Basically we're proposing no wetland disturbance, but disturbance of the wetland buffer about .15 acres or less than a quarter of an acre of buffer disturbance. And we're proposing access from Village property over here in part because access from Morgan Drive would require crossing this amount of the wetland buffer. This whole blue area, as you can see, is the wetland buffer, and this is the wetland. So we figure that although access from Morgan Drive is possible, access from the Village property would be much less disturbance in the buffer, and that's why this is proposed. These are temporary roads, no grading is proposed. Basically just clearing of the existing vegetation in these areas for access around these structures, and the proposed remediation is in place treatment of the sediment and not transport disposal. Rob Wasserman is going to explain why that is our preferred option. We did do quite an extensive study of different options, and we figured that the in place treatment was the least impact in terms of environmental and other impacts. I'm going to turn it over to Rob to explain why that process was selected.

Robert Wasserman: If I could I'd just like to drive everybody's attention to some of the comparative analysis tables that we presented that I believe are in this submittal. We went through the process of looking at traditional and somewhat non-traditional means and methods for addressing the contaminants on site. We specifically looked at the more traditional and high-impact dig and haul for lack of a better term for basic excavation and off-site disposal. We also looked at some in situ techniques that we've had quite a bit of success with, especially when looking at the contaminants in concern that are specific to this site. In this case we're really dealing primarily with metals, which are immobile in the first place. They have a very low solubility. They tend to stay where they are, and we figured rather than messing with that per se, it would be best to really propose an approach that would take that into account and use that to everybody's advantage. So again we looked at five different criteria specifically here just to recap, protection of human health and the environment, implementation, which is a catch-all for things such as equipment, schedule, things of that nature; reduction of both toxicity and mobility, long term effectiveness, and finally past precedent. We used these criteria to evaluate the approaches that we had developed specific to the site. What we found was that the approach that combines both a stabilization process and a solidification process is probably the best fit for the site. And what that really means is changing or altering the chemical state of the contaminants to such a point where they are less toxic, and then reducing the mobility by encapsulating those contaminants so that they can't get out or they are no longer open to the elements. We found that that was a better approach then say your traditional dig-and-haul or excavation and disposal, in which case, you've got some inherent risks associated with that. First and foremost, being that it's a very high impact activity. It turns a site into a construction site, whereas what's being proposed is really very low impact. To give you an example, we're talking about upwards of – I forget the exact numbers, I think it was in the range of 60-80 trucks that would be required on site for excavation and off-site disposal, probably tri-axle dump trucks, as compared to some very small, low impact equipment that would be associated with the in situ stabilization and solidification process. So we looked at those factors and, really arrived at the fact that something in situ was low impact, minimal disturbance to the wetland buffer zone. I thought that was really best fit for the property and the contaminants themselves. We also took into account the fact that there is beneficial re-use proposed for the site. We wanted to make sure that what was proposed would not impact or impede plans for future development, and in doing so we brought in a structural engineer who would be able to speak to some of the details associated with building on the property without doing anything to change or alter the state of the property.

Jeffrey Nachman: My name is Jeffrey Nachman, I'm a structural engineer. I've been doing this for about thirty years or so, mostly in Westchester County and the New York area. Basically when I analyze a structure, whatever it may be, I take the levels down and figure out a way to support that structure based on the information available on the site. I'd be very hard pressed to think of a site that you couldn't build on. There is always some system available that you can utilize. In this specific case, in the past what we have done, is if we had organic structures on the site, we would level them down to a level that had lower impact on the new structure, fill them up and build our new structures around, on top, or through those sites. We did that over at the Mount Kisco Elementary School addition that we did a couple of years ago, just finished a couple of months ago. It wasn't the entire footprint of the addition; it was a part of it. It's the same thing here, it's a part of the foot print. It's a standard office building, anticipating standard spread footings on controlled back build that will be observed and accepted by a geo-technical engineer on site. I think its controlled inspection, New York State code, that's an element I would design for. In this case, I believe that the structures are very low. After they are done containing whatever is there, we would cut down a certain level below the new footings so that it can create a compacted film matte that would help alleviate any chances of differential sediments between different elements of the building and different portions of the building. We do this in a lot of different cases, cases maybe where we have rock on the site and then we dip down into like a swampy zone or a softer soil zone. What we do is we don't want this area to fall two inches and this area to be rock solidly based and not move at all. So what we do is we either create a path that will have similar characteristics to the softer soils or we go down to harder soils. It's the same thing in this type of structure. What we want to do is we want to create a pad to level off that, I believe the way the back fill will be a lot more than any of the lows that we're imposing on the back fill itself. We've done similar things at Fox Lane High School, where we had an existing basement area that we wanted to convert to the auditorium. The auditorium has to be raised in step, so we came into that building and it was contained in the building, back fill basically was sand and soil material, compacted it, built our knee walls and our steps and created the seatings. Prior to that we did something similar in the New York School for the Deaf over in Elmsford, I believe it is, or Greenburgh, where we wanted to come from one level and stay on that level going into an existing building and not have to have handicapped access down the steps.

So we filled in about three or four feet of that existing building with sand and soil back fill, again compacted it, and placed a new slab over the existing slab. I have not heard in any of those cases of any problems with differential sediments.

Doug Hertz: I know you're talking about designing for the new building. That new building is still – there is one design we saw, when the process is done the building could take another form entirely. One of the things that I would like to be comfortable with is that whatever form that new building takes, your remediation that you're proposing would be adequate to handle whatever those designs are going to be.

Jeffrey Nachman: Right now, my understanding of the scope of the project is that it's a parking kind of hidden into the hillside on grade with two stories of offices. Granted it's very early, but this very black outline represents the shape of the building; the outline of the foot print of the building. These yellows I believe are the existing structures that are in the foot print of the building that do not require remediation. I believe the orange are the portions of the structures within the building that do. It is actually a fairly small area, even though there is some influence as you get outside the five foot perimeter of the building. A two story building. I would assume this would be a steel frame, which is fairly flexible and has nice characteristic structurally for sizement, for wind-loading, and it has a little flex to it, so it gives, and I think that's a good thing when you have potential settlement issues that you want to alleviate. Unless this building was to become something totally – you know, a high rise, or something, I don't foresee that it would make that much difference.

Doug Hertz: I highly doubt you will see a high-rise there.

Jeffrey Nachman: Right. Exactly. Its office loading, two stories, if a portion was 1½ and 3, the loading wouldn't be that great a difference. The individual sizes of the foundations would vary based on that, as well as based on final exploratory elements on the site.

Stanley Bernstein: Where are the outlines within that foot print of the remediation, with the ponds? I want you to point out the ponds, and the boxes.

Jon Dahlgren: Right. This is the pond, this gray dash line, that's Pond One, that's going to be treated.

Stanley Bernstein: That's going to be storm water retention?

Jon Dahlgren: Yes, underneath.

Stanley Bernstein: Whoa, whoa, whoa, underneath what? Is it going to be a below grade gallery?

Jon Dahlgren: No. The pond is supposed to be buried underneath the storm water basins.

Stanley Bernstein: You mean the remediated pond is to be buried under this storm water retention basin, and there is going to be an impervious surface to prevent any leaching or any mixing of materials and so on?

Jon Dahlgren: That's correct. As I understand, these basins are –

Stanley Bernstein: Not as you understand, you're in charge. You're doing this. Don't tell me that it's as you understand. I want you to tell me what's going to happen.

Jon Dahlgren: I'm not the storm water – I didn't design the storm water basins. My understanding is that the storm water basins are detention basins to carry the water from one basin to another to handle storm water and to carry to a larger basin out here.

Stanley Bernstein: Now that's Pond Number Two. Is that correct?
Jon Dahlgren: Pond One.

Stanley Bernstein: That's Pond One. Where's Pond Two?

Jon Dahlgren: There is a structure here.

Stanley Bernstein: Is that an outline? Do I see an outline for that structure?

Jon Dahlgren: Yes, this gray outline here.

Stanley Bernstein: Okay, good. And the orange represents that which is underneath the building itself?

Jon Dahlgren: That's correct. And this is Tank Two, which is a portion of it, is underneath the building.

Stanley Bernstein: And the space between the building and the other dark lines, what would that be, parking? What is that area?

Jon Dahlgren: I don't think this is proposed to be developed.

Stanley Bernstein: In other words that's as is, going to be left as is.

Jon Dahlgren: Right.

Joseph Bonifacio: This is paved surface for access to that parking area.

Stanley Bernstein: It is a paved surface. I see striping for parking, is that correct?

Joseph Bonifacio: Correct.

Stanley Bernstein: So there is parking? You're putting a parking lot on top of those.

Jon Dahlgren: Right.

Stanley Bernstein: Which would not have much bearing.

Robert Wasserman: Mr. Bernstein, to answer your question regarding the remediation proposed under the structure. It's designed the change the chemistry and then lock it in such that it can't change, it can't impact, should there be a leaching issue. That's the bottom line; I think that's the environmental concern that everybody has right now. Is the proposed remedy sufficient such that leaching would no longer be an issue? In this case it will be, and we're planning to demonstrate through sampling that it has been an effective remedy.

Stanley Bernstein: Where are the three ponds that our previous engineer and AKRF pointed out that are not being treated at all? Where is the location?

Jon Dahlgren: There is a single pond –

Stanley Bernstein: Weren't there boxes? Bathtubs? Three of them that baffled and according to one of your responses you can't get to it physically?

Jon Dahlgren: Oh, these tanks.

Stanley Bernstein: Those will be encapsulated, but they won't be –

Robert Wasserman: They will be encapsulated, but they will not be stabilized.

Stanley Bernstein: They will not be stabilized.

Robert Wasserman: There are a couple of factors to consider. One, the concentrations of our contaminants of concern are significantly less in these two locations as compared to Pond Number One, which is exposed. I think that is the other issue too, is that this is exposed at the surface right now; these are contained within tanks that are roughly twenty feet deep. So, we really feel that encapsulation at this point would lower concentrations, would reduce any potential for migration or leachability, but at the same time the exposure is so low at this particular point that filling those structurally to support the building would also provide an added remedy.

Stanley Bernstein: And you're also proposing cutting off seven feet of the top of those tanks, right?

Robert Wasserman: If, I believe that is part of the plan, which –

Stanley Bernstein: And after it's encapsulated, how will that affect the integrity of the full box? Will the concrete handle it?

Robert Wasserman: That's a very good question. The integrity of the material itself wouldn't change, because it's been encapsulated. The key is to make sure that that's taken care of before the structural integrity of the tanks were to change.

Stanley Bernstein: In other words you would remove whatever it is down to seven feet before the encapsulation takes place.

Robert Wasserman: Actually, after the encapsulation, because you want to be careful that there is no release should you change or alter the structural integrity of those tanks. There could potentially be a release at that point. If you address it prior to doing so, and there is some sort of structural breech in support of the construction itself, you would have already addressed the issue.

Stanley Bernstein: That's what I'm concerned with. Now you're not going to go down there with a couple of men with hammers and chisels to cut off those four feet or six feet or whatever.

Robert Wasserman: Absolutely not.

Stanley Bernstein: You're going to use jackhammers and heavy equipment. Will that affect the integrity of the basin that is there, even though it is encapsulated? Can cracks develop within that structure?

Jeffrey Nachman: As I understand it's a sediment material that would be used to encapsulate the bottom two to three feet of whatever it is of that material. Right now those structures are retaining twenty feet of soil because they are buried twenty feet in.

Robert Wasserman: Twenty feet of water.

Jeffrey Nachman: Twenty feet of water, okay. As we bring down the grade, we are lowering the imposed forces on those sidewalls, and as you cut it here, you are also doing that. So what's happening is the bottom now; you're actually basically raising the bottom of that thing three or four feet. I don't know the depth of the –

Robert Wasserman: It would be roughly three feet.

Jeffrey Nachman: Okay, so you've actually shallowed it up. You've actually reduced the loading on those side walls, and you're actually reducing it further by cutting the grade down on the top. So you'll be getting it from both sides. I don't know the condition…

Robert Wasserman: I think the key here, and to answer your question fully is, it's a sequencing issue. As long as sequencing is done correctly, you remove the environmental hazard or the environmental concern before you actually address the construction. But in doing so, again you alleviate that problem.

Anthony Oliveri: When you're pumping it down, pumping the water out, is there a danger of these thing exploding? It's an enclosed tank, right?

Robert Wasserman: It's an enclosed tank, everything sank to the bottom. It's a careful process during de-watering to make sure that you do not disturb anything, but at the same time, because we're talking about metals, they are largely immobile and they are bound to the sediment anyway.

Anthony Oliveri: I mean the tank itself; the enclosed tank. Are you doing a buoyancy calculation or something like that to be sure that these things don't heave out of the ground, the same way with pool water or any other enclosed tank would.

Jeffrey Nachman: Can I comment on that, structurally? I would assume that when these were constructed, that that was one of the major design issues during construction prior to the tanks ever being filled. It's kind of unwinding the clock and reversing the process.

Anthony Oliveri: It's just a concern. Moving the water weight inside these tanks; that's got to be accounted for.

Jeffrey Nachman: Your material weighs twice, three times…

Anthony Oliveri: Is that going to be placed simultaneously as you pump down the water, place the encapsulating material?

Robert Wasserman: It's possible because the chambers are baffled. So it is possible, and it looks like that have distinct chambers within such that you could remove water from one, address it with concrete, and try to maintain that weight balance by moving from one section to another to another. And that would be the plan. Again, a lot has to

do more with the sequencing to make sure that it makes sense, but that's the way that we would probably approach to do it. It seems as though, again, they seem competent. They are holding water. It's hard to tell right now if they are hydraulically connected or not. But its our guess that based on typical construction for a facility like this that they are sectioned, they are baffled, and you would be able to address one section at a time. I believe that's the case for both tanks. They are both baffled, and they are both sectioned off. That's a very good question.

Stanley Bernstein: I have some other questions. The structural integrity in your report you seem very nebulous about this. If this happens, that will happen. If that happens, something else will happen. There is nothing concrete, pardon the pun, of anything in that report. In other words, from the knowledge that we have at the moment, this is what we may be able to do or we may not be able to do. Don't you think the report should be a little more aggressive and knowledgeable and find out exactly what the situation is before you make a comment?

Jeffrey Nachman: As we're developing our design, we are hopefully obtaining more and more information throughout the entire process, and what we're doing is fine tuning it. And right now it's very early on in the process, and it's conceptual, and the concept is to use the back, cut down the structures to limit the impact so you don't have like knife edges and to float the new structure on the back fill. At some point in the process, we will get a geo-technical investigation going which we have to do anyway for many other reasons, including seismic classification of the site and all that. We will get exact information on what is actually there soil wise, below it, how we treat; I would assume that would be the in place soils that are below the back fill will be compacted prior to that.

Stanley Bernstein: Shouldn't we know that now?

Jeffrey Nachman: There is always a guess.

Stanley Bernstein: There is always a guess. If you can explore a condition after construction starts, you can certainly explore it before with borings, seismic shots, or whatever, in order to find out what's there. Now this is what I'm worried about. Our engineer and AKRF both have concerns about the integrity of what's underneath and the weight of what's above; that there is a possibility of the old structures cracking. There is that possibility. And you addressed it to some degree, but you didn't address it fully. Now last time I asked for this team to investigate how deep bedrock is, and if there is a possibility of driving piles to bedrock so that there is no encroachment or no weight upon any of these structures; one solution, I'm not saying it's the best solution, it's an expensive solution, but it is a solution that I feel should be explored. After it's explored you can tell me, well, it's really not such a good idea. It hasn't been explored. So, basically I feel that our engineer and AKRF, really their questions; although they've been answered, haven't been answered satisfactorily.

Jeffrey Nachman: How can I answer that today, specific? I would say that if you have a structure that's 20 feet deep and 15 feet high and you're filling the inside of that structure, and you're filling around the outside of the structure, the structure is no longer a structure, it's just a perimeter wall that has been totally enveloped within the soil. And the only difference is that you'd have slightly different settlement characteristics on this side, probably the same in the middle, and then on this side, then the actual concrete walls. So the idea would be to cut down those concrete walls to a point where it minimizes the impact on the structures above.

Stanley Bernstein: And you feel that once it's cut down the compaction above will sustain the spread footing without any further support from down below? Now what about the hydric soils below this? That compaction itself is going to affect he hydric soils somewhere down the line. Is that correct?

Jeffrey Nachman: Right now the site – the soil is on the site to a higher point than what it will be when we put in the –

Stanley Bernstein: But those hydric soils can settle. And if you compact say seven feet on top of that, what's to hold that compacted soil in place? If what's underneath is pure sand, what's going to hold the compacted soil above?

Jeffrey Nachman: What would happen is the underlying sub-strata get compacted prior to back filling.

Stanley Bernstein: Can you compact hydric soils such as what's there? Can you compact it to a degree that it will happen? This – I've been around the block a few

times, let me tell you, and I always have what's called the Oops Factor. Thus three years from now, after you're gone and happy; oops, it went down another 2½ feet, dammit. Just like the Oops Factor when one of our developers who swore that all his storm water calculations were correct and everything he's doing is correct, and half of his mountain fell into Kisco Avenue. So, that's the Oops Factor, and that's what I'm concerned with.

Jeffrey Nachman: As a structural engineer, I am a strong advocate and do not believe in going into any project prior to construction having geo-technical information. Having a survey done, having pourings done, having test pits done, having a geo-technical prepared report outlining exactly what you can expect.

Stanley Bernstein: But you're asking us to approve this without that.

Jeffrey Nachman: Because conceptually it is not a non-buildable site. At this point we don't have all the information we're going to have at the final design to fine tune it. Conceptually, I personally worked on similar situations where we have built over sites. I've never heard of a problem, and we're actually more careful because of that situation and in other things.

Stanley Bernstein: You're still asking us to take in on faith, more or less. Educated faith, but on faith nonetheless. We're going to approve a project that our engineer and our environmental designer and planner has questions about, and the questions have not been answered to my satisfaction, and you're asking us to approve this. So, I really don't think you've done your homework. That's all I have on the structural. I'll have some comments later on.

Ralph Vigliotti: There is more presentation on your part. Would you like to present some more, and then we'll have some more questions. I know you're not done with your presentation, or are you? At some point I want to end the public hearing and then move on to the next piece.

Brad Schwartz: I think we are done with our formal presentation. We wanted to get a quick summary at the outset, and we know your board has lots of questions that we've heard at the last couple of meetings.

Ralph Vigliotti: So what we'll do is, at some point we'll close the public hearing, and then we will continue with continuing review. Do you have any more that you want to present within this public hearing?

Brad Schwartz: No.

Ralph Vigliotti: Okay. Gentlemen, at this point we probably should close the public hearing, and we'll keep it open for ten days for comment, and then we'll move into the actual continuing review.

MOTION TO CLOSE PUBLIC HEARING:

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

Ralph Vigliotti: Okay, gentlemen, the public hearing is now closed. Now we're really ready to begin. I know our village attorney has a number of questions; he's already shared some with you, and we'll continue along the same manner in which Mr. Bernstein had started; kind of questioning when, where and why you're going this route. If you could, for me, and then I know Dr. Morreale has some questions, just one more time. I guess there is a reason why you are proposing to go this way. There is a cost savings, if you might share that, but more importantly, the contaminants that are now housed inside of the structures; I'm not totally convinced that they are going to be contained. In other sites there may have been concrete pads or concrete foundations with no contaminants inside, but in this particular site, where it is next to a wetland, poses a very, very unique set of circumstances. So I appreciate the models that you've used, which is the elementary school and an institution that you've worked on in Elmsford and Fox Lane, but I don't believe two of those sites had any contaminants on the sites that needed to be contained, where this is very, very unique. The structural piece, I think you are probably right on the money. As far as it can be done and so on, with all the right engineering, but the concern I have is we have contaminants, and we have a

wetland. And we have the Kisco River right there. So that's really where we're at. So why don't we continue from that point.

Joseph Morreale: I'd like a response to that, because that was one of my real concerns here.

Robert Wasserman: I think that the first thing to start with is the contaminants themselves. The contaminants in this case are metals, so they tend to be and stay bound in soils, and they are already contained. In this instance, Pond Number One really is the primary area of concern. So these metals are already bound to sediment that is contained within a solid concrete structure. The idea here is to change or chemically alter the state of those contaminants. Right now they would be in a more toxic form, but by changing the chemistry and changing the conditions, they become in a less toxic form. So, for example, if you're talking about mercury – mercury right now – the way it stands right now is at an elevated concentration especially compared to State requirements. The plan is to alter that chemical state so that the concentrations of mercury are decreased. In doing so, you've already reduced the toxicity. Then the other concern would be mobility, and by encapsulating those sediments in a changed chemical state, we reduce or actually in this case eliminate the mobility of those sediments. They are already relatively immobile because of the nature of the contaminants themselves. They're metals. If we were talking about solvents, for example, I'd have a very serious concern about it. We would propose a completely different remedial alternative. But in this case, we geared it towards the site itself, but also those contaminants. The idea is really to change it and lock it in place. Once you've done that, and you've encapsulated it, it cannot change back. So that's the contingency. In a lot of cases and on a lot of sites like these, you'll go with a chemical stabilization process where you'll alter the chemical state but you won't then encapsulate. And more times than not that's more then sufficient not only to satisfy let's say the regulatory community but to satisfy health and safety concern. But in this case, given the sensitive nature of the site, we have proposed an encapsulation process as a contingency to make sure that those changes become permanent and they're not temporary.

Joseph Morreale: Let me ask a couple of things, because I want to go down this path. How are you going to reduce the toxicity, and to what level? Are you going to bring it down below what would still be considered toxic, if it were to leach?

Robert Wasserman: The process is a physical process. It actually works out very well, given the fact that the sediments of concern are actually contained within a concrete pit or basin. It's a physical mixing process, whereas we'd add probably something along the lines of sulfides. The actual chemical composition has not yet been determined, although we have done a bench scale study to get an idea of how to tailor a chemical alteration process that's specific to this site. But it's a physical mixing process whereas a sulfide solution in a powdered form would actually be added to the sediment itself. It's physically mixed into the sediment to increase the surface area and allow for a chemical reaction to take place. What happens is that the free metals themselves actually end up binding to what's added to the soil and it precipitates a less toxic form of that metal. Once that takes place, and it's proven – that's part of the point here, too, is there is a confirmation sampling procedure in which samples are collected from the sediment, and it's confirmed that the chemical state has changed. Once that's confirmed, we would move onto an encapsulation process whereas that change is held permanent, and it's long term effective, thereby reducing leach-ability of those metals. It's important again to know that the metals themselves aren't highly leach-able in the first place. Again, if there were solvents, it would be a different story, but the metals themselves tend to stay where they are. But in this case, you reduce the toxicity, you eliminate the mobility, and you're able to support any type of structure that you want from that point on.

Joseph Morreale: So it remains a solid. It doesn't change form.

Robert Wasserman: That is correct.

Joseph Morreale: And it reduces the toxicity to what level?

Robert Wasserman: It reduces the toxicity to what we're considering to be manageable levels. What I mean by that is this: right now you're looking at concentrations as high as 20 parts per million for mercury, for example.

Jon Dahlgren: Right, 20 to 30.

Robert Wasserman: This is significantly higher than the state's standards. And I bring up the state's standards as a relative standard, even though the DEC is not involved in the project. We'd want to reduce it by at least an order of magnitude, something that's far less toxic.

Ralph Vigliotti: What level would that be? If the 20 to 30, what level would be an acceptable level?

Robert Wasserman: I'll give you an example. What we'd probably propose is something from say 20 down to 2. It wouldn't necessarily be a non-detect, but it would be a demonstrable reduction in the overall concentrations. And we would collect a pretty wide sample set to insure that it's been effective. What that allows you to do also is – it's an interactive process, so you can actually – it's flexible as well. So if you took, let's say, eight samples from the sediment, and we found in one area it was less effective, we might be able to go back and then tailor that chemical solution to make sure it was more effective in that area. If we found that it was effective all over, we wouldn't need to make any changes. We've already performed a bench scale test, in which we collected some sediment, treated it in a controlled condition, controlled setting, to make sure that the technology itself would be effective. And we found out that it is. What we do next is make sure that that's the case. We probably would go back again and do what you'd consider to be a pilot, where we collect a few more samples as well, take it to another level, insure that what we found the first time is in fact the case, and then introduce it on a wide scale, a full scale.

Joseph Morreale: Okay, I see what you're doing – but from your answer, I don't get a sense that you're going to come below the State's standards. Is that right?

Robert Wasserman: Because the State is not involved, we're not necessarily looking at the tag line levels. The State has put out guidance. It's the Technical Administrative Guidance Memorandum 4046, and what the State says is that there are certain levels that they consider to be acceptable for clean up. We're not necessarily looking to achieve those levels; we're looking to reduce levels to more manageable concentrations. We're talking about higher concentrations here that you'd normally find someplace else, because you have bio-solids or remnants from a sewage treatment plant. So what we'd really like to do is knock down those concentrations, but because we're talking about changing the toxicity and any capsulation, we really feel that that is more than adequate to address those elevated concentrations.

Joseph Morreale: So, you're really saying, if I understand this right, is that between reducing the toxicity and encapsulating things, it will be safe.

Robert Wasserman: Yes.

Joseph Morreale: But you really aren't below the standard to make sure that if there's any leakage at all, that that would not wind up causing a toxic condition in the water supply for the water that goes through here.

Robert Wasserman: That's an excellent point. The way we looked at it was this: if you look at the State standard specifically, they do not account for encapsulation whatsoever. They assume that the soils are still open to the elements and open to the atmosphere. Whereas in this case, the contingency is such that if you don't achieve those levels, that you're at least addressing the fact that it's no longer an exposure hazard for anybody anyway. That's why I say it's different in terms of looking at the State requirements for guidance. Because we're adding an extra level that you normally wouldn't look at it that the State would require.

Joseph Morreale: But I also assume you've never done this before?

Robert Wasserman: Oh, no, we have done this before.

Joseph Morreale: I didn't hear that. I heard you did other sites and they weren't like this.

Robert Wasserman: That was from a structural standpoint.

Joseph Morreale: So you've done this in other places?

Robert Wasserman: Yes, we have. In fact, probably the best example of this type of technology is down at Brookhaven National Labs on Long Island, where they have a host of environmental problems, mostly solvents related. But in a lot of cases they do have some metal sites, specifically mercury and some of the other metals that we have here

at this particular site. That remedy has been incredibly effective to below or to acceptable levels, on a Federal level. Not necessarily the State, but that happens to be a superfund site. In most of those cases, down at Brookhaven National Labs, they did not include a contingency for encapsulation. They treated the soils, ex-situ, they excavated, they treated, and then they put it back once they had demonstrated that they had achieved acceptable levels according to EPA. But in this case, we're looking at a slightly different means and method - the same overall approach, just a different way of getting at it. And again, what differs is that this particular approach includes the contingency of encapsulation whereas more often when this remedy is implemented, it's only the stabilization of the chemistry process.

Joseph Morreale: Could I switch to something else? Could I see the diagram again about the orange areas? The dark one is the building, is that right?

Robert Wasserman: Oval shaped, yes.

Joseph Morreale: So we're putting the building over those two sites. This is something that's concerned all of us about doing this. What would happen if you didn't? In other words, if you moved the front or the back part, I'm not sure which that is, of that building, so that this is not over the sites? Does that make it much safer, or doesn't it?

Jeffrey Nachman: From a structural perspective, it changes the parameters that you would design for; maybe not a lot. Safer? I don't follow. From the point of view of radiation, I can't answer on that.

Robert Wasserman: If you're concerned about environmental, I think one of the things that we have going for us for lack of a better term, is the depth at which the sediments are. They are at a depth where there is really no exposure whatsoever. But to encapsulate would insure the fact that there is no potential for any exposure.

Joseph Morreale: How low do the steel pilings go – if you put the building there?

Jeffrey Nachman: I wouldn't anticipate steel pilings.

Joseph Morreale: Well, how far down will you have to go then in constructing the building?

Jeffrey Nachman: With the excavation?

Joseph Morreale: Yes.

Jeffrey Nachman: Cross cover is about four feet, and then if you had a three foot or so buffer so that's seven feet.

Joseph Morreale: And how far down are the top of those enclosures?

Jon Dahlgren: The sediment is 18 feet here – the top of the sediment and 20 feet here.

Joseph Morreale: The top?

Jon Dahlgren: The top of the sediment.

Joseph Morreale: Okay, so it sounds like there is twelve feet or so in between, and you feel comfortable with that. That's not going to be so disturbed or have such weight bearing it's not going to impact. That's what you're telling us, is that right?

Robert Wasserman: From an environmental standpoint, yes.
Jeffrey Nachman: From a structural standpoint, the materials being used to encapsulate that are, as I understand like a flow able, cementations material. It has a much higher bearing capacity than the soils would.

Robert Wasserman: That's another thing that I'd like to point out to, is when we looked at remedies for the site, and again, we looked at traditional means and we also looked at things that were a little more innovative and more effective, we wanted to make sure that whatever was proposed to address the containments of concern would not impact or impede construction later on. Even if there were deviations or changes to the plan itself, it still allows for flexibility in the design, but it also addresses the contaminants of concern and the environmental concern as well.

Joseph Morreale: Let me just ask a sort of off the wall, what if, question, and then I'll stop, because I'm sure the other board members have some things. Suppose you go ahead and do this and there is an earthquake. What happens here?

Jeffrey Nachman: As far as the new building is concerned, it is designed for the compactive backfills that it will be bearing on for that event per the code. It's designed to allow -

Joseph Morreale: The building is.

Jeffrey Nachman: Yes, the building is.

Joseph Morreale: What about below the building in these tanks? What are we looking at?

Jeffrey Nachman: As of right now, I assume that those are fairly hollow tanks. They are more vulnerable than filled tanks would be for that situation.

Joseph Morreale: So it's possible they could crack, break and all this toxic material would come out?

Jeffrey Nachman: If we were to have an earthquake tonight –

Joseph Morreale: I didn't give you the Richter Scale, either.

Jeffrey Nachman: Yes, if we had an earthquake tonight I would say that these are more vulnerable tonight than they would be after they are filled in, because you are reinforcing the structure with the backfill. And you're actually making the structures part of the base. You're actually wedding it to the site because it's encapsulated.

Robert Wasserman: From an environmental standpoint, I think because you reduced the toxicity or in this case it's already been reduced to a point where we consider them to be manageable levels, at these two locations, but because you've encapsulated and you've reduced or eliminated the mobility and leach-ability, even if there was some sort of structural breech, because it's already within a solid form, there is no risk to the environment or any sort of leach-ability going forward.

Ralph Vigliotti: I have kind of a simple question, and we should already know that, but, the tanks are concrete or metal?

Jon Dahlgren: Concrete.

Ralph Vigliotti: All concrete, how thick are the walls?

Jon Dahlgren: Twelve inches thick.

Stanley Bernstein: Reinforced?

Jon Dahlgren: Reinforced.

Ralph Vigliotti: Concrete floor?

Jon Dahlgren: Concrete floor.

Ralph Vigliotti: There is now water in the tanks that needs to be pumped out.

Robert Wasserman: That is correct.

Ralph Vigliotti: Is there soil inside of these tanks?

Robert Wasserman: There is. There is sediment at the bottom of each, roughly two to three feet of sediment.

Ralph Vigliotti: Is that sediment coming out, or is that part of the encapsulation?

Jon Dahlgren: That's part of the encapsulation.
Ralph Vigliotti: And that's where you are saying the toxic chemicals, maybe the mercury and so on, in that soil that's at the bottom?

Robert Wasserman: It would be solidified, exactly.

Ralph Vigliotti: I can certainly appreciate encapsulating and keeping the tanks to save a ton of money and a lot of less disturbance and so on; I don't understand why we can't take the soil out. You're saying two to three feet. I was thinking ten-fifteen feet of soil over X number of square feet and that this was going to take months and weeks to take it out. I know there is a big expense involved, and I don't have a problem with the encapsulating of these tanks, I just have a problem if there is two to three feet of soil, let's take the soil out.

Robert Wasserman: In order to get the soil out of both of these tanks you would actually have to breech the tanks themselves. There is no accessibility to those sediments at the base of the tanks without actually removing concrete and potentially damaging the tanks because they are baffled structures. In other words, we do a lot of confined space work. In this case, there is no safe way to actually get somebody down into the tank.

Ralph Vigliotti: In my mind I'm thinking backhoe, come in, take the dirt out, and go to the next baffled section. What is the distance between baffles? Six, eight, ten, thirty feet?

Robert Wasserman: Probably ten feet. The baffles might be 10 x 12, something along those lines.

Ralph Vigliotti: And how many baffles would be in one tank?

Jon Dahlgren: Probably five to six.

Ralph Vigliotti: I have to be honest with you. I don't think you've given us enough information on the baffles, enough information on remediation as far as taking the soil out, and so on, because my gut says, I don't have a problem with encapsulating these concrete structures that are there and cutting them down and so on. I have a problem with why are we leaving the soil there if we know it's a problem and we have a wetland, and we have the Kisco River, we're talking about a what if. What if there is some kind of earthquake damage and the soil now becomes exposed through cracks in that concrete. Why don't you just take it all out? Obviously we must be talking tens of hundreds of thousands of dollars in savings.
Robert Wasserman: Again, getting back to these tanks. It's also a health and safety issue. There has to be a safe means and method to remove the sediment from the tanks, and we've looked at the issue in great detail. There is no safe way to get anybody into the tanks, and in order to remove that sediment you'd actually have to do damage to the structures themselves, which is why we're proposing something that would not require anything along those lines.

Ralph Vigliotti: You can go in and cut them down six or eight feet, but that's not going to have an impact. I think there is a ceiling or a roof structure on one of these.

Robert Wasserman: Each of the baffles actually ends up closing themselves in so that they are almost encased. It was really designed as a clarifier or separator, so that sediments would fall to the bottom and you'd be able to use them to remove anything that's been suspended within the water itself. It's just that it's worked and it's been sitting there for so many years that everything has literally fallen down to the bottom through gravity, and you're looking at a separation of sediments that are condensed at the bottom, they've saturated themselves with standing water that's sitting on top.

Jon Dahlgren: We have drawings that show construction design of these things. They were built in 1937 or 38, so we could provide them.

Ralph Vigliotti: As one member, I'd like to see what they look like.

Sol Gibbons: How dense is that sediment down below?

Jon Dahlgren: It's soft on top, and then as you get towards the bottom, it's denser.

Sol Gibbons: The material you're putting in there to encapsulate it, that's going to mix with that sediment, am I correct?

Robert Wasserman: It's a flowable fill, but it really takes the form of concrete itself. The idea is to lock it in and to mix it as best as you can. But again, there will be more attention paid to the concrete mix, the design mix, than any other physical process. Because in order to get equipment in there to do a physical mixing, is next to impossible given the structures and the way they sit right now. There is no accessibility for humans. It would be a confined space, but it would be a severe confined space. In terms of equipment, there would be no way of getting any sort of equipment in there to

mix or disk or till like you could in Pond Number One, where its readily accessible and you could easily get any type of small equipment over there for the physical mixing process. So it's a great question in the fact that the design there would come from the mix itself, but it wouldn't necessarily be a physical mixing process.

Sol Gibbons: The mix would be with the sediment, the sediment would be mixed?

Robert Wasserman: Yes.

Sol Gibbons: How do you know it's going to get to the bottom of that sediment? It seems to me it would just cover the top of it. How would you be sure that you're covering the bottom of it?

Robert Wasserman: You'd want to make sure that you have the right mix and the right flow with that concrete. Again, it's more of a geo-tech type of design to make sure that the mix that you're adding is going to be adequate. Again, there are limitations, I think that's clear. There are some pretty significant severe limitations at these two locations. So you're really looking at coming up with something that's a little different. The other thing to keep in mind, though, again, is that the concentrations at these two locations are significantly less than they are up here where things are readily exposed. Leach-ability, again, you're talking about metals that are largely mobile in the first place. So you're really looking at a combination of technologies up here, and one technology in particular that's designed to use the nature of the metals to our advantage. Again, like you said, we would examine the possibility of physical removing, but we've looked at them before, and given the concentrations, given the volumes themselves and the fact that there are other implementable technologies out there, it just doesn't seem necessary to go in and go to that length to put anybody at risk in order to try and do this.

Ralph Vigliotti: It sounds like the stabilization chemical that you're going to place in there may get down six, eight, ten inches. Once it gets to that compressed soil it's not going anywhere.

Robert Wasserman: And again, for these two tanks, it's just an encapsulation process, not a stabilization process.

Ralph Vigliotti: That's the first time I've heard that with regard to those two tanks. So you're just really encapsulating.

Jon Dahlgren: In here, in these two.

Ralph Vigliotti: So you're not reaching any State standard at all. You're not even going near that, you're just encapsulating. I think that's important that we hear that, but, excuse the pun, it seems very muddy. We're talking it's going to penetrate, it's going to stabilize, and you're really talking about Pond One. Will the third one also be encapsulated?

Robert Wasserman: These two are the same approach. It's just the encapsulation process. Pond Number One is the combination of the chemical stabilization and the solidification process.

Doug Hertz: Why on Pond One? If you can stabilize it, why don't you then truck it off-site?

Robert Wasserman: We've looked at trucking it off-site, and one of the things that we wanted to do was make sure that we propose something that was low impact. If we were to truck the material off-site, you'd be talking about bringing on heavy equipment, and essentially creating a construction site before you've actually created a construction site. You'd be talking about heavy equipment, heavy trucks, probably tri-axle dump trucks, somewhere between 60 or 80 that are required to come on site to remove the sediment. You'd be talking about these trucks moving off-site on public roads. They would create a noise nuisance. They would create a health and safety nuisance. A loaded truck is the equivalent weight of somewhere between 20 and 25 tons. You'd have 60 to 80 of them running around town.

Ralph Vigliotti: We've had more than 60 to 80 trucks running around town for various sites.

Robert Wasserman: But with mercury impacted sediment. That's the difference here.

Ralph Vigliotti: We've had gas stations that have had contaminated soils, which have soil removed with tons and tons of removing that kind of soil also. The way it's been laid out I don't have a problem with Pond One, I kind of have a problem with as far as the stabilizing method that you're talking about.

Robert Wasserman: You mean up in this area?

Ralph Vigliotti: Yes. I don't know why, it just feels more comfortable to me. And you're not going to be able to get to a State level that's acceptable by the State.

Robert Wasserman: Actually, it's very possible that you could.

Ralph Vigliotti: Well, it's the could that bothers me. We have to be able to tell the public at some point; whatever they did on that site they reached the State, Federal levels as far as a standard. And you can't guarantee that. The only way we can guarantee that is by removal.

Robert Wasserman: That's a very valid point. The way we looked at it again though is if you do not achieve those levels, those soils and sediments are still no longer readily accessible and there is no exposure because you've gone a contingency, and you've actually added the encapsulation process. Those state standards are specific to soils that are readily accessible and available. If you encapsulate, the State standards technically don't even apply anymore.

Doug Hertz: What is your analysis of how many truckloads of cement or cement-like material are going to be trucked into the site to encapsulate?

Robert Wasserman: Actually, it would probably be a flowable pump truck that would come in for encapsulation here as well as here because of the accessibility issues.

Doug Hertz: One, two, five, ten trucks?

Robert Wasserman: You're probably looking somewhere in the neighborhood of five to ten trucks to take care of this. It's not that much flowable material. That's if you even need trucks. Let me clarify. You would need trucks for these two structures. In this particular case, you could even use dry cement and add it using the moisture of the sediment itself and physically mix it in place. So as far as the disturbance in terms of bringing trucks in for this particular area of concern, it would still be minimal, even if you went with the in situ route as compared to a traditional dig and haul.

Ralph Vigliotti: Nannette, do you have any questions at this point? I'm sure you do.

Nanette Bourne: No. We've looked at their responses, and they are responsive to the comments. It's really up to the board to determine your comfort.

Anthony Oliveri: I would like you to clarify the structure below that. I would be more concerned with the procedure of cutting down the two tanks, pumping them out, stabilizing them or encapsulating them. I think during that procedure there would be more of a risk of maybe a breach in the tank or something happening at that point. I agree that anything could be engineered in terms of the foundation. Structurally you can pretty much engineer anything, but I think maybe more detail, like the chairman requested on the tank structure itself, and the procedure on how it's going to get cut down and filled, and if you need to have a plan of action, if there is a breach in one of tanks or a crack during the procedure, that might be something to think about. As far as any other questions we had, somebody mentioned the disturbance area earlier. A low number like .1 acres or something like that. I thought it was a much higher number than that. And looking at the three construction entrances shown here, were those areas taken into account and the clearing of the trees in those areas taken into account?

Jon Dahlgren: Yes.

Anthony Oliveri: I just want to be sure we're not going to get near the one acre threshold.

Jon Dahlgren: No, we're definitely below the one acre. The wetland buffer disturbance is shown in the black hatched area, and that's what we're proposing in the wetland buffer.

Anthony Oliveri: I'm talking about the overall disturbance area.

Jon Dahlgren: Outside of the wetland buffer?

Anthony Oliveri: Yes, outside of the buffer.

Jon Dahlgren: Yes, there will be additional disturbance outside of the wetland buffer.

Anthony Oliveri: Maybe if you just quantify that with the areas, assuming you would need all three construction entrances to access both Pond One and the two tanks.

Jon Dahlgren: Yes.

Anthony Oliveri: At least one of them is in a wooded area. You show an area here of disturbance.

Jon Dahlgren: That's an existing road; the one on the upper.

Anthony Oliveri: This is an existing road?

Jon Dahlgren: Right.

Ralph Vigliotti: Do you have that map, will you identify that for us? I know it had hidden lines. Maybe you can just kind of show us the roads as you propose?

Jon Dahlgren: Sure. It's a field road, no trees, accessible with a four wheel drive vehicle. But this road is existing; this would be the access for Tank One and Tank Two. There are no roads around Pond One, it's probably possible that you could get by with one entrance here, and swing around this basin to access this side of the pond. So you would probably need actually two access roads.

Anthony Oliveri: Once you get to the one acre disturbance you've got to do a storm water pollution prevention plan, and that's a whole other ball game.

Jon Dahlgren: One acre in the buffer, correct?

Anthony Oliveri: No. It's disturbance on the site.

Jon Dahlgren: Disturbance on the site. Okay.

Anthony Oliveri: Total disturbance; the clearing of the trees, anything. So I think we need to quantify that. Maybe when I looked at it I included the area of pond, I'm not sure if that would be part of the disturbance or not.

Jon Dahlgren: We'll quantify that.

Anthony Oliveri: Yes, if you can. And there is another concrete basin shown up near the two construction entrances up top.

Jon Dahlgren: Yes.

Anthony Oliveri: Is anything being planned for that? You show a construction entrance right opposite that.

Jon Dahlgren: Right. We would have to probably swing this around or come to the side of this basin to get there.

Stanley Bernstein: Doesn't that basin have a concrete cover?

Jon Dahlgren: I don't believe so. This isn't on the property, it's actually offsite.

Anthony Oliveri: So nothing's planned.

Jon Dahlgren: Nothing is planned for that one. This may have a cover.

Stanley Bernstein: I do not remember a basin on Village property. I've walked it so many times. I don't remember a basin, but now it's kind of jogging my memory that there is a concrete cover over something. I always assumed that that was part of the sewage system, because there is a big sewer main coming down into that area crossing the Kisco River going into the gravity system. Joe would remember that. But there is a concrete covered vault, and that may be it. I don't know if that's part of the whole system. I'd like to talk about de-watering. I've seen all kinds of comments from both AKRF and our engineer as to the way to go, and I still don't know how you propose to go. You wanted to use the sanitary system, and you were told you can't use the sanitary system. Somebody recommended going to the Kisco River, but we need certain

assurances that there will be no turbidity in the water entering the Kisco River. How do you propose to de-water? What's the final analysis on the de-watering?

Jon Dahlgren: Our preference and this is after a lot of analysis and looking at different options, our preference is to go to the sanitary system and get a discharge permit and work with the Village in terms of discharge rates.

Stanley Bernstein: That would be my preference.

Jon Dahlgren: I think the discharge rate is the concern in terms of not exceeding the Villages overall discharge rate over a given period. That can be worked out. It's a matter of spreading the discharge over -

Stanley Bernstein: 34,200 gallons per day or 24 gallons per minute spread over 21 days – the flow now max according to the Village would be 2.2 million gallons per day, and you would have been expected to exceed that if you dumped your total water which was 718,000 gallons, and that would have if not exceeded, approached it.

Jon Dahlgren: Yes, if that happened all at once.

Stanley Bernstein: But you're prepared to dump 34,200 gallons per day over a period of 21 days. Is that okay with the Village, Jeff Econom?

Jon Dahlgren: We spoke with Jeff Econom. He said he would work with us to determine a flow rate that's acceptable.

Stanley Bernstein: In other words, you feel it can be done, and he feels it can be done?

Jon Dahlgren: That's correct.

Stanley Bernstein: As opposed to going into the Kisco River which really I don't think is a very good idea.

Robert Wasserman: You're right. Why disturb a natural habitat?

Stanley Bernstein: Even if you can contain the turbidity which will be there, I don't think it's a very good idea.

Ralph Vigliotti: I think we'll need to get a letter from Jeff to you so we can have it in our packet in regard to that. We are assuming that the water is not contaminated, correct?

Robert Wasserman: We've already run tests to confirm that there are no residual impacts of the water from the sediment, and as we said before, because the metals are immobile, we felt that there wouldn't be, and the results have shown that the water has not been impacted itself.

Ralph Vigliotti: So we'll need a letter from Jeff.

Robert Wasserman: Yes we do, and the permit that we have will require that we test at a certain frequency. The other thing to note too is that this schedule plays in such that while we are de-watering these tanks and we're looking at baffle per baffle, we only want to remove water at a slow and steady rate anyway to make sure that we maintain some sort of balance. So, I think that what we propose with the city works very, very well not only with requirements for the sanitary sewer system but also the proposed approach for the two tanks themselves. We wouldn't want to remove everything up front at once; it could potentially create a balance issue with those tanks. It's a very good question, but I think it works out in both respects.

Ralph Vigliotti: Have tests been done outside the foundation of the tanks to see if there has been any leaching?

Jon Dahlgren: Yes. I don't know if I've addressed this issue before the board before, but we've done extensive testing and sampling of the sediment on all of the property outside of the tanks, adjacent to the tanks, and we found basically no elevated metals outside of the tanks. So to summarize, the sediment has been in these tanks for 50 years. We see no evidence of it leaching out. There has been no breach of the tanks that we've encountered or have seen based on quite a bit of testing outside of the tanks.

Ralph Vigliotti: I may have missed that testing memo.

Jon Dahlgren: That was in the binder.

Robert Wasserman: Just to add to that as well, we are proposing angled borings underneath Pond Number One, which is shallow, to confirm that actually underneath the basin itself there aren't impacted sediments either. So because it's a shallow basin and its only four feet deep, it would actually permit those borings, so it would be worthwhile to collect some additional samples to confirm that there hasn't been any breach, that there are in fact sediments outside the basin zone.

Doug Hertz: If Pond One is only four feet deep, and I haven't climbed to that part of the site, I've only seen the edges of the site, how do you effectively use it as part of your storm water prevention – as detention basins further on? It's shallow to begin with, and you're adding cement or cement-like mix. Is doing this going to prevent the proper use of that area for retention basins?

Jon Dahlgren: The grading in the area that the storm water basins allows - the bottom of the basins will be above the level of the existing ponds.

Doug Hertz: So you're going to have to grade up around there?

Jon Dahlgren: Yes.
Doug Hertz: So, ultimately, those areas that are within this hundred foot perimeter, Pond Two, are going to get re-graded in your future plan?

Jon Dahlgren: That's correct.

Ralph Vigliotti: How much grading? How many feet are we talking above the grade that's there now?

Jon Dahlgren: About six feet.

Ralph Vigliotti: So the highest point above the grade now would be six feet.

Jon Dahlgren: It looks like it, based on these drawings. Yes, the top of the Berm around the basins are six feet above the existing grade.

Doug Hertz: You're basically creating Berms to create basins.

Robert Wasserman: Yes, you're creating a hole right there.

Joseph Morreale: You rose before, Brookhaven, and I grew up on Long Island. I'm wondering about water table levels. I know the water table level on Long Island is very high. There is not much depth. How does this site compare to a Brookhaven type site, and is there an issue about water table levels at all?

Robert Wasserman: As far as the environmental remediation is concerned, it really does not because the metals are largely immobile in the first place. In this case, the only issue would be leach-ability. But because we don't have anything that's actually within the water table itself, or that's directly exposed to the water table, its really not a concern, especially the shallow soils where we're talking about – they're right on the surface. The water table wouldn't become a factor in that case at all.

Joseph Morreale: Is the water table here higher or lower than at Brookhaven?

Jon Dahlgren: The water table varies seasonally. In winter, wet seasons, it's three to four feet and in the summer it can be as low as five to six feet.

Robert Wasserman: Also an important consideration that kind of adds to it is the geology itself. The geology on this site is, how would you characterize the soils? They're not a clean sand.

Jon Dahlgren: Silty sand.

Robert Wasserman: Silty sand. They are more of dirty sand, whereas on Long Island you're looking at primarily sand and only sand. In our particular site, the soils are going to bind the metals more than they would on Long Island for example. Where if you've got a real sandy soil and the water table is moving rather quickly with a pretty steep grading, you're going to be able to grab whatever might be in those soils, whereas in this case, it's going to be bound to the soil. But what's most important is you're really not talking about an exposure at this site, the water table where you need to be concerned about it, where you've got concentrations as high as we do on the surface.

Stanley Bernstein: Are you aware that New York City put in five feet of pure sand in this area fifty years ago?

Robert Wasserman: As backfill, general fill material?

Stanley Bernstein: They just filled it. A lot of it was wet. Right now you're looking at a wetland buffer; it might have been a wetland at that time. And there is at least five feet of sand. That sand may have mixed with whatever soils you've come into, and that's why you may say it's a dirty sand situation. But everything underneath is hydric. You say the water table changes, its obvious; has to change. It was wet at one time; it might have been a lake; and not that long ago. Not in geological time, but in our time, it might have been a lake, just the way our ball field at Leonard Park was at one time a lake. So that's what might have happened here too. Just a point of interest you might want to look at in a different light.

Robert Wasserman: I think, again, if we were looking at differed contaminants, we would have proposed something completely different; something that really put an impact on the water table. We'd really look at something else. We'd probably look at a removal. Because you don't want a continual source to groundwater, whereas in this case, the sediments of concern really are at the surface, they are contained within a concrete basin, and we've proposed a technology that will not only reduce the concentration but also encapsulate to the point where leach-ability or exposure really isn't an issue.
Ralph Vigliotti: Question on the village access road, coming off the Village property. Would you identify that on the map?

Jon Dahlgren: This may be an earlier version, but on this map, this is a Village gravel road and access to the site would be across the Village property from this access road.

Ralph Vigliotti: I don't know if we are prepared to go down that road, so to speak, using Village property. That is something that we'll have to share through the staff to the Village Board, but I don't think we are prepared to give the go-ahead in using the Village road. But if that is not one of the access points, then you have two other access points that may create more disturbances.

Jon Dahlgren: That's correct.

Ralph Vigliotti: More disturbances beyond the one acre, which may cause us to do a more extensive review on the pollution plan?

Anthony Oliveri: On the sediment and erosion control on the storm water.

Jon Dahlgren: The alternative access would be from Morgan Drive. To access Pond One, you would probably have to cross through the wetland buffer here very close to the edge of the wetland here to get to Pond One here. It's possible to get to these basins from Morgan Drive also, through this area. This is all heavily wooded. You would have to remove those trees to get to this existing access road. The existing access road ends about here. From here on it's undisturbed woods. So you'd have to go through these woods.

Ralph Vigliotti: But at some point, it's going to be disturbed when you begin to build. You mentioned that you'd have to disturb a wooded area. As we look at the plan that shows the building – that wooded area where there may be an access road could very well be part of the parking lot.

Jon Dahlgren: Correct.

Ralph Vigliotti: I don't want the board to be led down this path that if we ask you to go with this service road, that we're going to be disturbing trees and it's going to have a negative impact. Because we know a year or two down the road, that's going to be in a parking lot.

Jon Dahlgren: You're right.

Ralph Vigliotti: So, I'm not sure where we're going with the Village road. Gentlemen, please jump in.

Doug Hertz: Isn't there a cross agreement with the property to the north that allows you to connect? I know that there is an agreement that allows you to connect for drainage basins. While that's under construction is there a chance that you could just enter from that property? You'll be right at Pond One.

Jon Dahlgren: From this northern property, I'm not sure about that. I don't know what the agreement is.

Brad Schwartz: There is nothing in place at the moment, but that is something that we can look into.

Doug Hertz: That will be a construction site.

Ralph Vigliotti: Because that dirt road is a Village road, and it may not be able to handle tri-axle vehicles and the weight.

Anthony Oliveri: It was my understanding that the Village road actually crosses onto your property at some point. As it comes down on this piece that kind of juts out. Is there any way to use that road and stay within your own property? Is that a possibility?

Jon Dahlgren: It is. I don't know if people are familiar with the property.

Doug Hertz: I think the onsite of that may be that it is not proposed to be disturbed at all in the future.

Jon Dahlgren: This is a wooded hillside with tall pine trees.

Anthony Oliveri: Which you would leave undisturbed.

Doug Hertz: And we'd like to see far more of them than are in the plan.

Ralph Vigliotti: I think we're going to see a little bit more detail on the two alternative roads for ingress/egress. A little bit more than what you're showing as far as what the negative impacts may be using those roads. We're going to need that in some greater detail.
Jon Dahlgren: Okay.

Doug Hertz: What's the time frame of this remediation? How long from when you push the button does this process take?

Robert Wasserman: It would take less than two months.

Doug Hertz: Including all the analysis, the testing?

Robert Wasserman: From the start of the remediation process itself, yes, it would be less than two months. Not including reporting or anything that's required after the fact.

Doug Hertz: But the pre-engineering of that as well? You're saying if you were given the go-ahead tomorrow you could –

Robert Wasserman: A lot of that has already been completed. Obviously we're waiting for comments and any helpful comments we get from anybody we'd like to evaluate and incorporate. But as far as a work plan goes, we have a work plan that's about 75, 80% complete, which includes a lot of what we discussed today. We're waiting for more input before we start to put some of the final details on that.

Doug Hertz: And what about seasonal aspects?

Robert Wasserman: Best to do it late spring, early summer. Again, because it's a chemical process you want to make sure that the conditions are prime, and in this case they'd be best late spring early summer. It is somewhat temperature dependent. We would not propose a remedy like this during the winter months. But you'd want an optimum temperature somewhere between 70 and 80 degrees. It's just what's preferred.

Ralph Vigliotti: Staff, any questions or more information that you'd like to have?

Whitney Singleton: I have one or two items; first of all, as you eluded to, Ralph, that utilization of the Village's access road to its pump station. That's not going to be permission that is granted by this board. You either have an easement over it, or you're going to have to obtain permission from the Board of Trustees, and I'm sure they'll look to this board for its recommendation. But if I'm not mistaken, and I could be mistaken, I'm going to check on this, I believe that there are sanitary sewer lines that go under that road bed. So, tri-axle trucks going on it may be an issue. I don't know for certain. Also, with regard to the de-watering, I would check very carefully in the Westchester

County Sanitary Sewer Act and as well as our agreements with New York City and the Department of Environmental Facilities as to whether or not this material that you're proposing to discharge in the de-watering process is permissible with a sanitary sewer. You don't need problems with the Department of Environmental Facilities. Other than that, I have a generalized question because I've lost a benchmark in this process. There was a reason, Brad, that you guys wanted to move forward in this segmented process. And I'm trying to recall what that is, and why we're here handling this separate from it normally being just another feature of an ongoing site plan.

Brad Schwartz: It has to do with the private contract entered into between the contract vendee and the current property owner. Mr. Cohen, who could speak with us tonight, wants to move forward with the remediation plan, close on the property, and then come back before your board to process the site plan application.

Whitney Singleton: But this in no way shape or form is going to cast in stone in your client's mind or in your mind that they are relegated to any particular development plan for this property.

Brad Schwartz: Absolutely. Mr. Cohen is here tonight and hears that loud and clear.

Whitney Singleton: I just wanted to clarify that. Other than that, I have nothing else.

Nanette Bourne: I was just going to reiterate the same thing that this is a completely separate action, and as I've said before the only benefit is whether or not the development goes forward or not, it's an opportunity to clean up the site. And it's up to the board to factor in the risks and the benefits of in situ versus hauling it away.

Doug Hertz: To that comment, were there not going to be any other construction, any other development on the site? Is this the remediation that you would recommend?

Nanette Bourne: One of the discussions that we had before was that there are risks associated with digging it up and hauling it away by itself. There are advantages and disadvantages.

Doug Hertz: So that's a yes.

Joseph Morreale: It sounded like its independent of where the construction will be.

Nanette Bourne: Right.

Doug Hertz: I understand it's a remediation. There is no perfect solution no matter what, but I guess my question is, if we anticipated development versus we anticipated no development, how does that impact the recommendation of what to do, or does it not?

Nanette Bourne: I don't think it has any bearing.

Joseph Morreale: It doesn't.

Doug Hertz: Okay.

Brad Schwartz: Rob, that wasn't one of your practices that you used and analyzed in the pros and cons of each of the different methods? In other words, the criteria that you used to assess the pros and cons of each, user development were not one of the determining factors?

Robert Wasserman: It wasn't one specific determining factor. As far as implement-ability is concerned, we looked at that just to make sure that what was proposed would not limit beneficial site re-use in the future, regardless of how the site was going to be used.

Ralph Vigliotti: Obviously, there is not going to be a basement. There are parameters that we already know.

Robert Wasserman: An honest assessment is – it was in the back of our mind, but more importantly we wanted to make sure that what was being proposed would not limit anything that could potentially happen on the site or above the site.

Nanette Bourne: And I was skeptical at first, because I was concerned that it was influencing the development, and like you said, there are certain factors that with or without this improvement, remediation, there is limiting factors to this site. But what they are proposing could be proposed absent in future development.

Stanley Bernstein: Mr. Chairman, I want to go on record right now that I am very much opposed to segmentation of this project and this application. It's a bad precedent for this Village, and there is no reason why all of this discussion that we had today, the hours of discussion we had, which was instructive and beneficial to learn what the situation is, but there is no reason why this could not be discussed in a DEIS. I think we're making a very big mistake if we approve this segmentation. If this applicant wishes to go ahead with the project and the remediation and so on, he can do it as one package the way all the other developers are required to do, and I think we should stick to what we've done over the years. It's better for Mount Kisco. What I'd like to ask Mr. Schwartz and everybody else; suppose we don't allow this project? Are you telling me that this applicant is so altruistic that he's willing to spend $250,000 on the improvement of the Village without gaining anything out of it?

Brad Schwartz: Perhaps it may not be out of altruistic motives entirely, but he's certainly willing to take that risk.

Stanley Bernstein: He's willing to take a risk. Now, I can tell you right now in discussion with some of the other board members and myself I feel that this project is much too large, and I do feel that it's going to be pared down. Suppose he turns around and looks at us and says that's not economically viable for him to pare it down to what we wish. What would the situation be at that point? Is there any liability to Mount Kisco at that point after all this work is done?

Ralph Vigliotti: That's a good question.

Brad Schwartz: It would not be a regulatory taking by your board, if that's what you're getting at, as long as there is some economic revival of the use of the property. So, I would submit that there's not. The potential liability to your Village under some potential takings claim is separate and apart from the liability to Mr. Cohen as a developer.

Whitney Singleton: I think Stan what Brad is saying here probably answers your question. They have asked us to move forward in this fashion, your board has acquiesced in that request, and they are moving forward at their own risk. It is possible that, I'm not saying this is likely, but it's theoretically possible that you can authorize all this mitigation at the cost of hundreds of thousands of dollars and then find through the traffic impacts that nothing should be built on the site. Theoretically that's possible. He's acknowledged on behalf of his client; his client is taking that risk.

Stanley Bernstein: I still don't like it. I don't like segmentation; I think its trouble down the road. I think when we finally get to the DEIS and start deliberations, we will find that there is going to be some unforeseen problem, and I just do not like segmentation, and I want to go on record saying so.

Nanette Bourne: Can I make a comment, just for the record? No SEQRA determination has been made on this.

Stanley Bernstein: I know that, but there will be.

Nanette Bourne: We haven't even gotten to that point yet.

Stanley Bernstein: That is correct.

Ralph Vigliotti: While we're discussing SEQRA, lets kind of move ahead. It looks like there is going to be another session at least in Continuing Review. Nannette, if you could kind of lay out where we need to go. You've taken all the statements and you're ready for another session.

Brad Schwartz: I hope this is over because my hand is –

Ralph Vigliotti: Yes, obviously we have another session of review, we have questions to answer, the second board would meet at a second meeting for the work session for the month of March. I think that gives you enough time to answer the questions from the board and from staff and we can move forward.

Nanette Bourne: That's correct.

Ralph Vigliotti: Does anyone have the calendar for the next meeting?
Second meeting in March; March 27. So we'll continue in our review, and see you second meeting in March.

SITE PLAN COMPLIANCE
21 Armonk Road

Present: Angelo Luppino

Ralph Vigliotti: Next is Site Plan Compliance on 21 Armonk Road. Carmelo Luppino.

Angelo Luppino: Angelo.
Ralph Vigliotti: Angelo, I'm sorry. Angelo, earlier I shared with you and periodically the board asks the Building Department to pull site plans that need review and require some compliance. There has been discussions over the last three quarters of the year with regard to what individual board members and the Building Department felt were some site plan violations and/or Building Code violations on this site as well as a New York State right-of-way, which is in front of your building, which has been last three or four years as the traffic in Mount Kisco begins to build is becoming more and more of a hazard with cars and trucks and vans and SUV's parking in front of your building. So the issue that we have and I know Mr. Cassidy has sent off a letter to New York State with regard to getting an opinion from them, we thought we would have that opinion by this point. The letter was sent off about a month ago. At this point we haven't gotten a reply from the State. Basically what's happening, and I know you know what's going on, basically cars are parked in front of the building, they are parked on New York State property technically, they are parked into the roadway in front of the building which is creating a substantial hazard for vehicles traveling north and south. What might have been an acceptable and agreeable situation twenty or thirty years ago has been acerbated by all the development that has been going on on Armonk Road, and people using Mount Kisco and using that road as a bit of a bypass rather than going to traffic light. So, that's one of the issues, and it also poses a concern why isn't there parking on site? Was there parking on site on the original site plan? How can we secure parking on site if some of the construction materials were removed, dumpsters were moved, and so on. We had a discussion earlier that there were parking spaces available 30 yards away to all of the sites, and Whitney will talk a little bit about that. I think there are 7 or 8 or 9 spaces. Unfortunately right now the owner of that building across the street has them labeled that they can't be used, and those signs are going have to be taken down. There is a rehabilitation facility there that has signs up on the parking spaces that are supposed to be available for everyone; you, Ben & Jerry's, and them. So that's something that we need to address. Whitney, do you want to discuss a little bit about DOT at the right of way and the condition that we have there?

Whitney Singleton: Let me just first start by saying that at Ralph's request, he asked me to pull the Deed because he recalled something on this, and I went back and checked, and I had actually done the closing on it, and the man that was just in here is the man who owns the property across the street, Edward Cohen. When that land was sold to him, they put a restriction in and I photocopied this while the meeting was going on, so you could take a copy of this.

Angelo Luppino: I was part of that meeting.

Whitney Singleton: I thought I remember you participating. So there are some spaces available across the street, but as far as the ones in front of the building; the ones in front of the building are almost entirely if not entirely in the right of way, and I believe a portion of your building is actually in the right of way.

Angelo Luppino: I believe that on the original site plan there are parking spots in front of that building, if you get the original site plan out.

Whitney Singleton: The public right of way itself is being encroached on. Whether there's a space or not in the original site plan I don't know. Austin had pulled it out to review, and it's not currently in the file. But the fact of the matter is there is long standing concern expressed by this board regarding the inability to get in and out of that site in the back without obstructed views and also the general dangers that exist for users of Armonk Road with the trucks and the cars and everything jutting out into the right of way. I know it's a tight situation, that's been there and I believe you're in your 50th anniversary.

Angelo Luppino: I'm not, but the building is.

Whitney Singleton: it's been that way for a long time but I think one of the reason the Planning Board wanted to look at this is they're entertaining an application right up the street and there's been ongoing concern as to the safety on Armonk Road. Austin has looked into it; he's confirmed that most of this parking, if not all of it, is in the public

right of way. One of the things that I saw was the building inspector back in 1957, again pre-dating you, specifically told Ed, don't build any of the building in the right of way, and there actually is a small portion of the building that they built in the right of way. It's a very tight situation, and the situation has been exacerbated over these years, and I think that's at least one of the reasons that the Planning Board wanted you to come before us tonight. They'd like to make sure that there doesn't become an injury or a fatality over there.

Angelo Luppino: Has there been any accidents or fatalities in the last 20 years?
Whitney Singleton: I can't comment on that, but I do know that there have been a couple of situations there which have been close calls. So that's what I'm aware of to date. As far as the balance of the site plan, I have no comment on that other than I think Austin's done an inspection, has he not?

Angelo Luppino: Yes. I went in to see him, he was supposed to call me, and he hasn't to date. I'm still waiting for his phone call for an inspection.

Whitney Singleton: He submitted a follow-up to his earlier inspection.

Angelo Luppino: He hasn't been out. I came in to see him at his office and I gave him my cell phone number, and he hasn't called me yet to come out.

Whitney Singleton: But he has been out to the site, has he not?

Angelo Luppino: Not in the last couple of weeks that we've talked, since I've gotten the letter.

Whitney Singleton: I thought he found somebody sleeping in the basement. No?

Angelo Luppino: Not as far as I know.

Ralph Vigliotti: Obviously the concern is about parking on site, and, whether the original site plan shows parking or not, that's what we're trying to confirm, is there parking on site? I know in the back of the building there is blacktop and there appears to be enough space for some parking. I know there is an upper lot which is now chained and locked off, which doesn't provide any parking, I think there are a couple of vans that park up there. It's chained off. Where the dumpster is located now could be a parking space.

Angelo Luppino: There is a parking space in front of that right now.

Ralph Vigliotti: But there could be 5, 6, 8 spaces back there, but there is some construction equipment there, there is a dumpster there, you can't get up into the upper lot because that's now chained off. So the concern obviously is the parking in the right of way. At some point it's going to have to stop. I know when you were involved – I guess it was 12, 14 years ago, with Cohen, with purpose, and you came before us and said I need parking and that's why there was an agreement put into that 8 or 9 spaces right alongside the bowling alley, which is now Calico Corners, would be available for everyone, including yourself, Ben & Jerry's and the bowling alley. But it's all coming down to – and we're waiting – the State is going to make a determination because it's their right-of-way. Cars and trucks are parking out there and they are sticking out into the road; 2, 3, 4 feet, depending on the size of the vehicle, of course. 10, 15, 20 years ago there wasn't the amount of traffic that is going through there. So we're trying to prevent a situation that is going to happen. And with the gas station – your neighbor to the south of you that's going to be a re-development there within the next two years, and that has brought forth whether there is going to be a curb line there, or whether it's going to be marked by the State. So that's why we're here.

Angelo Luppino: I have a comment on yours, so you know how we originally got into this, getting the nine spaces. There used to be a road between what used to be actually a real estate before Ben & Jerry's, and there was a road between the bowling alley and the real estate, which I think the late Dick Flynn, who is emeritus to the Town of Mount Kisco, leased, which was a State road, to Ed Cohen for like a dollar or ten dollars a year illegally for a number of years. And then when that road finally went for sale, I finally put an offer in to buy it also, because I wanted to protect my building, and that's when we came up with this agreement of nine spots. That's how that came about. I would say about seven or eight years ago I was in front of this board again about the same situation here, about the parking, and we came up with a suggestion with Mr. Cassidy on making this road a one-way heading into Armonk with Timber Ridge being able to use it as two ways, just like St. Mark's Place. And everyone thought it was a good idea, and nothing ever happened.

Ralph Vigliotti: Now, with the potential development of the gas station, making that or even considering that as a one way now changes things completely; for ingress/egress into their site. Ten years ago it may have worked.

Angelo Luppino: I understand where you're coming from. You're looking out for his benefit. You have to look out for everybody. We're all taxpayers here in Mount Kisco.

Ralph Vigliotti: No, no we're looking out for the benefit for that area. As you said earlier, people are bypassing the traffic light at the Mobil Station coming north and they are heading down Armonk Road, stopping at the stop sign.
Angelo Luppino: They won't do that if you do a one way. They'll have to go to the traffic light.

Whitney Singleton: I understand your concern, and by the way your assessment of the history was relatively accurate. It's nice to have a little historical flavor in it, but the issue of Armonk Road and it being a one-way-street is kind of answered by the State.

Angelo Luppino: That could be a recommendation from the Village though, I understand, if they really wanted to do that, right?

Angelo Luppino: Well, the State would answer yes or no.

Whitney Singleton: You're right. It's a possibility, but it's a question of whether or not it's feasible giving the road to Mount Kisco.

Angelo Luppino: I wasn't around when the building was built, and obviously it was built to whatever codes were assessed at the time. Just like there are six family houses on Spring Street. That was done years ago, and that's grandfathered in, and no one says that has to go back to a two family since that's a two family zone.

Ralph Vigliotti: This is State road, State right of way.

Angelo Luppino: I know, but I'm in front of the board in Mount Kisco.

Whitney Singleton: I think the overall comment of the board in this is that you asked have there been any accidents and has anyone died in the past X many years? No, but I don't think that the board wants to wait until somebody dies to recognize that there's a problem. And I think that they understand, literally, we are almost to the day, or at least a month or two of when this building was originally approved fifty years ago. And I understand that this is not something you did, it was inherited this way. But as things are evolving, the parking and the right of way is becoming more and more dangerous. And I think that's one of the things they want to see addressed, and obviously sites have become tighter, there is more traffic in Mount Kisco, there are more dangers, there are more obstructive views and everything else. You make a good point with the one-way, but the fact of the matter that remains is that right now those cars are sitting there constituting a danger for any customers and passersby.

Stanley Bernstein: There may not have been any accidents, and there possibly will not be accidents, but I'll just give you one example of the problem. If you're coming north on Main Street and you want to go to Armonk, you can, of course, maybe you should, go to the light and make a left. But most people, me included, like to make the left turn and go up what used to be Park Avenue. There are times that you can't. I made the turn, there's a Pepsi truck blocking the entire road. I had to go in to Calico Corners and go across and then make my left turn. That is dangerous. That shouldn't have to be done. There was no way of backing out. That does present a problem. Free flow is important. Maybe there won't be accidents, but free flow of a street is very important. Especially the way things are now in Mount Kisco with the traffic problem. So we should have to keep that street clear at any rate. One way is an excellent idea, but I don't think that is going to happen.

Angelo Luppino: What do we do with the tenants that are in the building that are paying taxes to Mount Kisco?

Stanley Bernstein: They have to go across the street and park; its two extra steps.

Angelo Luppino: We had this issue when we got this. There is no cross walk. Whose responsibility is it when somebody walks across the street, and someone gets hit by a car then?

Ralph Vigliotti: That's anywhere in the Village.

Angelo Luppino: There are crosswalks in the Village.

Stanley Bernstein: That's very true. I agree with you 100 percent on that.

Ralph Vigliotti: They can choose to park across the street or park behind the building.

Stanley Bernstein: That probably would be the best.

Ralph Vigliotti: There is enough parking available across the street, and parking behind the building if a couple of things were moved to make that work. But right now a letter went from the Building Department to the State alerting them of the situation getting their input recommendations, and we really thought it would be here by this point.

Angelo Luppino: And if their recommendation is that they don't feel there is a problem, then what?

Ralph Vigliotti: I hate to say it; I would find it hard to believe that they would accept a hazardous condition that exists. I think they are going to send out a field rep and take a look at it very close and make a decision. But cars are parking literally on the road. You know how they park, they are two, three, four feet into the roadway which means if you are heading north you have to cross the double line or wait it through until the cars come south of you so you can go forward because somebody's station wagon is sticking out in the middle of the roadway while they are getting a haircut or running in ordering a basketball hoop or getting a wedge or whatever it may be. It's more and more. Twenty years ago was different. Thirty years ago was different. It's just a different ball game.

Angelo Luppino: I hear you. I agree with you, I understand what you're saying, I just feel that the Town of Mount Kisco also failed when they sold that State road, which was not under their – and there was no curb at the time there.

Ralph Vigliotti: Park Avenue. No there was no curbing at all there.

Angelo Luppino: So that road was very wide at that time.

Ralph Vigliotti: But you did the right thing by securing those eight or nine spaces for your business.

Angelo Luppino: I think the Village was part of the problem in this circumstance.

Ralph Vigliotti: Because of the redevelopment there, all of the curbing had to meet New York State standards.

Angelo Luppino: I understand. By selling that portion of the road and doing that without being in your jurisdiction, it then created also a problem for…

Whitney Singleton: What do you mean being in your jurisdiction?

Angelo Luppino: I think Park Avenue is a State road.

Whitney Singleton: Yes, and it was deeded to the Village. The Village leased it to Ed Cohen for his predecessor, and it was subsequently discovered that these payments hadn't been made for a decade, and it was sold to him for like $95,000, and that's when you came into the picture and we made express provisions to make sure that those spaces, even though he was paying for them, were as much available to you as they were anyone else. I don't know really where the Village dropped the ball in that regard.

Angelo Luppino: Oh, no, they didn't drop the ball in that regard. There were only nine spaces, but the spaces on the other side were given to Ben & Jerry's; the spaces on both sides where the road was.

Whitney Singleton: I don't know that that's accurate, because the road is right here.

Ralph Vigliotti: I think you have access to the spaces along the wall of that building.

Whitney Singleton: The road is there, that line in the red, and then this is where the actual road bed was. So there's those five and then those four. These on the other side were outside – there's no spaces there, you're right those could have been made into spaces.

Ralph Vigliotti: As it stands now - and I've seen people walk across the street.

Stanley Bernstein: You could build a cross walk and a curb cut.

Ralph Vigliotti: It may have to be with the new building, the proposed development there. There may have to be a cross walk put in.

Angelo Luppino: My feeling is the best thing for all of us is if we can petition the State of New York and make it a one-way. It's been something that we've talked about for a decade now.

Ralph Vigliotti: Thirty years ago they might have gone with that perhaps, the sleepy little village that we might have been thirty years ago.

Angelo Luppino: Maybe they'll take that road and give it to the town and do whatever you want with it; that little section of road.

Ralph Vigliotti: That would be an easy way for them to get off the hook in making any kind of decision.

Angelo Luppino: I'm trying to make it so it's good for each owner on that street. I'm born and raised here in Mount Kisco and I've been paying taxes here a long time.

Ralph Vigliotti: If that's a route that the Village chooses to go, or with guidance from the Planning Board and the DOT, we can go down that route. But what do we do from this point forward? One, we need to wait for the State to see what kind of statement they are going to make with regard to parking in the right-of-way. If they say at that point it needs to cease and stop, then we need to then sit down and discuss how we're going to make that happen. I guess as the property owner, you need to decide how do I make that back lot work better than it's working now?

Angelo Luppino: The upper portion of the back lot I rent out to garages and I keep my trucks back there. And I run my business out of there.

Ralph Vigliotti: If the parking on the right-of-way ceases, then you may have to reconsider how you're using the back property of the building for property down the road. New tenants, current tenants, or whatever it may be.

Angelo Luppino: For the Board's information that lot back there was not a lot when I bought the building. It was not being used for parking at that time.

Ralph Vigliotti: Beyond the gated - ?

Angelo Luppino: Beyond the gated portion.

Ralph Vigliotti: So then it just brings you maybe four parking spaces. There's not a lot of parking back there.

Angelo Luppino: That's what I'm saying. There are not a lot of spots there and that's why we have these questions.

Ralph Vigliotti: Fortunately you do have that upper lot if you needed to do something to make the property work with the circumstances that we do have now here in 2007 with the traffic that we have in town and the development that is going on on Armonk Road and other potential developments going on, that the parking in the front for 50 years has been there for free, and I know you've paved it and kept in nice and clean – that may not be available at some point. We may get a letter tomorrow saying we've sent out a field rep, and our field inspector has indicated that it is in the right-of-way and parking can no longer exist there, and you need to post signs and you need to enforce it. So that's where we're just waiting to hear from the State. The other piece is – recommendation is – to the Village Board, take a look at it being a one-way, and they may say no way in hell is that going to happen. It's too viable of a street and we can't do that.

Angelo Luppino: Other than Timber Ridge there is only us and the gas station and that one little house that used to be owned by Conte. There used to be a fruit market there for many, many years.

Stanley Bernstein: Was it a fruit market?

Ralph Vigliotti: Fruit garage. Today we're Fruit.

Stanley Bernstein: Oh, yes, yes, he used to sell hand picked corn. I knew the guy; he went to school with my son. You used to get fresh corn in the morning over there.

Whitney Singleton: He had a cart that he pulled out of the garage.

Stanley Bernstein: Fresh corn in the morning.

Angelo Luppino: He's dead now, I think.

Stanley Bernstein: Is he?

Ralph Vigliotti: Those are days long gone.

Angelo Luppino: So I mean there are only the three properties there once you get by Timber Ridge, so there is really no other.

Ralph Vigliotti: There are literally five properties. You certainly have Calico Corners and you have the –

Angelo Luppino: Ben and Jerry's is one property. Isn't it owned by Cohen?

Whitney Singleton: Yes.

Ralph Vigliotti: Personally I would be against it being a one way, and I'm only one member of the board, but this is a Village piece. It's not even a Planning Board piece. Whether they choose to –

Angelo Luppino: So how do I go about…

Ralph Vigliotti: I think the next…

Angelo Luppino: Maybe putting a seed in someone's mind to do this, not only are they going to maybe stop us from parking there, we can get on the ball in making that a one-way.

Ralph Vigliotti: It's a State road. There is a procedure to bring that forward if the different Village Board chooses even to go that route. For them, I would be very honest with you. Let's enforce the DOT right-of-way and we're done. And we don't have to make anything a one-way or a two-way or whatever. We follow the State guideline, the State said to enforce the right-of-way, and that's the end of it, as opposed to make it a one-way; and I've got to be honest with you; making it a one-way to satisfy one property owner. That sounds cruel to say that, but that's really what you're asking. Let's make it one way so I can keep my parking there. So the parking can stay.

Angelo Luppino: It would help every property owner. You can meter the parking out on the street there; it would be more income for the Town of Mount Kisco; why would it just help me out and not help out everybody else? If Martabano is ready to put a building up, they'd be free to use that parking also.

Stanley Bernstein: Not a bad idea. Parallel parking would keep the road bed wide; with meters right off of there.

Whitney Singleton: And in three years somebody else will be there, they'll widen the road. I think it's certainly appropriate for you to talk to – maybe Anthony knows, this isn't my area… but talking to DOT about a cross walk and better identification of those spaces being available, not just to Ed Cohen's customers but to other building customers and putting some sort of heavily painted crosswalk to get to the other side of the street.

Anthony Oliveri: Do you mean the Village approaching DOT on that?

Whitney Singleton: Yes. You have different ways to do that. A rhetorical question, would it be better for the Village to endorse that application than for him to do it privately?

Anthony Oliveri: I could maybe talk to a couple of people at DOT about that; what the procedure would be and the best way to go about it.
Whitney Singleton: Maybe whenever our next staff meeting is, you, me and Nanette, and then I can talk to Austin about that as well.
Anthony Oliveri: Alright, sure.

Angelo Luppino: Who do I go to about making this a one-way? Because it has to come from the Village, right? It can't just come from me.

Ralph Vigliotti: If you want to initiate it, I'd put a quick couple of paragraphs together off to the Mayor and the Village Board of Trustees and that will kick the ball.

Doug Hertz: Or Jim Palmer.

Ralph Vigliotti: Right. Or write it to the Village Manager, rather than conversations like this, something formally in writing. Someone will get back to you and will progress in whatever direction it is likely to go.

Angelo Luppino: Would I be coming back to this board?

Ralph Vigliotti: I don't think so.

Whitney Singleton: That's up to the State.

Ralph Vigliotti: They could ask for a recommendation by this board.

Whitney Singleton: That's going to be entirely up to the State.

Angelo Luppino: The State is going to come back to the Village for it.

Whitney Singleton: Whether it's putting in a cross walk or making it a one-way…

Angelo Luppino: If you guys are going to talk to the State about putting a cross walk in, why not talk to them about putting in a one-way at the same time?

Whitney Singleton: I'm not suggesting that we're going to talk to them or not talk to them, I'm saying we should get together and try to figure out the best way to effectuate that being done and get some recommendation as to who to talk to at DOT to make sure. Basically what you're being told here tonight is that parking in front of your place is not permitted.

Angelo Luppino: Basically. But we can park across the street, walk across the street and get hit by a car, that's permitted. Basically that's what we're getting at.

Whitney Singleton: I can't help you there, it was never permitted, it's not permitted now, and the fact that you've done it all these years doesn't exactly infer any rights. And I'm not telling you that there's any thing punitive being done here, I think there is a genuine concern because the situation is getting bad, and we should work with you to try to find a solution.

Angelo Luppino: That's what I'm saying. Working against each other is not the right thing to do.

Whitney Singleton: When's our next staff meeting?

Nanette Bourne: Thursday.

Whitney Singleton: The meeting is in two days. Why don't you follow-up with Austin after that, and if Austin is not the person to follow-up with after that, he'll give you whatever name and phone number – whether you need to get in touch with Anthony, Nannette, myself or we come up with some third person, a phone number at DOT, or whether it's putting you in touch with Jim Palmer as the Village Manager, we'll give you some contact as a way to move on with this.

Angelo Luppino: Okay. Is there anything else here as far as other issues?

Ralph Vigliotti: I believe Austin went out and is going back out with regard to, I believe, in the parking lot there is some equipment that has been stored. The issue is there could be parking in the back if the dumpster wasn't located where it is and there might be – I don't know is there a forklift or something?

Angelo Luppino: There is a fork-lift there. That's Hoops Plus.

Ralph Vigliotti: If that were put somewhere else you could get a couple of cars back there, legitimately, a couple – four cars back there. But because of the location of the dumpster, and it's been there for months. I have to be honest with you; I drive by there, for months that dumpster has been overflowing. Overflowing. It looks good the

last couple-three weeks, but for months and months and months, it's been overflowing. Lots of cardboard and debris flowing out of it; it's not being picked up enough.

Angelo Luppino: It gets picked up three times a week believe it or not.

Ralph Vigliotti: Really?

Angelo Luppino: Monday, Wednesday and Friday.

Ralph Vigliotti: I think you ought to contact the carter, because it's not being picked up three days a week.

Angelo Luppino: Oh, yes it is.

Ralph Vigliotti: I know. I always take that peek up the driveway because that dumpster is always overflowing.

Angelo Luppino: Sometimes when the dumpster gets picked up, and it's a front-loader and they dump it, it dumps into the truck backward sort of, and some of the debris sometimes falls off the truck, and maybe by the time I get a chance to get there the next morning to clean it up…

Ralph Vigliotti: It looks like you need a bigger dumpster. I know you go three times a week in order to keep a smaller dumpster to create spaces back there.

Angelo Luppino: It creates the same parking as it would be if – it only takes up as much as this table against that wall.

Ralph Vigliotti: He has his forklift there.

Angelo Luppino: This is right next to the dumpster.

Ralph Vigliotti: In the early site plan they would have showed a dumpster to be somewhere else and not there, because it's ingressed/egressed to get up in there, the dumpster and the forklift is taking a parking space and a truck can't get up there and make a delivery if they had to because there is not enough room. Somebody had mentioned on the board that the canopy is starting to fall; the canopy over the driveway. You should take a peek at that.

Angelo Luppino: No, it's not falling. The person who picked up the dumpster hit it.
Ralph Vigliotti: So the concern was, is there structural damage?

Angelo Luppino: So if you go in any further right with the dumpsters, you're going to hit the building even further.

Ralph Vigliotti: So take a peek at that because there was concern whether there was consequential damage to the roof system because of that. I don't think so, but you need to take a peek at that. So it really came down to parking in the back, there was a question of there is a sidewalk that leads to the basement that now has a pipe rack stored there, and there are compressors on the sidewalk that is supposed to lead to the basement. Technically, that's impeding the ingress/egress to the basement.

Angelo Luppino: Keep trucks outside the building? I just didn't know that that was part of…

Whitney Singleton: I don't know that your trucks are legal or illegal. I don't think that we have any approved site plan to have that use, but I don't know. That's for Austin to determine. Did you come to the board for use of storage of trucks?

Angelo Luppino: No, I didn't come to the board for use of storing of my vans and my trucks, sir.

Whitney Singleton: But it's been for business; it's inside the building?

Angelo Luppino: Yes.

Whitney Singleton: And it's always been inside the building?

Angelo Luppino: Yes.

Whitney Singleton: Well, then that's an approved use for an existing site plan. That's fine. I know there have been changes in use.

Angelo Luppino: The Culligan people used to have that before us. They used to have all their trucks there.

Whitney Singleton: I don't know what even within each of the uses within the building, but that's for Austin to determine.

Angelo Luppino: I know we had that problem with the trucks for Hoops Plus.
Whitney Singleton: That issue seems to have resolved itself.

Angelo Luppino: Yes, thank God.

Ralph Vigliotti: Where does he park now?

Angelo Luppino: Off-site.

Ralph Vigliotti: Good. That's basically it in the nutshell. Right-of-way, parking in the right-of-way; my gut is we are going to get a letter from DOT saying it has to stop, and it's really about conversations, how do we now address the lack of parking now, which was illegal for 50 years in front of the building, and start creating parking and making sure that it's available for your tenants. That's kind of where we are.

Angelo Luppino: Does the Village want to buy the property?

Ralph Vigliotti: Is it for sale?

Angelo Luppino: It's always for sale. If the Village wants it.

Stanley Bernstein: The Village may not, but there are certainly enough people around here who venture people. I'm sure you could sell it. Just put the word around.

Ralph Vigliotti: Anyone else on the board? I think that's pretty much it. So Austin will hopefully get back to you in the next two-three days.

Angelo Luppino: I'll give Austin a call Friday, I guess, right? Is the meeting Thursday morning or Thursday evening?

Nanette Bourne: The meeting will be confirmed tomorrow. But it's tentatively scheduled for Thursday.

Angelo Luppino: Then I can let you know where we will go with this one way. And, are you guys going to follow-up with the crosswalk, or am I?

Whitney Singleton: When you call Austin we will figure out where we are going with that.

Angelo Luppino: With both? Will you guys discuss even the one-way on Thursday?

Whitney Singleton: I'm not promising.

Ralph Vigliotti: You've asked us, it will be discussed.

Angelo Luppino: What time Thursday morning is your meeting?

Nanette Bourne: Confirm it tomorrow.

Angelo Luppino: There's no tentative time?

Nanette Bourne: Check with Nancy Placona, probably in the afternoon, and she'll have an idea if it's on Thursday. If it's not Thursday it will rescheduled to Friday or Monday.

Angelo Luppino: Okay, thank you.

Special Discussion:

Ralph Vigliotti: On our special discussions – how many times have we moved the rules and procedures to the next meeting, next meeting, next meeting?

Nanette Bourne: It's just that one change.

Stanley Bernstein: Yes, but there is also some typos. Did you go through it and notice the punctuation typos? Somebody hit a wrong key here and there and everywhere. I marked them in red.

Ralph Vigliotti: Do you want to enter those into the record?

Stanley Bernstein: It looked like it was a preliminary draft. Why don't I hand this to you?

Nanette Bourne: That comes from Whitney, but I see what you're saying.

Stanley Bernstein: Whitney has a bad computer keyboard.

Nanette Bourne: No, its' actually the transfer from one program to the other.

Stanley Bernstein: Yes, but also he asked for the building inspector to be deleted.

Whitney Singleton: If you would just get in the 21st century, we wouldn't have any problems here.

Stanley Bernstein: Yes, I know. We asked for the Building Inspector to be deleted, because nothing goes through the Building Inspector, it goes through Nancy. So on Paragraph C, Site Inspection, Building Inspector shall send a reminder notice. The Secretary shall send – now we changed a few of these Building Inspectors, but here's one we missed. He should also coordinate time, location and flagging. That's not up to him, that's up to Nancy. Paragraph 1C.

Ralph Vigliotti: Where it says Building Inspector shall send. So, we're basically going to replace that.

Stanley Bernstein: Now, if you go down to 2. Again, the Board Chair in consultation with the Building Inspector. He never consults – maybe he used to – Johnson used to, but Joe doesn't.

Whitney Singleton: But there is a reason I have it in that way, Stan.

Stanley Bernstein: Why is that?

Whitney Singleton: Nancy can't determine whether or not an application is compliant with the zoning.

Stanley Bernstein: Does Joe actually meet with Austin on items like that?

Whitney Singleton: No. Let me give you an example, and it's probably a poor example, given the fact that it's under construction. But, when Mount Kisco Bakery came to your board, you had already gone out and done a site visit before we realized it was not a permitted use. It was the first thing that I came into when I came to represent your board. You just came back from a site visit for Mount Kisco Pastry, and we determined – so what are you doing a site visit for? They can't expand a residential use upstairs. They can't? Nobody ever told us that. That's why Austin has to be part of the process.

Stanley Bernstein: Yes, but he's not.

Whitney Singleton: But legally he should be.

Stanley Bernstein: Legally he should be.

Whitney Singleton: It says in the code under 110-45 that you shall not entertain any applications until the building inspector has reviewed them to determine their compliance.

Stanley Bernstein: I know it used to be that way. Austin used to be at every meeting, and we used to discuss all these things.
Whitney Singleton: Right.

Stanley Bernstein: We don't anymore.

Whitney Singleton: I understand that. But nothing should go on your agenda without Austin having reviewed it.

Stanley Bernstein: Alright, so you want to leave that?

Ralph Vigliotti: It should stay, yes.

Stanley Bernstein: Then you could leave 1C.

Whitney Singleton: That applies for both of them.

Stanley Bernstein: Leave both of them. There is another building inspector – on the next page, now we come to 3, it's just punctuation. There are equals.

Whitney Singleton: I can convert it to WordPerfect and send it to the Village if that's the way you want it, or just print it out.

Stanley Bernstein: It should be board apostrophe S, but instead it's equal S. And that happens in a number of places. We don't even have page numbers here. We're under 6, the same thing. We have an A on on – about 7 lines down – they have any additional remarks, A on. So that is obviously a typo or something. Then after, two words later, question, there's an Act.

Whitney Singleton: Stan, would you prefer, rather than go through all these things.

Stanley Bernstein: You want to take my red marks here?

Nanette Bourne: It was in the conversion. It was WordPerfect to Word.

Stanley Bernstein: Okay, so can be it corrected?

Whitney Singleton: It doesn't have to be corrected. It just needs to be printed out from my computer.

Stanley Bernstein: Great. Do it then. I'm sorry I spent all this time going through this then. Okay that's fine with me.

Ralph Vigliotti: Okay, so that's good. Why don't we move to B, revised Planning Board Calendar?

Stanley Bernstein: It looks okay to me. Did you guys go over it?

Ralph Vigliotti: I'm okay. We may change what goes on during July and August when we get closer, but otherwise –

Stanley Bernstein: Well, I think we prepared for it this year. Last year we didn't. This year it seems we're doing the first week in both months. And they are both regular and work sessions.

Ralph Vigliotti: Doug, you okay with the calendar?

Stanley Bernstein: And of course December 25 there would be no meeting anyway, whether we had that situation or not. So, yes, the calendar looks okay.

Joseph Morreale: May I make an observation about the next meeting? I, for one, won't be at the March 13th meeting. I'd just figure I'd put that in, because I know we've been short, we've been worried about quorums.

Ralph Vigliotti: Is that the middle of the spring break? Is that spring break?

Joseph Morreale: That's correct.

Ralph Vigliotti: I won't be at that meeting either.

Sol Gibbons: I won't either.

Stanley Bernstein: Well, let's cancel it.

Doug Hertz: Well, we're not going to have a meeting.

Whitney Singleton: Well, you know Tony won't be here.

Doug Hertz: We can send him a ticket.

Stanley Bernstein: And Joe may not be here either.

Doug Hertz: Maybe we'll fly him back from Hong Kong or New Zealand.
Stanley Bernstein: How come spring break is March? Ours is April.

Ralph Vigliotti: No, it's April.

Stanley Bernstein: Bedford starts spring break April 1st.

Ralph Vigliotti: I'm okay for March 13, my mistake for me. I'm okay.

Joseph Morreale: That's for private schools, because it's smack in the middle of the semester.

Nanette Bourne: We'll have Nancy call the board. Can you make a note for Nancy?

Stanley Bernstein: You're not here for March 27?

Sol Gibbons: No, I'm going to be in England for the month of March.

Ralph Vigliotti: Otherwise we're okay. Nannette, do you want to go over all the environmental monitoring? The letters are here, we've read them.

Nanette Bourne: Yes, the environmental monitoring, you can see the Lexus monitoring that was done a couple of weeks ago, so there will be follow-up reports that they were in compliance with their initial disturbance and commencement of construction with a few exceptions. With the Saw Mill Club, they're missing some trees. We'll notify them. There is enough room on site to plant them, so we'll notify them.

Whitney Singleton: Incidentally, those memos that went out today, did you see them?

Nanette Bourne: Yes. I think we should have a discussion on that in our next meeting. There are traffic issues and parking issues, which has to be addressed.

Stanley Bernstein: At the Saw Mill Club?

Nanette Bourne: Yes.

Stanley Bernstein: I thought we resolved everything.

Nanette Bourne: No, they are well utilizing all of their parking.

Ralph Vigliotti: Now, they are back on the street again.

Nanette Bourne: Yes, and we are in the process of trying to understand why, so we're –

Stanley Bernstein: Because nobody wants to park all the way in the back.

Nanette Bourne: No, it's full in the back, it was full in the front, and it was full on the sides.

Doug Hertz: If you build it they will come.

Ralph Vigliotti: That's right. They keep getting bigger and bigger.

Nanette Bourne: So we're trying to focus on what seems to be creating this spark of light.

Stanley Bernstein: Didn't we put up No Parking signs?

Nanette Bourne: Not yet. We know that January and February are peak peak, so during their peak hours of the two peak months, they are peaked out. So, we'll be able to report to you more fully at the next meeting. The next one, Mount Kisco Senior.

Doug Hertz: I can tell you a little bit about why they're successful. Its because Saturday mornings all the women are working at the few classes they offer, and the other places around are collapsing.

Nanette Bourne: We don't have an issue on Saturday. It's Monday and Tuesday.

Doug Hertz: On Saturday apparently there is no parking anywhere, anywhere, anywhere; long walking back.

Ralph Vigliotti: Growing pains again.

Nanette Bourne: I'll let Austin know that Saturday is also an issue.
Doug Hertz: And this is before they expand the interior.

Whitney Singleton: How many parking spaces do they have? Several hundred, don't they? And they only have their membership that they quoted us.

Nanette Bourne: Well Okay, Mount Kisco Senior we just wanted to move forward. This is something that we reported and talked about in the past, and we want to move this onto the Village's Shade Tree Program and get **---------** Kyla to move on this.

Ralph Vigliotti: Is going to work on that? Is he going to be okay? $4,000 is the amount. It doesn't matter. He owes us $4,000.

Doug Hertz: It's cheap.

Ralph Vigliotti: Actually, when you get to the end, yes, it is cheap.

Stanley Bernstein: What's happening with Balter?

Nanette Bourne: We sent a memo to Balter last week, a memo that was reviewed by a couple of people. I notified Austin that this memo was going out and this was a concern. Balter hasn't contacted anybody for a follow-up meeting, and we'll put this memo in – I actually meant to bring copies…

Stanley Bernstein: Does Austin know not to issue any more CO's?

Nanette Bourne: He can't stop issuing CO's. There are eight CO's left to be issued as of last week. Austin notified Tom Imperato that the CO's were about to be halted until this meeting and some resolution take place. Balter would have gotten the memo probably Thursday of last week, and the memo said he needed to call Nancy Placona to set up a meeting with Planning Board Members and that we would participate; we have the information on the trees. To my knowledge, he hasn't.

Stanley Bernstein: So now if Austin issues the CO's, what kind of clout do we have? He can just walk away from this.

Nanette Bourne: Austin is delaying, and he's told him he will be limited in the CO's that he can issue.

Stanley Bernstein: I hope so.
Ralph Vigliotti: Okay that brings us down to correspondence. Quite a bit of it. How do we want to go through this, one by one? Does anyone have any questions on anyone individually? What's your pleasure?

Joseph Morreale: I was wondering about the Albanese letter because he's so concerned here – he's arguing financial hardship. So I wonder, do we delay things like this and give them time, or what do we do with people like this?

Ralph Vigliotti: Are we allowed to give him three months?

Whitney Singleton: Quite frankly, I don't think this is within your purview. A violation is a violation and each day comes with a separate and distinct violation of that. I don't think that you can authorize – I know that you can't authorize the continuation of a non permitted use. Austin says it's not permitted; he's quite convinced it's not permitted.

Ralph Vigliotti: And I agree with him, but all of a sudden it's not permitted. It hasn't been permitted, but all of a sudden Austin sends the letter out, not giving him enough notice that it's not permitted.

Whitney Singleton: That's not true. Whenever Austin sends out a notice of violation he has to afford that person a reasonable time to bring his site into compliance. I don't know how long Austin has provided for this.

Ralph Vigliotti: So what's reasonable, then?

Whitney Singleton: I think he's had this notice for, in the vicinity of several weeks if not months.

Ralph Vigliotti: If its weeks its one thing, but months…

Nanette Bourne: Was it January 19?

Whitney Singleton: No, that wasn't the original correspondence, was it?

Ralph Vigliotti: It's the first one we've gotten.

Whitney Singleton: No January 19 was when he received the request – so it's been a month and how many days.

Ralph Vigliotti: Do we try to be fair and reasonable? Do we hit him hard?

Whitney Singleton: That's for Austin to determine what's reasonable. I don't think that Austin can ask your board to continue to authorize it's sanction. It says 45 days.

Ralph Vigliotti: Okay. So then Austin is going to send him a letter back responding to his letter.

Whitney Singleton: This is it. Sorry, I have to brush up on this.

Ralph Vigliotti: I don't think he responded to Albanese's letter.

Nanette Bourne: No.

Ralph Vigliotti: So he needs to then at least respond to that.

Whitney Singleton: Yes.

Joseph Morreale: Wouldn't 45 days be around now?

Whitney Singleton: Izzy Albanese's letter is to your board.

Joseph Morreale: Right, the letter is to the board, but Austin said at the end of his it's 45 days. Is it 45 business days or 45 calendar days?

Ralph Vigliotti: Calendar, probably.

Joseph Morreale: Well, then it should be just about up, shouldn't it? If it was January 19 when he informed him?

Whitney Singleton: He's writing to the Planning Board basically saying you turned down his Webster Bank, that you wouldn't give him the approvals, which I don't know if that's an accurate assessment. They came before your board one night for a conceptual and they wanted four curb cuts. That's not an accurate depiction of what transpired there. It's been like that operating illegally now for a long time.

Ralph Vigliotti: A long time. Okay.

Whitney Singleton: And it's time to get it cleaned up.

Ralph Vigliotti: But this is the first time he's been put on notice. So, now if he's got a two year lease, a thirty, a month-by-month lease, whatever it may be, that's his hardship.

Whitney Singleton: Quite frankly, he's got to go to the ZBA if he wants a use variance. We can't give him a Use Variance. If it's not permitted by the code, your board can't sanction it. Your board does the nuts and bolts of the sites.

Ralph Vigliotti: So that answers the question. Okay.

Joseph Morreale: Could I ask that we see if Austin has brought this to conclusion?

Nanette Bourne: We'll bring that up at the staff meeting.

Joseph Morreale: That would be good.

Ralph Vigliotti: On the valet parking at Flying Pig, it appears that the fire commissioners are indicating that the layout is okay with them.
Did Austin review that? I'm not sure I'm in agreement what they're recommendation is.

Whitney Singleton: I don't know that Austin is in agreement with that. I know that Joe looked at it; he's trying to work it out. They had the fire inspectors go out and look at it.

Ralph Vigliotti: And they indicated that they're okay with it.

Whitney Singleton: I guess so it was done in an effort to get cars off of Moore Avenue.

Ralph Vigliotti: Is it within our jurisdiction to give them two or three months to pilot it to see if it's working?

Whitney Singleton: We have not officially sanctioned this. It's not a site plan amendment. I think Joe basically told them you can go ahead and do this, but if it becomes a problem it's going to become your problem, not ours. We're going to call your site plan. It will come back to your board if it's a problem.

Ralph Vigliotti: So that's basically three correspondences on that. The letter from Stan Fivekiller.

Stanley Bernstein: That's about the same thing. He's the one who is contracted to do the valet. Has anyone looked at the valet parking in Coco Rumbas? Is that working okay or are they still screwing up?

Ralph Vigliotti: They were parking at the fish market at some point, and you'll notice that there is kind of tape or rope going across the fish market where they can't park there any longer. I think Austin – did Austin have some communication with them, Coco Rumbas?

Whitney Singleton: If he did I'm not aware of it.

Ralph Vigliotti: But they have stopped parking at the fish market, the old fish market.

Stanley Bernstein: So where do they park now?

Ralph Vigliotti: That's a good question. Good question. That's a very good question. It's almost like we need to get out there to find out where they are parking. Doug, did you want to go over any letters or anything?

Doug Hertz: No, I'm good with everything. I actually had one question that was not on the agenda. If we have new business… Plant's and Things. Their sign… I don't believe their sign is what we approved.

Stanley Bernstein: We mentioned that a few times, and it's still sitting.

Doug Hertz: Can we ask that the Code Enforcement or someone review that?

Stanley Bernstein: Yes, we should.

Whitney Singleton: I don't know what your answer it, but that should come up at our staff meeting, because I know that Patty Tipa has been working on that issue.

Doug Hertz: In what way?

Whitney Singleton: In dealing with the property owner.

Doug Hertz: We were so specific, we crafted language, and that language is not on the sign. They spent money on a sign – it's unbelievable to me that after all that trouble they would do something different.
Ralph Vigliotti: I've been monitoring it for the last couple of months, and there has only been maximum two cars in that lot.

Stanley Bernstein: I never saw more than one.

Doug Hertz: Really, and I drove by it the other day and there was a van and four cars and they didn't know what to do.

Stanley Bernstein: That's a problem.

Ralph Vigliotti: That's interesting.

Doug Hertz: It was the one time I drove by and looked. I was looking at the sign and all of a sudden I looked on the side, and it's like – you've got to be kidding, which is really why I brought it up.

Ralph Vigliotti: Any other new business, anything else we'd like to share?

Motion to Close: Stanley Bernstein

Meeting adjourned at 10:35 pm.

Respectfully Submitted By.

Stanley Bernstein
Board Secretary