

**Minutes  
Meeting of the Planning Board  
Regular/Work Session  
Village/Town of Mount Kisco  
Tuesday, August 21, 2007**

Meeting called to order at 7:15 PM, Tuesday August 21, 2007, at the Municipal Building Mount Kisco, New York.

**Members Present:**            **Chairman Joseph Cosentino  
Vice Chairman Anthony Sturniolo  
Sol Gibbons  
Doug Hertz  
Ralph Vigliotti**

**Members Absent:**           **Stanley Bernstein  
Joseph Morreale**

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

**SEQR REVIEW:**

**Westchester Residence & Club  
Kisco Avenue  
Application No: PB2006-19**

**Members Present:**           **Patrick Hewes  
Mark P. Miller, Veneziano & Associates  
Charles Utschig, Schoor DePalma  
Richard Rosen, Perkins Eastman**

Nanette Bourne: As requested and promised a completeness review was done on the Westchester Residence Preliminary Draft and Environmental Impact Statement. It is included in your document. This is part of the SEQR Review Process that we started at our July meeting. This looks at the scope outline that was adopted by your board and looks at whether or not the document includes the various items, including the scope, in the manner in which you had requested that they be addressed. The 11 page memo that is in your packet was provided by the applicant several weeks ago. It was prepared on the thirtieth and provided to the applicant and assumes it went out to your board way in advance of this meeting, so the applicant has had some time to look at it. Tonight is your opportunity to see if whether or not we've caught the areas that you feel need to be addressed, if there are clarifications, additions, etc. Once the applicant takes this information and revises the document, which will be your opportunity to accept this as complete, schedule a public hearing and really get into the meat of the document for the substantive review. The purpose of tonight is not for substance. It is really just a kind of check off as to making sure all the items have been addressed.

Chairman Cosentino: I just have a few things that I want to add to it. One is the elevators. As you know it is a senior building, ambulances are going to be needed; they are going to need to get in as easy as possible. The size of the elevators has to accommodate a stretcher that is completely opened. Size I cannot give you right now because I am not sure of it. Egress and ingress for the ambulance to load and unload needs easy access.

Nanette Bourne: Would you like that to be included in the Community Services Section or the project description or both?

Chairman Cosentino: Both. And there again from floor to floor should be addressed.

Vice Chairman Sturniolo: I need a clarification on Section II Page 18 from the applicant. I don't understand what the second paragraph from the top means, #218. It says *the decision to commit the proposed project to the standards of green buildings will result in lower commitment of resources as compared to a non-green building*. I'd like an explanation of what that paragraph means.

Mark Miller: We'll clarify it when we resubmit the DEIS.

Vice Chairman Sturniolo: Can you give me a hint?

Mark Miller: I don't have it in front of me.

Patrick Hewes: It's within this section, use of green building technology and it's a general response to the question of what resources are used to operate and to construct a building. We will fully more answer that for sure to make that clear. Since this is the description of the proposed project section, it is usually distillation of the chapters themselves.

Nanette Bourne: It's just poorly worded.

Mark Miller: We'll fix it.

Doug Hertz: It means something, and it's not at all clear what it means.

Mark Miller: Obviously it's a problem. We'll fix it.

Vice Chairman Sturniolo: Nannette, in the DEIS they make a reference to 40,000 cubic yards.

Patrick Hewes: That's an error. You don't count for three dimensional materials in square feet.

Vice Chairman Sturniolo: Fine.

Doug Hertz: If I may comment just on that. In the document there are multiple references as to how much material would be trucked off site. I read in two different places 40,000 and then 30,000 cubic yards, so if that could be made consistent throughout the document.

Vice Chairman Sturniolo: Also, Nannette, on that same page three. On the second bullet point; is it appropriate to add something about asking the applicant to review the Village's Safe Water Yield?

Nanette Bourne: When you say review the Village's, do you want them to report?

Vice Chairman Sturniolo: Report on what the safe water yield is.

Nanette Bourne: You're not asking them to conduct a study; just a report on the most recent data.

Vice Chairman Sturniolo: Halfway down page three, I'd like to add our Village Byram Lake Committee on that distribution list.

Whitney Singleton: List of interested agencies?

Vice Chairman Sturniolo: Yes.

Nanette Bourne: And it's called the Byram Lake Committee?

Vice Chairman Sturniolo: Yes, because they are the protectors of our water source.

Ralph Vigliotti: In addition, Tony, perhaps the Fire Department; to make sure their equipment can get up and in and around.

Chairman Cosentino: Also, water pressure, etc.

Vice Chairman Sturniolo: I would like to add one thing. I believe the AKRF 11 page memo that Nannette and her staff generated is absolutely superb. It's complete, thorough and it really goes to asking a lot of the important questions that are not necessarily raised at this point in the DEIS. I'm very pleased to read this memo.

Chairman Cosentino: I echo that, Nannette; very well done.

Ralph Vigliotti: On Page 11-9, third paragraph. This is a discussion of the height and length of the building. The applicant should provide references to the height by comparing it to the elevation on site. Do we need to put anything in here? This is something that has been bothering me and I think Doug with regard to further discussions on the length or width of the building.

Nanette Bourne: Interestingly enough, the applicant is proposing a modification to the Zoning text to increase the building length, but they don't identify what building length they want.

Chairman Cosentino: They identify the height.

Ralph Vigliotti: Doug and I and most of the Planning Board members are certainly concerned about not only the elevation with the visual impacts on the Village but the length and the width of that building is what really concerns me. To want to go longer in length...I know this is a completeness review; I still have a problem on that. I want to address that in much greater detail.

Vice Chairman Sturniolo: Where it makes mention of recent Mount Kisco projects... (reads from the text) the two car dealerships, the Saw Mill Club, 333 North Bedford Rd you highlight one of the current tenants and you call it a go-cart race track facility, and it's called Grand Prix of New York. If you want to spell out the tenants that are there currently, Grand Prix New York is one of them, so is Air Mack. If you are going to add the tenants it should be correct or maybe leave out the whole concept of the tenants.

Nanette Bourne: Or describe it as a mixed use?

Vice Chairman Sturniolo: Yes. But if you're going to list it, it should be listed right or leave it out. It may not be germane.

Chairman Cosentino: Please clarify on the 3<sup>rd</sup> dot... 3 A-8, 35 feet is shown as 44 feet that the building has defined by the Village of Mount Kisco Code. That's confusing on page 5 of your memo.

Nanette Bourne: That is a dilemma faced by most municipalities that have a similar definition that includes defining height based on average finished grade. I think what you want to understand is that it doesn't comply with the code as height. I think you want to understand whether or not it complies with the code as defined in... but you also want to know really, what you are going to be looking at as far as the elevation is concerned.

Chairman Cosentino: Exactly.

Nanette Bourne: So you might want to just differentiate what the code definition is. You may comply with 35 feet, but the sensitivity would be how many stories this board is looking at from Kisco Avenue.

Chairman Cosentino: Right now I see 44 feet where I should be seeing 35.

Mark Miller: We'll clarify that.

Vice Chairman Sturniolo: On the DEIS, Section 3, B-25. From my point of view this is really difficult to read without separation and tabs and notes. Under A - Building Design Concept. It says the building has been shaped to achieve the following objectives, and it goes into seven or eight bullet points. One thing is missing is that the LEED certification is one of the objectives in the whole complex, and that should be listed in there as one of the bullet points.

Nanette Bourne: This was something that concerned me in a couple of chapters. This is supposed to be an analysis of impacts; not another project description. This repeats what you already had in your project description and it doesn't really analyze the impact section. I don't disagree with you Tony.

Vice Chairman Sturniolo: To me the word "objective" would also encompass LEED certification as one of the objectives.

Nanette Bourne: But that's really not an impact. That's a component of a project that belongs up front, and I think what they want to do is go back and rethink what the visual impacts are and make sure that whenever you have this list that you add LEED to it.

Doug Hertz: I have this area flagged as well, just to take off on this, under building design concept, the last two bullet points there utilize building forms and materials that will reflect the richness and color of the natural surroundings and particularly develop the building footprint that is compact and has the least visual impact on the surrounding views. So, they are going to their concept but there isn't a critical analysis of the

impacts and how they've been mitigated. It's a nice sales tool, but I don't think it has enough analysis of what the issues are.

Vice Chairman Sturniolo: On Section three, B-41.

Doug Hertz: Prior to B-41, the last page of text is B-35, and then we have a number of pages of photographic inserts. Item 3, the last item, the sentence stops mid-sentence and is not picked up again on the next page of text. (Reads text). 3 -B 35, which is the last piece of text prior to the photo simulations. There is simply text that is not there.

Vice Chairman Sturniolo: On Section three, B-41. Halfway down its titled Three Dimensional Model and Accompanying Photographs. I don't think you need to necessarily find it, but what I'd like to see added is all the photographs that were taken the digital photographs. I'd like to find out the specific focal length of the lens used and not just a zoom lens that went from 70 to 210 mm., but the actual focal length used for each photograph.

Mark Miller: If they were digitally taken it would be the exit data shown.

Chairman Cosentino: On 8, on traffic and transportation. Again, I emphasize the deliveries and emergency service access should be large enough to accommodate, as Mr. Vigliotti suggested, a fire truck, an ambulance or any emergency vehicle. On 9, I only have one; noise. On the HVAC equipment, where is it going to be located? My thoughts; are they going to be visible, are they going to be rooftop units?

Richard Rosen: Our plan is to conceal all mechanical equipment on the rooftop.

Chairman Cosentino: Conceal it such as?

Richard Rosen: The roof is not a full roof all the way across and there will be well areas behind the roof that is visible. The equipment will be set down and not visible.

Chairman Cosentino: And not exceeding the 35 feet?

Richard Rosen: Correct. There will be no big cooling towers. The plan is not to have huge rooftop equipment. It's not going to look like a shopping mall.

Chairman Cosentino: I want to repeat this for the record. We're not going to be able to see any mechanical equipment on the roof.

Richard Rosen: Correct.

Patrick Hewes: And we would obviously, since this is the noise section, we would be adding; putting that answer in the visual impact since this is a visual impact.

Vice Chairman Sturniolo: I have a few more points. On the DEIS Section 3F-83. Where it says potential impacts and it talks about 150 gallons per day of water consumption per bedroom, etc., etc., is this the point or the place to raise the issue of capturing water run off wells for irrigation for lawn sprinklers, re-usage of gray water? Is this an appropriate place to make those comments?

Nanette Bourne: That's part of the description. What is a component of the project is what would be the impact on water resources, and that would be appropriate in this location.

Doug Hertz: One of the things that really struck me was when you're talking about human usage of 26,000 something gallons per day, and an irrigation usage of over 22,000 gallons per day. I know with other applicants we requested that they drill wells to provide for irrigation so that irrigation will be done on a separate system. I don't know how that ties in with LEED, but certainly the ability to possibly almost half your water usage would be a reasonable request; if that can be looked at.

Richard Rosen: And that's the purpose of capturing run-off; to use it for those purposes. Once we do all the calculations we can quantify that for you.

Doug Hertz: Certainly that is a significant number, even with the discussion of using appropriate plantings that are drought tolerant, etc. That number struck me as extremely high.

Nanette Bourne: With their LEED application there should be an impact section that shows beneficial impacts of applying their LEED to reduce water usage.

Doug Hertz: In the LEED section related to this there is discussion of using drought tolerant materials. I believe it was recapture of the gray water. It's been shown to us certainly that there is probably ample water on the site to be able to drill a well.

Vice Chairman Sturniolo: My question, if Chuck could possibly answer; the outside of each individual dwelling unit... are there going to be individual water bibs people can use to water their plants, their flowers outside? I'm tying this into if we are going to be recapturing water or we're going to be drilling wells for irrigation purposes only, then obviously the plumbing engineering would need to tie in those bibs to this water source that we're trying to achieve.

Richard Rosen: I think other than perhaps, and it hasn't been designed yet, there are only a few residences that might be at a terrace level that would be near anyplace where they could physically do some gardening, and I think that would probably be taken care of more by a built in system. I think if people have flower boxes, if they want to do something on a balcony they are just going to have to fill a watering can and come out there.

Vice Chairman Sturniolo: But the few that would have down below, would there be water bibs, and if there are can we start to think in terms of tying those water bibs into something other than domestic water supply?

Richard Rosen: I actually don't think that we planned for water bibs. I think that would be more of a building system... we haven't gotten to that level of detail. But the point is taken.

Vice Chairman Sturniolo: Thank you. I have a comment on 3L 127. Under the section called Fire Protection there is a date of May 4 where you said the Police Department and Fire Department have not responded to requests for comment. I'd like to see the letter go out again to the police department and again to the Fire Department for a request for comment.

Patrick Hewes: We will do that and we have continued to do that since November. We have made many, many efforts constantly to all those departments.

Vice Chairman Sturniolo: Even beyond May 4?

Patrick Hewes: Yes. I had a promise as recently as last week that the police chief would be sending his response letter.

Mark Miller: We have tried diligently, but we'll keep going.

Whitney Singleton: I can confirm that. I've had discussions with the police chief about that.

Nanette Bourne: The most likely response back would be when they get an accepted copy of this. And you might want to even reserve pushing them to having them review the complete copy for their substantive comments. It's very typical; it's not just unique to Mount Kisco.

Vice Chairman Sturniolo: Thank you.

Doug Hertz: Section 1-4. I'm sure this is a typo; an 88 month construction window?

Patrick Hewes: Its 88 weeks.

Doug Hertz: I discovered later in the document that it's 88 weeks. I have the same comment as the chairman regarding heights, buildings and specifics looking at Exhibit 8 after Section 2-10 which looks at heights and elevations and looking at four exposed stories plus roof. I know it's laid out in multiple documents, but if we can get a better analysis of heights of the building and how that's all being calculated; if we can get into that substantively. It's done well in the diagrams, but if there can be text to go along with that I think that would be useful. Section 384, Potential Impacts, under Land Use; *they will utilize approximately four acres of the 18 1/2 acre site leaving 14.75 as open space*. While that's true, I was also a little taken aback when I looked at the tree preservation plan; or not. I think it's an optimistically titled document because basically everything at most of the site is coming down except for a few around the perimeter.

Chairman Cosentino: About 2,000 trees.

Doug Hertz: So I suppose some of this will be open space, but it's going to be rather more open than I think many of us would prefer. I don't know if you guys want to look at it, but if there is a way to truly preserve any of those. I know you're doing a huge amount of regrading in the space, but if there is any way that some more of the existing trees could be preserved within that is certainly something that I would be interested in looking at. Section 384 your table again goes to the height of the building. In table #8 you are saying you are providing three stories and 35 feet. Again, exactly how that's calculated; as we see certain areas for exposed stories, and 44 feet of exposed elevation without a rooftop. In Section 3 B25, one of your design concepts is developing a building foot print that is compact and will have the least visual impact on surrounding views. I know when you were in the section on alternatives; there is a lot of discussion about that. Again, I would look in this section for some more analysis, how that's met and what mitigation has been brought to bear to make sure that we do have a least visual impact on surrounding views. By surrounding views I'm not so much concerned about the views out, I'm talking about the views coming in. I'm sure the surrounding views are going to be lovely from the building. In terms of lighting, this comes up on Exhibit 30, and I think it's mentioned within the text, your full cut off fixtures. Right now you're looking at 18 feet on these poles. I believe it says overall height 18 feet per pole mounted fixtures. I don't know if that complies with the Village's anticipated new lighting standard. If that can be provided by Nannette's office or if you already have that to make sure that that is in compliance.

Nanette Bourne: Do you have the illumination guidelines?

Patrick Hewes: Is that part of the zoning code?

Nanette Bourne: It's in the guidelines. They're in draft form, but it's been the guideline for the Village for use and applying to all projects.

Whitney Singleton: They are presently before the Village Board right now, so they will likely be law by the time you are ready.

Patrick Hewes: Thank you, we'll get it.

Doug Hertz: I think 18 feet is higher than what is allowed in the code. On Exhibit 34, which is the proposed landscape plan; I looked through the tree preservation plan and what was being taken down, and the sizes and calibers of trees that were coming down and what is intended to be planted. Under evergreen trees you have a white spruce, four to six feet in height; white pine, four to six feet in height; eastern red cedar, four to six feet in height. As one Planning Board member... that is just not going to cut it. We're going to be waiting a generation for those trees to do what they are intended to do.

Ralph Vigliotti: You are absolutely right. When I created a privacy hedge in my own yard, I went with 8 to 10 foot spruce; they were gigantic, but I had instant shade and instant privacy. Four to six feet is the economy size.

Doug Hertz: We're taking down 2,250 trees, some of which are 24" in diameter. Certainly a lot are 18 and 12. These are substantial trees. That area is going to be quite denuded, and we're going to look for any mitigation features that we can get; landscaping, certainly trees are going to be one of the primary tools. I would suggest that you guys take a hard look at that and see if that can be mitigated better.

Ralph Vigliotti: In staying on that, when Icahn came into Mount Kisco; and bought the three buildings which are on 172, he put in twelve inch caliper trees in his effort to try to get quickly mature trees on that site, and here we are ten years later... you have to look at those trees you would think they were there 50 years. Doug's point is well-taken. Four to six feet in height as far as your proposal and landscaped trees is just not going to do it gentlemen. Not on that size property and not on what we are trying to achieve after you cut down 2,000 trees.

Doug Hertz: Going also to utilities, this comment is on Section 3, F 87 & 88; at 88, talking about energy usage, (reading text from document). I don't see that discussed anywhere else in the document, if the geothermal system is something that is being planned. Either I missed it or this is the only reference to it.

Patrick Hewes: It's pretty much been assumed that it would be part of the LEEDS design geothermal power and we will make sure that the LEEDS description states that more, and that it cross references the statement.

Doug Hertz: Quite frankly it's a very positive thing; I'd like to get a longer narrative description of what is proposed.

Richard Rosen: Whether it's been convenient or not, it's part of our response to some of the items in Nannette's memo, we've been working with NYSERT and with ConEd, and the first step of that is to do energy modeling the whole building which will then give us a better ideas of loads and how we'll deal with that, and I think that will tie into if it's geothermal, how many wells, how far apart they are, how deep they have to be and what the capacity is. And that will be all tied into that calculation. First we do energy modeling, that will involve both the exterior scan of the glazing and all the insulation; the whole package.

Doug Hertz: The Village is going to be doing geothermal with the library. There are a lot of methods that are used, the amount of site disturbance you have would allow you to do something that is not as deep, that you would use a lot more surface area. A discussion of that would be useful at least for our knowledge. The other thing I noticed here and something that was lacking was any discussion of other alternative powers, specifically solar, if that has been considered, if not, why? Of course an analysis of that is part of LEED.

Richard Rosen: That also has been part of our discussion with NYSERTA.

Doug Hertz: I don't see any of that discussion here.

Richard Rosen: Right, because I think until we run the analysis we don't have a story to tell, so to speak.

Doug Hertz: Even that's a story.

Richard Rosen: We are considering it. It's like other portions of the LEED checklist, if you will. Until we analyze it and see what the potential of it is, based on southern exposure, sunlight, area of roof that that would involve, what the yield would be; if it pays off. If it's significant, then I think we can write more about it.

Doug Hertz: It seems to me you do have roof space. There is a lot of flat roof. Yes, it's not ideally situated to the south. What struck me was two and a half million kilowatt hours per year for the building. As an attempt to be more carbon-neutral, that would certainly go a long way.

Vice Chairman Sturniolo: In your LEED chart where you show points and yes or no, has that been addressed with a number, in terms of solar energy use? Is there a checkpoint for it?

Richard Rosen: I don't have the list in front of me. It's something that we're going to look into.

Vice Chairman Sturniolo: But it's not currently on your checklist?

Richard Rosen: I don't think so.

Doug Hertz: I didn't see it.

Richard Rosen: I think what we tried to do with that checklist at this point is to give a realistic assessment of what we think we could get to. I think as we go through the energy analysis, some of those things may start to rise to the top.

Nanette Bourne: On Page 87 you might also want to change Use and Conversation to Use and Conservation.

Vice Chairman Sturniolo: The color photograph called Exhibit 19, site rendering detail; the chimneys and the flues. Obviously one flue is going to be for gas heating; are there going to be fireplaces in here?

Richard Rosen: There are some fireplaces anticipated, yes.

Vice Chairman Sturniolo: Are they going to be wood burning?

Richard Rosen: No, gas. But the flues are not for heating and cooling.

Vice Chairman Sturniolo: They are for what?

Richard Rosen: Just for the domestic fireplaces.

Vice Chairman Sturniolo: I see, so there is a fireplace per level. With gas fireplaces. Do you need to extend the flue that high, or can you come down lower and exit straight out as opposed to the classic bringing it up to the top of the ridge line?

Richard Rosen: I think if you have a chimney you have to meet the building code and you have to be a certain distance either ten feet away from a certain point or two feet above the nearest roof that is less than ten feet away. We have to abide by the code.  
Vice Chairman Sturniolo: Then I'm not stating it properly.

Richard Rosen: Are you asking do you need chimneys at all?

Vice Chairman Sturniolo: Yes, and can't you exit fireplace flue gas out of a direct vent outside?

Richard Rosen: You can, but it's pretty ugly.

Vice Chairman Sturniolo: Ugly?

Richard Rosen: Yes. It looks like a round air grille from a commercial kitchen.

Vice Chairman Sturniolo: So there is a bend to it, you mean?

Richard Rosen: No, but it's got a depth and a diameter of about a foot and a half, and it's got grated metal all over the sides and it looks very industrial.

Doug Hertz: You also have to be a certain distance away from windows.

Richard Rosen: Aesthetically it's better. People use it if somehow their fireplace is tucked behind their house.

Chairman Cosentino: Nannette where do we go from here?

Nanette Bourne: You have two options. One, you can vote the changes, and I will make the changes and show you the final copy at your next meeting or you can request that I make the changes and you can look at them at your next meeting and then accept them.

Doug Hertz: But it's their changes, right; they're going to be modifying the document.

Vice Chairman Sturniolo: Based on this conversation.

Mark Miller: We'll be taking Nannette's memo, plus all the comments that were made today, and that will eventually start ... I just want to say I appreciate having gotten Nannette's memo ahead of this meeting because we've already started on those modifications to the DEIS. We'll take all of those comments, we'll take all of the comments that we received here tonight, we will re-do the DEIS and provide it to you as soon as available. I know having worked with Patrick's firm before, we'll give that to you in a black lined or gray fashion so you can see exactly what the changes were made in response to every single one of the issues in both Nannette's memo and what was said here tonight.

Vice Chairman Sturniolo: I'd love to see it at the next meeting and then go from there.

Ralph Vigliotti: I agree. Also, in our review, we kept discussing the length of the building, and what I'm hearing from Nannette tonight is that you would like to increase the length of the building. Is that correct?

Nanette Bourne: They are requesting text change to increase the length of the building from what the current zoning provides, but they don't propose what the maximum building length should be in this district.

Ralph Vigliotti: It was presented several months ago with regard to the length of the building. Has that remained the same?

Nanette Bourne: Roughly it has remained the same.

Ralph Vigliotti: And this board has discussed along the way, and that has not been addressed, and if there is anyone else that would like to discuss that this would be the time to do that as we are doing our completeness review.



Doug Hertz: Actually there is one more item that I want to discuss and I think the length of the building does come up a number of times in the discussion of the alternatives. There was a nice thorough discussion and lots of schematic alternatives. The alternative that I wanted to see most wasn't really addressed. I alluded to this during earlier discussions, but perhaps I wasn't clear enough. There is Alternative Scheme I, which is essentially a square or a courtyard, Alternative II, an "L" shaped building, Alternative III a "U" shaped building, Alternative IV an "X" cross shaped building, then there is a scale down alternative, etc. I think these alternatives were fairly easy to show that they had more disadvantages than advantages, and the conclusions were fairly obvious to draw, which is that by reducing the length we're getting a taller building. What I was interested in is not completely diverging from your current plan, but orienting the building. Right now you have a broken line with fingers that are coming out of it. The fingers are pointing towards Kisco, if you will. I would love to see a real analysis of alternatives that brought some of that bulk on the access of the fingers. In other words, more front and back to the site than side to side. Because a lot of the discussion was distance that people would have to walk, circulation within the building, and they are very legitimate points. My question is, is there a way to bring some of this front to back? Now, obviously areas in the back might not have as premium a view, but it may be a way to break up both the height and the length of the building so that it looks like a larger number of smaller size units. That to me would be a worthwhile alternative to be discussed; to be approached. I don't know if we want to do that at this point or if we're going to get to it when we get to a more substantive review. That would be my hope, to look at something like that, because clearly, it would be fairly easy for us to discount most of the alternatives.

Whitney Singleton: Not to leave that point, Doug, you're saying that you've asked them for something that is not presently in the DEIS.

Doug Hertz: Perhaps I just wasn't clear enough when we discussed alternatives.

Whitney Singleton: To get into a situation where the alternatives are morphed later on, I'd rather have it done up front as part of in response to the draft scope that you have requested. Does that present any delays for you?

Richard Rosen: May I say what I think I just heard?

Doug Hertz: Sure.

Richard Rosen: What you're saying is to reduce the length in this dimension by perhaps extending some of the bulk this way up the hill.

Doug Hertz: Yes, and perhaps even stepping grooves or something as it moves up the hill.

Richard Rosen: I should just point out that one issue in any housing, whether it's senior housing; is visual privacy between wings. So if you start to crunch things down too much then it becomes unviable because you start to look in other people's apartments. I think part of the organization here has been to get them as close as possible without making it non-private.

Doug Hertz: One thought is if this wing were essentially attached here, here and here, you perhaps wouldn't have one of those wings, which might lower the length across the face of Kisco, which is certainly a concern. One of my big concerns about the visual aspects, and it does show fairly clearly in one of your photo simulations, is the sense of this very long building sitting up above what will be the BMW dealership, well up in the hill, 150 feet higher in elevation. That will be fairly prominent. Just a comment about that photo simulation. The night photo simulation I don't think is accurate. Not on your part, but we took great pains to limit where any lights would be within BMW. Every emergency light had to be beyond a sheltered wall, things are on timers, nothing could be on at night, there is no showroom lighting visible through; so when that facility is turned off, it's going to be dark, hopefully. There will be some lighting in the parking lot which will be very different from your facility, because they'll be people living there and they'll be a lot of glass. I thought the relationship of the lighting simulation of BMW at night relative to your facility and night, and I don't know which photo it was, is not accurate.

Richard Rosen: I think our assumption was that it would be, not knowing what you just said, it would be like any other car dealership; glowing bright all night long where you could see it.

Doug Hertz: We took great pains and spent a lot of time working on that; coming up with practical methods to make sure that wouldn't happen.

Patrick Hewes: Is that to say that what's there today is not what's going to be there in the future? The lighting plan that you talked about in detail is not currently reflected in our photograph. You're saying that at night it's going to be a dark box?

Doug Hertz: It's essentially going to be a dark box.

Richard Rosen: And is that after nine o'clock at night?

Doug Hertz: The hours are in the resolution. It can be discovered.

Patrick Hewes: How did this illumination come to be if that was the limited use?

Vice Chairman Sturniolo: A lot of that could also be the exposure of the camera.

Richard Rosen: I actually think that what we did was, since it was a point in construction that was not far enough along, that we looked to other similar dealerships for lighting levels and use that as a guide.

Doug Hertz: I assume this was yours that you put in, and if you're looking at Exhibit 31, I don't assume that was real because it's not occupied. I don't imagine there is any light at night right now.

Richard Rosen: I think based on the high level of lighting at the mall here, and then we looked at other dealerships of a similar size and construction and then used the lighting level there, which we thought was a standard, similar size.

Doug Hertz: I assume there will be lighting in the parking lot area, but most of that is fairly sheltered... of the vehicles for safety purposes.

Richard Rosen: But they'll be at the cut off and directed down?

Doug Hertz: Yes. But I don't image we'll be seeing this façade of glaze, which will make your facility even more prominent as such.

Richard Rosen: But I think again, as the night wears on, fewer and fewer lights will be on at our building also. Just in terms of natural patterns of sleep, but we'll take a look at that.

Chairman Cosentino: My suggestion is that you come back with the comments and we'll review them again.

Mark Miller: If I understand, Mr. Chairman, then Nannette will repackage her memo adding these comments and you will accept it the next time, which is okay, frankly it doesn't cost us any time because we're going to be working all month on it anyway. We know what the comments are, so your formal acceptance won't slow us down.

Doug Hertz: A substantive analysis of the alternative that we discussed tonight would really be useful.

Richard Rosen: One more comment for the record on that, is that as we push pieces of the building away from Kisco and further up the hill in order to accommodate safety and traffic around the hill, it might mean more land disturbance further into the hill in order to get around more building mass that's moving up the hill.

Doug Hertz: But you may discover that there are fewer disturbances to the side. Sometimes that disturbance, sort of in line with itself, may be less visually distracting and it may net about the same.

Vice Chairman Sturniolo: Currently Chuck what again is the height of that back retaining wall?

Chuck Utschig: I think we have close to 40 feet of grade change that occurs depending on any one point that you're at in that slope. One of the problems that we had in looking at alternatives, and we'll go through this, we understand what you're asking for, is that because you've got such a severe grade change here, and it's fairly consistent; as we go back we start to increase some of our cut numbers pretty high, so there is an offset.

Doug Hertz: And it maybe that you can step up the building plan.

Chuck Utschig: We'll try to be realistic about what you've asked, and try and explain to you what the impacts are, and hopefully that gives you the information you're looking for.

Doug Hertz: It may be that it looks like a site with a building sited not all on one level.

Chuck Utschig: Okay, we'll give it a shot.

Vice Chairman Sturniolo: Just to reiterate the point, Nannette, thank you for a memo well done.

**CONTINUING REVIEW:**

**Northern Westchester Hospital Center  
400 Main Street  
PB2003-02B**

**Present: Ross Cole, Architect  
David Hepburn, Northern Westchester Hospital Center  
Scott Blakely, Insite Engineering**

Chairman Cosentino: When Mr. Partenza was here at the last meeting, we had some people in the audience that want to be protected by the chipping or if you should use dynamite. There was going to be a bond or something to protect these homeowners on Boltis Street. I don't see it here. We didn't know how far the rock went, whether it went all the way across Boltis Street, whether it went into Woodlands Street, or whether it went into Moore Avenue. We don't know this.

Whitney Singleton: Nannette put a condition in the Draft Resolution of Approval, on Number 11, that addresses this. It references blasting but there was uncertainty at our last meeting whether or not the applicant was going to pursue blasting, and I think that there was some discussion about chipping as an alternative.

Ross Cole: If you'd like to include in the resolution that blasting is not allowed that is fine with the hospital because it would be absurd for them to try that just with the delicate infrastructure that's so close.

Chairman Cosentino: It says all blasting and rock removal. I don't know whether chipping can cause it.

Whitney Singleton: At a prior meeting we had at least one neighbor who attended the meeting and expressed some very strong concerns that the foundation of their house sits on the very rock that they are going to disturb. There is some concern as to how to adequately protect them. I don't know enough about this to ascertain whether or not chipping could cause any damage to their foundation, but they seem to have very, very strong concerns. For your own protection as well as the protection of the Village and the protection of its residents, we want to make sure that we have a high degree of assurance from our professionals and protection is in place should there be any chance of disturbance to their home. I give that as a lead into Anthony. The blasting issue seems to be the trigger.

Anthony Oliveri: The chipping or the hammering can cause damage, vibrations. I don't know if there is any code or provision as there is for the protection that you get with blasting with the surveying and the bonding. Perhaps maybe No. 12 in the resolution should be changed just to site rock removal instead of blasting, as far as submitting a bond to the Village.

Chairman Cosentino: I don't want to hold up the resolution, but we need to add something to protect the homeowner against any damage that can occur during the chipping, since we're not going to have any blasting. Could we add something to the resolution to protect that, and when it's in place, they'll be given the permit.

Whitney Singleton: I inquired about blasting, and I was under the impression that you do three sets of monitoring. You do pre-blast, pre-blast and post blast. You do two pre-blasts so you could see if there is any movement in the foundation over a period of time in advance of them blasting.

Ross Cole: I know for sure that blasting is not something that would be reasonable. There is not much rock that would be coming out. Yes, you definitely have to chip it. I think you'd agree that it's rare that chipping would ever really cause a problem.

Chairman Cosentino: It could be rare but it could happen.

Ross Cole: Yes, it certainly could. We don't want to say that it could never happen.

Whitney Singleton: I know what you're saying but had you been at the prior meeting and heard the concerns of the neighbors, it was more than general curiosity; it was kind of an escalated fear.

Ross Cole: Yes, that is my understanding.

Whitney Singleton: I want to make sure that there are adequate protections in place there, and I don't know what those are off the top of my head.

Anthony Oliveri: You'd have to have an expert geologist look at it to determine whether or not you're going to get any vibration in the adjoining houses that might cause a problem. I don't know that we could determine that right here right now.

Doug Hertz: I guess the point is rather than speculate whether they might have a problem, is there a way to look at, in particular the concerned house, look at that house and assess the condition that it is now and then look at it afterwards so that we have a way to quantify.

Anthony Oliveri: An inspection can be done prior; much like you do for blasting.

Chairman Cosentino: Here's the problem. Time is of the essence here. They have oxygen tanks that have to be replaced. They are not in good shape and they run out of their supply quite frequently. They are not in a safe place. My question is could we put something into this resolution that the house has to be inspected before the permit is issued for the chipping?

Nanette Bourne: Do you want to say inspect adjacent residences?

Anthony Oliveri: Who is doing the inspection?

Chairman Cosentino: I refer that back to the Building Department, and I think the Building Department is probably going to refer it to the engineers.

Ross Cole: Maybe you could word it as just an independent engineer.

Whitney Singleton: You are going to have to survey any property the owner alleges to be on the same rock, because otherwise you're going to have liability issues; forgetting the Village, you're going to have liability issues for the hospital.

Chairman Cosentino: And I think the hospital can do that. We can put it into the resolution that this would be done before you get the permit so we don't hold you.

Whitney Singleton: Would you like Anthony, Nannette and I to work in concert with this?

Chairman Cosentino: Absolutely.

Nanette Bourne: I'm not trying to delay this, but I just want the board to be aware that the DEP did determine that their SPPP was incomplete. Now, one of the areas where it's incomplete is because you haven't done your NegDec, which is something that I'm not worried about. You can take care of that in the resolution. Scott, you got this letter, if you can explain to us.

Scott Blakely: Sure. I can walk you through our conversations with Andrea, the reviewer from the DEP. There was a cover letter that your board did not receive from Andrea. It was faxed directly to us. I faxed a copy of it, and I think Anthony may have it. I could read it to you. It says, *in an effort to speed up the approval process, I'm faxing you the comment letter in regard to the above project. The majorities of the comments are minor and shouldn't present a problem. The original was sent by mail, if you have any questions, call us.* We talked to her. The issues are all addressable. It's really adding additional info into the report to basically so she can go down her checklist and say we've provided this, this and this. Our office is in the process of finalizing our drawings, addressing the DEP comments. We have no issues with everything they've asked for, it will be provided to them. It's just additional information. They are asking for addresses of contacts and a few other things added into per pollutant loadings. It is such a minor project, similar to some of the other things that we've done. This reviewing agent is looking at it a little bit differently. We just have to go through her checklist, but we've been assured that it shouldn't be a problem.

Whitney Singleton: I know it's anal, but Number 7, where you put in county, state, regional permit, why don't we also put in the DEP permit.

Vice Chairman Sturniolo: Could I just go back to a minor housekeeping point on the last page, Anthony, on the DEP letter. If you could get back to Andrea and correct Michael Stein, Village Engineer. Also, on page three of the resolution at the very top. Anthony, it starts with Number 8, (reads item). Is "A" correct?

Anthony Oliveri: That should really be silt, or maybe just "provide inlet protection surrounding all the catch basins."

Doug Hertz: Do we want to NegDec this first?

Nanette Bourne: This resolution includes it, but you normally vote prior to the resolution. Officially you need to NegDec it before you take action.

**RESOLUTION TO MOVE ON A NEGATIVE DECLARATION ON NORTHERN WESTCHESTER HOSPITAL OXYGEN TANK REPLACEMENT PERMIT TO DISTURB WET AND NATURAL AREAS:**

**Motion: Ralph Vigliotti**  
**Second: Doug Hertz**  
**Aye: Sol Gibbons**  
**Aye: Ralph Vigliotti**  
**Aye: Doug Hertz**  
**Aye: Vice Chairman Sturniolo**  
**Aye: Chairman Cosentino**

**RESOLUTION OF APPROVAL FOR SITE PLAN AMENDMENT AND PERMIT TO DISTURB SENSITIVE NATURAL WET AREAS  
NORTHERN WESTCHESTER HOSPITAL CENTER  
OXYGEN TENT REPLACEMENT  
PB2003-02B  
Tax Map Identification: 80.49-1-14**

**Motion: Ralph Vigliotti**  
**Second: Vice Chairman Sturniolo**  
**Aye: Sol Gibbons**  
**Aye: Doug Hertz**  
**Aye: Ralph Vigliotti**  
**Aye: Vice Chairman Sturniolo**  
**Aye: Chairman Cosentino**

**CONTINUING REVIEW  
134 Main Street  
PB2007-06**

**Present: Isidoro Albanese, Owner**  
**Clifford Munz, Architect, Munz Associates**  
**George Palmer, Palmer Engineering**

Clifford Munz: (Using the screen and pointer) What we're doing here is a continuing review of the presentation that we started last month, and what I've done to make things a little easier is I've got the things that we submitted on Power Point, so it's easier for you all to see. What we have is a proposed commercial retail building, the area map. Just to refresh our memory very briefly. The area is on East Main Street where the movie theatre is and Piero's II is, our site is right over here. This was an aerial photo of the site, within the last few years; you can see originally it had been a former gas station. Here is the way into the site, and out of the site. Here is the restaurant and the movie theater is here. This is the Blakeby lot back here. This is a context photograph. We've got the site that we're talking about is right now the home of a small gas station, this is the restaurant, this is from directly across the street, movie theatre with the right of way that you have down towards Blakeby lot. Our lot is here. This is the site itself, the building which is scheduled to come down as part of this application. This is the right of way that takes you back down past the movie theatre to the Blakeby lot. So we've got a little bit of a green belt here, we've got the trees, there are some existing light posts, actually three of them, and some in the back, and our property would then be from here to here, and you'll see what we're proposing is to move the fence. If things go as we're hoping, this opening it up is a positive effect. The rear...right now there is another fence along the property line in the rear, so there is a way basically in and out to the Blakeby lot; the restaurant is to the left. This is the

present condition survey, and presently the fence we were just talking about is right down here. Back here is where the trees and the other privacy fence in, just as the opening to the fence on one side and the opening to the fence on the other, and there was an in and out at one time. This is the site demolition plan, which was in your package. What we are proposing is we've got the existing building to come down; its connections to the street, the overhead wires; so in essence we need to clear the site for the new building. This is the proposed site plan that is in your possession currently. In essence, what we have, as you recall, a 3,800 square foot building. We have taken the building and we're setting it back from the face of the restaurant. The building runs straight. The property line hits a point and comes back again, so we stayed at that property line and moved backwards. We have the parking for the 19 cars which is necessary for a 3,800 square foot building. Also, in part of this is that we currently have four spaces in here, that in order to make our in and out, that we would like to reduce this simply by removing one. I was just out there again to take a look at this third spot, which would remain virtually unchanged. We would then be able to take this fourth spot and to get ourselves in and out to make a sweep to get it out towards the Blackeby lot. In the front, our curb cuts that are presently there is only one existing spot, and since we're going to close up the curb cuts and we would be putting in four new metered spots.

Chairman Cosentino: From the corner of the new building, how far back will it set from the adjacent building?

Clifford Munz: Better than 2 1/2 feet.

Chairman Cosentino: Now, there are already spots in front of the building now.

Clifford Munz: Just one.

Chairman Cosentino: So you'll be getting three spaces instead of four?

Clifford Munz: Correct. There is one here now, in front of the building. There is one in front of the restaurant; there is a curb cut here.

Chairman Cosentino: You're going to get a space on each curb cut, right?

Clifford Munz: Yes. So the ones that are hatched in would be brand new spaces; there will be a total of four new ones.

Vice Chairman Sturniolo: And those spaces will be sized to Village code?

Clifford Munz: Exactly. They are sized right now at 21 x 8, which is the size of the ones you have now.

Ralph Vigliotti: On the southbound in front of Piero's and the Crane's building, you said 2 1/2 feet southbound from the corner?

Clifford Munz: That's right.

Ralph Vigliotti: Will the sidewalk then be 2 1/2 feet wider than the Cranes sidewalk?

Clifford Munz: The feeling is yes. It will feel that way. But what we've been able to do, if you go back to the existing conditions survey, the property line takes a kick. It starts here, comes to a point, and then comes back again. It's not a straight line. So we took the apex of that. By holding that point right at the property line, and then I straightened out the building so that I could frame it, it will run into the Piero's building and that point that it hits... that jog back is about 2 1/2 feet because of the change.

Ralph Vigliotti: That's good to hear. I walked the sidewalk and it appeared to be narrow if you were coming right up to the Crane building. With the setback there will be an extra 2 1/2 feet of sidewalk.

Clifford Munz: That's right. You'll be able to approach the windows and the sidewalk appears to be twelve feet wide.

Ralph Vigliotti: So the sidewalks will be about twelve feet wide in front of the proposed building. That's good to hear. Originally I wanted some green space, but the green space was really to kind of open up the sidewalk and give it an appearance of it being widened.

Chairman Cosentino: They are still going to give you something green, but they're going to be in pots.

Clifford Munz: We found a sort of compromise, if you will; again, there was an opportunity to do something, but then to address both concerns.

Vice Chairman Sturniolo: Permanent plantings plus potted whatever's?

Clifford Munz: Yes, we have a little bit of both. I have closer pictures of this. These are pre-cast, if you will, urns. They are quite heavy but completely movable. They will have in them, petunias, and then an ornamental grass coming up, they sit on the sidewalk and they are flanked by two smaller junipers that are in two smaller pots. But then in this area here, facing that little nook right there where folks can stand and meander and do some window shopping, there are permanent plantings of more junipers. That's foundation planting below the windows.

Vice Chairman Sturniolo: I'm confused. The junipers; the permanent plantings, are in that spot only, not in front of the rest of the building?

Clifford Munz: We used potting plants. Speaking to my wife, who is a landscape architect, if we put something down low they are going to get trodden on. We wanted to get a little bit of that interest in there and when you do see the elevation of the building, you'll see that there is some interest, a little bit of height, a little definition between the rhythm of the store, and it's something that is so densely packed that you can't put a coke can in it, you can't sit on it. The Elephant's Trunk is somewhat similar to it, where there is something going on. It is decorative and also moveable. It is the widest sidewalk I could maintain, and then put something there that had enough interest but was permanent. What we have here is a grading and drainage plan, a couple of more that are a little more in depth that has to do with site erosion and the like. The grading and drainage in essence-the property is fairly flat, but there is a change of elevation from up front to the back to almost four feet, so most of our drainage is going to be between our roof, and all our site drainage will be heading down back to this corner. That's where we'll pick up the storm water...the storm water will then be treated.

George Palmer: We are going to put all the storm water into a... techniques chamber which is going to take out the sediment and then transport it into the drainage along the street at the rear of the building.

Chairman Cosentino: Which exists already?

George Palmer: No. That will be new piping from that to a new manhole in the street.

Clifford Munz: Presently you've got your trunk line running through here, so we will make our connection from our site through into the Blakeby lot, make our connection to a manhole and then continue down the line.

Chairman Cosentino: Do you presently have engineering plans that you submitted?

Anthony Oliveri: There is a utility plan. We've asked for some additional detail.

Chairman Cosentino: So you'll make sure he gets them so he can report back to us?

Clifford Munz: Fortunately we're having good conversation, addressing each and every item that had been coming up either before or after the statements made to you. So this sheet is just some of the requested detailing of erosion control, protection to the catch basin, where to stockpile material and the construction traffic in and out.

George Palmer: Most of the site is going to be impervious.

Clifford Munz: The utilities plan just explains where we are taking our domestic water, we are having a sprinkler building where we will be getting our water for the fire system, the gas and sewer coming off Main Street to service our building and ultimately end up at this corner of the building. (Pointing) This is the area where all the services are coming in, and then this is where we handle the storm water and bring the storm water out.

Vice Chairman Sturniolo: Is there a basement to this building?

Clifford Munz: No; slab on grade. In this case it's just a series of the site details that we've had ranging from curb to sidewalks. Most of them, if not all of them, will comply with the DOT. We have a DOT review as well. They will be making sure the curb details are per the standards for that. The only detail that we will be putting in 4 x 4 Hanover pavers, and we'll give you the detail on how we're filling in and patching the pavers as well. There were some questions asking about the exterior lighting. Not only do we

have the photo metrics that you have in your possession, but we were also hoping during the course of today, and if you want to entertain it at the end, I had the photo metrics upgraded to comply with the new illumination guidelines. I was looking for an interpretation and I found in the guidelines a portion that is called Low Level. It says its retail where a maximum candle power was five and that's what we were reflecting originally. On the second page there seems to be another reference to a commercial sidewalk, and it's saying the maximum is three candle power. When we worked the photo metrics for you, we took the lowest candle power, and we reworked it so the maximum is still three, so we comply either way. We didn't know which interpretation you were going to go for, so we went for the more conservative of the two; and that will be reflected a little bit later.

Vice Chairman Sturniolo: The proposed lighting standards are not available on line; somebody gave you a copy of them?

Clifford Munz: Yes. We got them at the last meeting. On the building itself these are full cut-off fixtures, the lights around the entire building themselves are 26 watt compact fluorescents. In essence, that's about all the light you're going to get from them. As you can see they just light up straight down, there is nothing out to the sides or nothing up above. These are specifications and the cuts on the light fixture which has also been included on the new photometric. This is the new photometric study to which for the most part satisfied everything, but we did find and thank you for pointing it out, we did find there was a spot where we were under the .9, which we were looking for. We were also able to work that out, not to mention all the lighting around the building, now won't exceed the 3.0. Finally, this is a simple, basic plan of what the first floor of the building would be so that one would understand that there are simply two stores, there is a smaller store and a larger store. The utility room is going to be here. All of our services from the street are being brought in through this area. This is where we are going to have our meters. If you notice on the site plan there was an outdoor area for the electric meters, gas meter, a little landlord storage and whatnot, which is to match the building.

Vice Chairman Sturniolo: How big is the landlord storage and what items are going to be stored in there?

Clifford Munz: It's an open storage, about 8' x 10'. It's enough for a blower, rakes, brooms, things of that nature; simple site maintenance; sweeping, brushing, etc.

Vice Chairman Sturniolo: No paperwork storage?

Clifford Munz: No because it's open to the sky. It's just enclosed on three sides with a chain link fence privacy insert along the front section in here. So that little area is here. We wanted to pull everything closer to the building a little further away from what was going on here behind the restaurant. Then there is another small area for nothing but a few trash cans, and another small area which is the meters right in here. The meters are accessible from the outside. No one has to go inside, as well as even the utility room. When I got to the floor plan here part of the notion was to also put the utility room, meters, pumps, rpz's, whatever else we need are accessible from the outside so nobody has to go through the building. The building is centered on both sides, by the way, there is no front or back. One is more prominent than the other. We continue with what the building is intended to look like. This is the elevation along Main Street, so you've got the smaller store, the larger store, these two entries, the side coming down just as if we were walking down past the movie theatre we would be seeing this right here, which again is some more display area. Then in the rear, this is the back of the smaller store, and this is the back of the larger store. That's the entrance to the utility room.

Ralph Vigliotti: Would you describe in greater detail the landlord storage area fence; privacy slats?

Clifford Munz: Chain link fence with privacy inserts, so that they are simply obscure.

Vice Chairman Sturniolo: You mean the Venetian blinds.

Ralph Vigliotti: I don't have a problem with the storage area, but I think a chain link fence with the inserts tend to pose a problem. They're brittle, they break, they get pulled off, and it happens to be the front of the Blakeby lot. I think you would probably want to see something a little bit more substantial than slats and a chain-link fence as the storage area. For a building that is beginning to have a nice look, I think that can tend to be unsightly.



Clifford Munz: I am in agreement with you. On the three sides, instead of being CMU's around it, we're using a brick or something that will match the building. Right now its sides you really don't see. We understood that. We need to have easy access to the three spaces, if you will, so a gate is just the answer. But the gate could be very opaque. You can make it opaque. That's not an issue at all. I think that we were trying to make something that is not too heavy that is going to weather and easy to operate. Vice Chairman Sturniolo: And the gate would hopefully capture the look of the building as well?

Clifford Munz: It would be nice, I think we probably could just by making it more opaque or a color, it could be metal with a color. But I'm with you on that idea. That's not hard to do. And finally if we might, as we were speaking a little earlier, through our perspective sketch now you get a little bit of a feeling. This is the front. The building would be along Main Street, the parking lot in the back, the way in and out basically through here, and in the rear in and out of here, parking back in through here, the rear of the stores. This area is what we were just talking about how the building is actually held back from the property line. Plus, the little inside area in here, and that's right where the permanent plantings are, all through here. Potted plantings, as you will see, are all through here, and if we take that one step further, these are the cast stone boxes that are in place, that's about the right size. That's the scale of what they are, where they can be placed right on the sidewalk in front of each of those tiers, and there is the outside light which is throwing just a little bit of a wash down on them. You get a little staccato as you go down the street, yet it keeps it at human scale.

Vice Chairman Sturniolo: Whitney, if these planter pots are going to be on Village property, is there any permitting issues that need to be explored by the applicant?

Whitney Singleton: Yes there are.

Isidoro Albanese: It's not on Village property, though.

Clifford Munz: At one point we have it at the apex. There is that one point where the apex comes and touches our building. I have a spot there, and if I put a planter on there, its back is to the property line. Its base is about 20" deep. You can't move them, and it is basically a piece of site furniture, if you will. As the property then fans away they become our property from that point, so we are envisioning it as something that is not permanent, it's completely movable, not a table and chairs, but it can be moved if you really needed it to.

Whitney Singleton: There is a revocable annual permit that is issued by the Village Manager under 93-4, Sidewalk Sales and Displays. *The Village Manager is authorized to bring revocable licenses for the display of flowers, floral arrangements and ornamental shrubbery on the following terms and conditions.* There is approximately 13 items relative to size, location, insurance stuff of that nature.

Isidoro Albanese: Is that for sale?

Whitney Singleton: If you notice the Korean Market here, they have flowers out. They have a permit for the flowers.

Isidoro Albanese: That's for sale, though, isn't it? Is it the same if you're not selling?

Whitney Singleton: This is for any display.

Clifford Munz: Would it be considered a display being that it's not that you're selling something?

Whitney Singleton: The issue is not for sale or not for sale. The issue is that it's on public property. If it's on public property it requires a permit.

Ralph Vigliotti: How could the Elephant's Trunk, in all fairness to everybody, have potted plants? Is that on their property or Village property?

Whitney Singleton: I don't know that. The way I understand the term sidewalk to be defined, I would imagine that is on the sidewalk.

Clifford Munz: I did recognize that, and I thought it is best for us to bring us right to the table and to see whether there is some leniency or something of that nature how it's interpreted. I think the absolute worse that can happen is we don't put it there, and then it's a non-issue. But I would love for it if I could for the rhythm, the overall look of the building to have that one pot.

Vice Chairman Sturniolo: Then it's a simple matter of getting the permit from the Village Manager.

Isidoro Albanese: Can we donate it to town? Almost like the planters that you have it around town, so this way the Town owns it instead of us owning it but we take care of it?

Whitney Singleton: You want to give it to the town?

Clifford Munz: It's a nice pot. It was designed by Frank Lloyd Wright.

Chairman Cosentino: Are you all finished with the slides?

Clifford Munz: I'm getting to the end. We have a little area that is a pedestal down the side where we were talking to put a little piece of art. If you are willing to entertain it, I just want to let you know that we're prepared and we're ready at least at this point, without a little bit of the engineering work. I'd need a couple of days to do that, but we've addressed the issues that have been coming up to the best we could, anything from making things more legible to where the parking spaces are, to including meters on the plan, to making very clear here that when I have the one, two, three spots that are here to remove the spot, which does show that the modifications that I make to here, is to be able to have pedestrians come and come to a cross walk and make it across to the other side. We've taken all this into account, after the submission we recognized it, we're cognizant of it, and we think that as long as we talk about these things and present them, that we may be able to just continue to move forward. If we could do that it would be lovely. And finally, the photometric plan has been revised just to say to you we have met the minimum and the maximum around. There was a question asked to have the specs on the drawing, which we have, we have another light post. We're talking about two light posts, one here and here, which took care of the dead spot in the center which is intended to match your existing light post. The only difference would be our light post would be night sky, whereas yours perhaps isn't at the moment, but that's quite alright. We can have the reflectors so that we want to capture the light down to the parking lot to raise that up to .9 and finally get that little area in here that was just eluding us.

Chairman Cosentino: You've done an excellent job in preparing yourself.

Clifford Munz: Thank you.

Vice Chairman Sturniolo: Anthony, do you have a copy of that photometric plan in large scale?

Anthony Oliveri: Yes.

Clifford Munz: The original one, not the new ones.

Vice Chairman Sturniolo: No, no the revised.

Clifford Munz: No, we wouldn't submit that because it wouldn't be fair to bring something like that to the table. You haven't seen it.

Chairman Cosentino: Have you seen the comments from our engineer?

Clifford Munz: No, I haven't but we've had enough discussions. We speak and we try to address each individually.

Chairman Cosentino: The detail for the trash area?

Clifford Munz: The comment that was reflected to me was could you make that area match the building?

Chairman Cosentino: Details for the trash area should be included.

Clifford Munz: I wasn't privy to that.

Chairman Cosentino: The isle for the handicapped must be 8 feet in width.

Clifford Munz: We did meet that.

Anthony Oliveri: I have been in communication with Mr. Munz on many of these points already, and it seems that a lot of the revisions he has presented here tonight may address much of this.

Chairman Cosentino: I didn't address the trash, so we'll need to address that.

Clifford Munz: Please help me understand what kind of detailing you're looking at in the trash area. It's a fenced in slat... that's it.

Chairman Cosentino: You need something of an enclosure to match the building.

Clifford Munz: We decided to match the masonry. I think we were just chatting about the gate, and that is where our conversation just left off.

Chairman Cosentino: What did you mean by that, Anthony?

Anthony Oliveri: Finishes should be noted to match the main building. Previously we asked for a concrete enclosure, and I think we might have added that at some point, and you just didn't make a note of the finish.

Clifford Munz: On the site plan there is a note that says "finishes matching existing building" and pointing to all the masonry around, which addresses that portion of it, but if you need to address the gates we can address the gates.

Anthony Oliveri: I would like detail showing the gates and the finish.

Chairman Cosentino: Just put it on the plan.

Nanette Bourne: There had been a question about the status of DEP. We confirmed that this is a non-regulated activity for DEP, so they don't have any further work to do with DEP, which is a remarkable change in DEP's policy.

Vice Chairman Sturniolo: And they put this in a letter?

Nanette Bourne: Yes. It seemed so outrageous to us considering other interpretations they've made in the past. We confirmed that this is a new policy on their part. My only other comment is that we looked at the environment report that was provided and it is a thorough, complete, well done environmental analysis of the site. The areas that still need to be addressed, and this is not a fault of the study, it's really items related to the characteristics of the site, is that when they start digging you are never sure if you have located all of the tanks that are buried in the ground. There needs to be some contingency plan that becomes part of the resolution that in the event that tanks are located that are unexpected that work stop and that there is a procedure for dealing with the tanks; making sure that there are no additional spills and that they are properly taken out of the site. The worst case scenario is that there could be some additional vapor barriers necessary. All that should be laid out in a procedure that is attached to the resolution.

Isidoro Albanese: Even though the whole property has been dug up, and there have about 25 borings, even inside the building?

Nanette Bourne: Chances are the borings that were done are fine. But you never know until you do your construction.

Isidoro Albanese: Do you want the readings? They closed the property, I don't know if you got the letter.

Nanette Bourne: Right... just as a contingency.

Vice Chairman Sturniolo: I have a comment similar to that that deals with the hydro environmental solutions report and specifically page 4 and page 5. The MWB well exceeded certain levels for gasoline contaminants. Then, page 5, (reads from text). Since the library is going to have a geothermal heating system, during that construction process the Village is going to look into seeing if there is a potential for portable water there. I have a concern with the direction of this gasoline flow, for lack of a better term, if in the event water is found and water can be used, what further bolstering does this testing need to really nail it down where the stuff has actually wound up? How do we get that question answered in light of the construction to the library?

Anthony Oliveri: The only way you are really going to tell is if ground water monitoring wells is done, continually. I don't know if this is going to tell you that there is no risk of

that in the future. I would leave that to maybe an environmental scientist or somebody in Nannette's office.

Nanette Bourne: I can have them comment on that.

Vice Chairman Sturniolo: Am I clear in my question, especially the direction heading northwest towards the Village of Mount Kisco.

Isidoro Albanese: Do you have the second report? Just to make sure we went outside the property and drilled another seven or eight wells, to make sure the way it was flowing and that those were clean, and everyone one of them was totally clean. That one well that you were talking about, they said if it reaches a certain level, they would close the site. So the next report; the level did come down to an acceptable level, and every one of those wells was totally clean. There was nothing outside the property. That's why they issued the letter and closed the site.

Nanette Bourne: There is this report that is dated February 20, 2007 that was given to me separately on July 25.

Vice Chairman Sturniolo: Is it this one received June 25 with the Planning Board stamp? There is a May 22 letter which pretty much parallels the first report regarding that well closest to the rear door of the current building. The last page on that memo says (reads from text) *and the neighborhood is supplied by potable water by municipal means*. When they right that, it's almost like, don't worry about it, because the water that the neighbors are going to be drinking comes from Village water. To me, it sounds like they are downplaying that seepage and trying to hang their hat on the fact that the neighborhood is supplied by municipal means, which is true, versus if the immediate neighbors had individual wells. So, that is something else that I am a little not comfortable with. I'd like that really flushed out what the meaning of that phrase is.

Isidoro Albanese: The wells did come out totally clean, and they said there was no outside contamination at all. The DEP...that's what made them close the site and that going down to a totally new level on that one well.

Nanette Bourne: You want to understand the implications of that.

Vice Chairman Sturniolo: Yes, especially the implications of the neighborhood supplied by potable water by municipal means. It sounds to me like, "don't worry about it, because there are no other wells by the neighbors."

Chairman Cosentino: You have a little bit of homework, and we'll put you on the next agenda.

Nanette Bourne: Do you want a draft resolution provided in addition to the clarifications?

Chairman Cosentino: Yes.

Clifford Munz: Is that the September 11<sup>th</sup> meeting? The submission for revised data is tomorrow for September 11. In order to just answer a couple of questions that came up, there is some engineering work to do, which will take a couple of days.

Chairman Cosentino: The problem here is just last week I did not let somebody come on the agenda because they were late. We set criteria, a principal. If I let you do it, I have to let everybody do it. You have to go on the following agenda. I'm sorry but there are rules. If I could bend them, I'd bend them. I can't bend them on this because the next guy is going to come...there may be lawyers in this audience right now that are going to say, what are you doing, you took me off the agenda because I was four hours late. If you get it tomorrow fine. I can't bend the rules on that. If you get it in time, we'll do it. You don't get it in time, I can't entertain it.

Vice Chairman Sturniolo: And we still need the investigation from Nannette's firm on the other two questions, which will obviously need time.

Clifford Munz: Understood. I know the calendar. Thank you.

**Conceptual Application:**

**Omnipoint Personal Communications, Inc.  
1 Mountain Avenue  
PB2007-12**

**Present:**

**Douglas W. Warden, Snyder & Snyder, LLP, Attorneys at Law**

Douglas Warden: Good evening. I am here tonight on behalf of Omnipoint Communications.

Whitney Singleton: This is a cell tower up on the Swiss property. The applicant had approached the Village and has approached Cingular about a co-location on the site which is encroached. The applicant has entered into a lease arrangement with the Village of Mount Kisco and Cingular Wireless; thereby both parties have issued a licensing agreement to the applicant for the utilization of a portion of the Village land for the hardware down on the ground and for a co-location on the existing poles. The constraints that the applicant is operating under are in our agreement, which I can pull for you for the next meeting. I wasn't aware that this was going to be on the agenda, but this follows site limitations. Despite everything else there are restrictions in the lease and license agreement. The license has been authorized by the Village Board subject to one or two modifications in the agreement, and obviously subject to your board's review and approval of this application.

Ralph Vigliotti: What is the size of the facility that they would have to locate?

Douglas Warden: As far as the foot print on the ground is concerned, we are going to be installing three equipment cabinets which are each 59" x 53" tall, roughly the size of a refrigerator. They are going to go within the existing fenced equipment there, so there is no extension. As far as the antennas themselves, they are going to go below the top of the existing Cingular ones. The Cingular ones are at the top of the monopole, which is a height of about 86'. It's going to go 11' below at a height of 75'. The Cingular antennas; if you are familiar with the pole are kind of mounted flared outwards. The one that we are proposing will be snug, flush; mounted up against the shaft of the pole so as to increase their impact visually.

Vice Chairman Sturniolo: We're missing a review memo by our building inspector on the conceptual application that we're looking at tonight. We need to see technical specifications. Does this comply with ANSI standards? Are you putting out non-ionizing radiation? Do you conform to the standard of 550 milo watts per centimetered squared? All that litany of technical specifications...does the Village have it, was it incorporated in the license?

Whitney Singleton: What the license agreement provides for isn't so much exactly what's going to be there. The Village Board refers to you on that. It sets parameters like they may not exceed the existing height; they shall apply with all applicable State and Federal laws; etc. There is a diagram setting forth where they are going to co-locate, where they are going to put their equipment, some of that information. I will get you a complete copy of the license agreement.

Vice Chairman Sturniolo: Also, are the antennas going to be tilted downward? That has an impact on the RF energy. You've gone through this with other municipalities and other cell providers.

Doug Hertz: The existing lease for the pole itself; where in the lease cycles are we?

Whitney Singleton: It was just renewed.

Doug Hertz: For a term of how long?

Whitney Singleton: Their lease is written in such a fashion that it can never extend beyond the terms of Cingulars.

Doug Hertz: Is the water tower where this pole is located currently part of the cellular overlay district?

Whitney Singleton: I believe so, yes. I have to go downstairs for something else, I'll check on that.

Doug Hertz: I wasn't sure if that space was considered to be permanent.

Whitney Singleton: That would certainly be the concept of co-location.

Doug Hertz: I'd be curious. Absolutely we want co-location wherever possible. On the other hand we also want these poles in the proper spot. Period. When they are in the proper spot, co-locating is advantageous. If the Village has just recently renewed the lease.

Whitney Singleton: I'll verify that.

Vice Chairman Sturniolo: This could be an old zoning map I'm looking at, but it has a date of '01. I don't see anything about the overlay district, but that's not to say this is accurate.

Whitney Singleton: It will have diagonal lines across the zoning map.

Vice Chairman Sturniolo: This could pre-date it, and this may not be appropriate. Do you also have a color in mind for the antennae?

Douglas Warden: We are going to paint it match the Cingular.

Doug Hertz: Conceptually, we encourage co-location. Obviously we need a lot of information from your firm for this. We have some homework to do but I don't think there are any other questions from me.

Anthony Oliveri: I have the overlay.

Vice Chairman Sturniolo: (looking at map) It's in and around the cemetery and in that area, the personal wireless facility overlay district. It looks like the water tower is here.

Doug Hertz: The tower is on the PD part.

Whitney Singleton: It's right in that vicinity. I'll verify it.

Vice Chairman Sturniolo: Nannette, who reaches out to Austin to generate the memo?

Nanette Bourne: We can at our Thursday staff meeting. Do you want to bring this back to Conceptual with his memo, or advance it to a formal that includes his memo? Our procedure is that the conceptals are accompanied by a technical memo from Austin. This one doesn't have that. So we can have this as another item at our September meeting as a conceptual returning with Austin's memo, or we could have the applicant, if they want to submit a formal application, do it and get Austin's memo at the same time.

Vice Chairman Sturniolo: I don't think Austin's memo is going to show anything really out of left field. Not to delay the process, come back and we'll address it then.

Nanette Bourne: Come back as a formal?

Vice Chairman Sturniolo: Yes. But we'd like to get his memo as soon as possible so we can just do our own preparatory work prior to the formal.

Douglas Warden: Will I get a copy of that in advance also, so I can be prepared and on my feet to address any of the questions that he may raise?

Nanette Bourne: The memo will be available the Thursday before the meeting, and once it goes out to the Planning Board members it's made available to the applicants.

Douglas Warden: I want to make sure I respect all the filing deadlines as far as the next meeting. Is that something I should reach out to Nancy for?

Nanette Bourne: Yes, the next meeting is September 11, so it will have to be in tomorrow; probably October.

Douglas Warden: Is there anything else the board would like to discuss?

Doug Hertz: In general don't we require an overall statement of why this location, basically what the need is and how this was chosen, and what the engineering behind that is.

Douglas Warden: Thank you very much for your time. I look forward to seeing you at the next available meeting.

**Formal Application:**

**Thistlewaithe Learning Center, Inc.  
720 East Main Street  
(The Fountain of Eternal Life Church)  
PB2007 – 12**

**Present: Maria Fitzgerald, Director of Thistlewaithe Learning Center**

Chairman Cosentino: According to your application here you want a Change of Use for a building that is on the Fountain of Eternal Life Church. I have a few questions that I want to ask. Is this building going to be completely renovated?

Maria Fitzgerald: The building doesn't need renovating presently other than some work to be done in the hallway such as putting down a tile floor and painting the wall.

Chairman Cosentino: There are going to be small children here. What safety features are there?

Maria Fitzgerald: There are two egresses; there is one on either side.

Chairman Cosentino: I don't have any report here from our staff or anyone. I know the building, and isn't there some guidelines? I know you are not licensed by the State because you only operate two and one half hours per day, but isn't there guidelines?

Maria Fitzgerald: That's right. Yes there are; that we should have two egresses and that the children should not at this age go down or up the staircase. There is no staircase.

Chairman Cosentino: I would like a report from our Building Department on the building itself. I think Austin has to give us a report on the safety structure and any comments he may have concerning what it's going to be used as. We're dealing with children eighteen months of age to three years here.

Vice Chairman Sturniolo: At the bottom of the first page of the letter, where it says, *upon the conclusion of our school year we would consider the opportunity to continue housing a school at the Fountain location if the need arises within the community for our services.* Does that mean in addition to the completion of your other project in Lewisboro?

Maria Fitzgerald: Yes. This would only occur if the community so wanted it. For example, I know that this community works very closely with other organization such as Neighbor's Link and so forth, and I know that everyone has been very delighted that we are doing a Montessori program and have said to us if there is a need would you be willing to continue this? This is not our plan as of this minute. We are not setting out to do this, because our sights are set on Lewisboro, which we are in contract for, and going before the board with all of our building plans and so forth. That is our priority.

Vice Chairman Sturniolo: This is just a possibility?

Maria Fitzgerald: I felt that to say this rather than not to say it, and that if it did happen that we would come before the board. We're being up front. It was something that was brought to our attention and we thought, well, maybe we should say it. Our intention as of this moment is to be in that building for 165 days.

Chairman Cosentino: How many students do you have there?

Maria Fitzgerald: We don't have any students in Lewisboro at the moment. We did have 125 children. We did not take in any new enrolled children other than members of the same family. Many of our children moved on to first grade and kindergarten which left us with about 50 children.

Chairman Cosentino: So from 125 you're down to 50. And where are the other 40 going to be?

Maria Fitzgerald: They are going to be at The Fountain Church in the regular building.

Chairman Cosentino: Right now?

Maria Fitzgerald: Yes.

Chairman Cosentino: That we weren't told.

Maria Fitzgerald: Yes.

Chairman Cosentino: So you're going to have twelve and 40 in The Fountain?

Maria Fitzgerald: Yes.

Chairman Cosentino: That was left out.

Maria Fitzgerald: I actually had come to the Town about that. I spoke with Mr. Cassidy. I assumed that you did know it.

Chairman Cosentino: So you'll have to be licensed there?

Maria Fitzgerald: No, we don't have to be because we are only doing the two and one half hours, and it's an interim space.

Chairman Cosentino: We don't have any information on that.

Nanette Bourne: That was discussed at a meeting a few meetings ago, and there was some confusing information the way the letter was written as to what was there preferred location. We'd have to go back and pull out that letter.

Doug Hertz: I assumed that when we got this, that this was the clarification of that.

Vice Chairman Sturniolo: For the ancillary cottage only.

Nanette Bourne: This is in addition to what was discussed a few weeks ago.

Chairman Cosentino: Why couldn't all the children go into the school and not use the cottage?

Maria Fitzgerald: We thought that because it was a small building and very much unto itself that it would be a very safe place for our youngest children since there would only be ten of them.

Chairman Cosentino: If the church itself is safe for 40, why couldn't it be safe for another ten or twelve?

Maria Fitzgerald: Because it's numbers. If you are familiar with the building, it's quite open. So we are using the basement for the older children and upstairs for our younger group of children. Yes, we could possibly separate that upper room and put our toddlers in. Young ones, as you know, have separation anxiety, crying and so forth. Also, the mothers bring those young children. We allow our mothers to stay with the children if they need. When we saw the cottage we thought that would be a really ideal space. Also they would be totally separate.

Chairman Cosentino: Let's get a report from Austin on that and we'll get back to you on that. We will put them back on the agenda for September 11.

Nanette Bourne: I will also have them include the memo having to do with the rest of the kids.

Doug Hertz: We're really going to have to look at this. I have to say I'm still confused because it's a Change of Use Permit. Does the rest of the building not require a Change of Use?

Chairman Cosentino: I don't know. I need to find this out; being that it's a church facility, I don't think so.

Vice Chairman Sturniolo: I think Austin may have gone on record as saying that the Change of Use only applies to this little cottage building, not to the main building.

Maria Fitzgerald: That's what he did say.

Whitney Singleton: It is generally a permitted use for the church.

Chairman Cosentino: We don't have a problem with the church, I want to make sure that the cottage is safe and adequate for what it's going to be used for, and I need a report from the Building Department so it's on file.

Whitney Singleton: I'm not trying to slow anything down, but do you think a visit would be appropriate? There does seem to be some proximity issues within.

Chairman Cosentino: Why don't we make that on Saturday? We will make a site visit there on Saturday but we'll also need a report from the Building Department.

Maria Fitzgerald: I will say that the building as it stands is not ready for young children to use as a learning area. They are using it at the moment for meetings and so forth, so



it's set up in a very different way. You will have to use your imagination and see it as being cleared.

Chairman Cosentino: Sure, not a problem. Thank you for coming.

### **Formal Application**

**Pour**  
**241 Main Street**  
**Application No: PB2007-11**

**Present: Anthony Colasacco**  
**Anthony M. Monaco, property owner**  
**Joanne Monaco, property owner**

Chairman Cosentino: I like the tone of this letter a little better than the other one, but I need to bring something out that somebody seems to forget, I don't know who. The "whereas" was not picked out of the sky. The fellow, whoever he was, that rented the Bolo Bar suggested that. This board did not. I want you to know that, because in your letters, whether you write them or not, keep using the word, "whereas" and it means nothing. It was part of the resolution. Do we understand that?

Anthony Colasacco: Yes.

Chairman Cosentino: Good. Let's get your hours changed and let you go home in business.

Anthony Colasacco: Thank you.

Chairman Cosentino: You want to open from when to when?

Anthony Colasacco: The plan is five, five thirty-ish, until whatever it dictates. Do I plan on being extremely late? No. I guess what the people more so dictate.

Chairman Cosentino: We understand that. You want to stay in business, you're here to make money and we want you to. We want you to be successful. The other thing is; there is not going to be any activity on the porch; music, anything?

Anthony Colasacco: No music. There will be people; I'm sure, outside if it's nice, but no music.

Chairman Cosentino: There are residents around there, and tell me what you want to do on the porch. I'm sure it's not going to be outside dining.

Anthony Colasacco: It's a wine bar. People sitting outside having a glass of wine, maybe chit chatting; there will be no music pumped outside.

Chairman Cosentino: Can you limit the time on that? We don't want that to go all hours of the night. You have apartments next door and people in the back.

Anthony Colasacco: Understandable. I'm not looking for loud boisterous, I would hate to have to go outside where there is a group of ladies sitting outside and say you can't stay outside. It's a limited window of outside anyway, as far as weather wise.

Chairman Cosentino: We're going to leave it up to you for the noise outside, because if we have complaints...

Anthony Colasacco: I understand. The less grief I have the less grief everybody has. The last thing I'm looking for is problems.

Chairman Cosentino: On the original resolution you're looking to delete the time you want to open up, say five thirty, in the afternoon?

Anthony Colasacco: If I could get a group of pharmaceutical execs to come in for a luncheon, I would like the option.

Chairman Cosentino: Not lunch. You're not serving lunch.

Anthony Colasacco: It's a light snack; a sandwich and a soda.

Chairman Cosentino: You're not serving sandwiches.

Anthony Colasacco: Light food, finger food, tapas.

Chairman Cosentino: That's better.

Anthony Colasacco: So if I could get that, or have the option for that, I would like to be able to take the option for that.

Chairman Cosentino: Fine. How does this board feel about him opening up say one o'clock and closing whatever time the bars close in the Village?

Anthony Colasacco: It's not a late town; when I come through town. I'm not looking to turn it into late. I could leave, probably now, and have a hard time finding many places to go, especially during the week. Fridays and Saturdays maybe a little more, but again, I don't know that until I'm open.

Vice Chairman Sturniolo: Maybe a suggestion would be whatever the guidelines the State Liquor Authority are, that every other restaurant and every other bar in Mount Kisco has to abide by, that would include you as well and get us out of the restricting hour business. If they become problems, address the problem when it happens.

Chairman Cosentino: We want you to be successful; we want to rectify something we didn't cause, that was caused by the prior owner.

Anthony Colasacco: Absolutely.

Chairman Cosentino: I don't have a problem with going along with the State Liquor Authority and their times. My only worry is, and you're going to have to control it because it will be monitored, is noise on the porch.

Anthony Colasacco: Absolutely.

Vice Chairman Sturniolo: That would be the obvious location for somebody to go out and have a cigarette.

Doug Hertz: I know there was discussion about parking in regards to the dovetailing of the office space and his use. One was daytime; one was nighttime. Now he's turning it into daytime as well.

Chairman Cosentino: I don't think we can really tell him that he can't open up at one o'clock because there is an office upstairs. I don't think we have the legal right to do it. Counsel?

Whitney Singleton: The issue of hours of operation presently exists on the site. What your board wishes to do with them, if you want to modify that it is up to you, and I want to be careful how I comment on this. My understanding is in the original application where there are two uses which were deemed to be potentially incompatible or potentially overlapping, that the limitation on the hours of operation or representation regarding limitations on hour of operations, were to make sure that there would be sufficient parking for the office use in the daytime and sufficient use for the restaurant at night.

Chairman Cosentino: And that was why he picked the time of five o'clock, because that office would be closed.

Whitney Singleton: Right.

Chairman Cosentino: Is this a Special Use Permit?

Whitney Singleton: No. What the applicant is asking for is Modification to his Existing Site Plan, I don't know if a site plan change of use plan will allow for a modification for the hours of operation.

Vice Chairman Sturniolo: Could that be accomplished via a resolution?

Whitney Singleton: Yes.

Chairman Cosentino: You have to modify the present resolution to delete the opening time of five o'clock if that's what we want, and the closing time of eleven o'clock, if that's what we want. But further, there was a reason for opening up at five o'clock because of the parking upstairs and the prior proprietor said, hey wait a minute, I don't have a problem. I'll open at five o'clock and the upstairs has all the parking they want.

Then we said, what time are you going to be open till, not knowing that he was going to say eleven o'clock. It was he that said that.

Doug Hertz: Forgetting that for a minute, what is the parking requirement for the office space?

Chairman Cosentino: Fourteen spaces are back there, I think, now.

Anthony Colasacco: I'm not an expert. On the lease, it's ten for me, four for him, or ten, three and one handicapped.

Doug Hertz: What is it per zoning? What is the zoning requirement?

Whitney Singleton: I believe that Austin did a memo on this. I discussed this matter with him and I do not believe that there is an insufficiency. The provision that talked about substantially different peak operation hours, that is not operative here. They meet the maximum number of parking spaces.

Doug Hertz: So that shouldn't be the overriding issue?

Chairman Cosentino: No.

Vice Chairman Sturniolo: Who owns the building?

Anthony Monaco: I do. I'm Big Boy Builders; me, my brother and sister. We are owners of the building.

Vice Chairman Sturniolo: You hear what we're struggling with, because if there is any conflict in the parking, etc., it's the owner of the property that's...

Anthony Monaco: From what I've read in the zoning code and what I've heard said here is that we meet the requirements of the fourteen spaces. If there is going to be a problem between his ten and the other ones four during the hours when they both overlap, I could put up a sign for his four spots saying reserved for the accountant only from eight am till five pm. If he has a problem, then he can have the car towed away; whatever is required to get the car out of his spot. After five o'clock, he can use all fourteen, and I'd be willing to do that.

Chairman Cosentino: That's up to you and the tenant.

Anthony Monaco: From what I gather and what I've read, I'm also a licensed engineer so I do know a little bit about it, we meet all the parking requirements, and we're in a commercial zone. I only bought the property about a year and half ago or so. I got caught into a situation that I didn't know what happened. I just bought the property and the day after I bought it, all the problems started happening with Tony Aversa. I tried my best.

Chairman Cosentino: Who's Tony Aversa?

Anthony Monaco: The previous tenant, Bolo Bar; the guy who got locked up. I tried to get him out. I had my attorneys working to throw him out. He owes four or five months rent. He didn't pay us. I thought I'd have him out. I was surprised his brother showed up at court and gave us the rent. I didn't even want it because I knew at that point that Aversa was a problem. He never wanted to pay, I had to get to this point, I just would have rather lost the rent, get him out of there and bring in a legitimate tenant. I bought that property from investment property I sold in New York City. I based it on what I paid on it based on the rental income that was on that property as it was. The only type of business that is going to produce that kind of rental income is the business that he is trying to put in or Bolo Bar that was there. Anything else would not be that kind of income and would be a hardship on my part at this point. All my decisions were based on the rental income.

Chairman Cosentino: We don't get involved in economics either.

Anthony Monaco: But what I'm trying to say is I did my damndest. After a couple of months with Tony I knew he was a problem.

Chairman Cosentino: Bottom line is he's entitled to make a living; he's entitled to have a business, he's entitled to open up different hours. We're not here to stop him from doing anything like that. Understand the business opened up to sell baskets originally. Then the Bolo Bar came in. It is what it is now, and this young fellow wants to do actually the same type of business as the Bolo Bar.

Ralph Vigliotti: Mr. Chairman, just to remind you that we had a very difficult time going through the Bolo Bar application because we were very, very concerned about any kind of liquor on the premises there. The restrictions that we put were based upon abutting neighbors and so on. We have kind of a nipping away at the original resolution we approved. There is this kind of chipping away at it. New tenant little bit more chipping away; hours, and so on. So, I want to move carefully with this. This is the first I've seen this. I was not here in July when it was on the agenda. If you could just bear with me, when you say wine bar, are you just serving wine totally?

Anthony Colasacco: Wine and beer to start. If I can make a living with wine and beer, which the whole wine bar concept is a different crowd, statistically it's seventy percent women, it's an older crowd. They are sprouting up all over Manhattan. I'm not looking for a kids bar.

Ralph Vigliotti: Our concern is what it might evolve into if the wine bar doesn't work. Right now, if somebody could help me out, are they allowed to walk out on the porch, have a cigarette and a glass of wine or a martini?

Nanette Bourne: They are.

Ralph Vigliotti: I know we had some problems with that. There was noise and lots of folks on the porch.

Chairman Cosentino: You are right in a way. I think there were more problems with drugs there than there was with wine on the porch.

Ralph Vigliotti: I know I saw a lot of activity on the porch at a distance. Whether they were martini glasses or wine glasses, there was activity going on outside of the premises that you don't see in any other bar or club in and around town. You're not allowed to go on the sidewalk with an open can or... it's illegal, is it not?

Whitney Singleton: If you have an outdoor dining café.

Ralph Vigliotti: Well, this isn't an outdoor dining café. I just want to be careful that what we originally looked at several years ago is evolving into something a little different. If the wine bar doesn't work, it will become a bar.

Chairman Cosentino: You are one hundred percent right, but this is what happens. We say something, we put it in the resolution, and it was never policed up there. That place was opened up till twelve, one, two o'clock. It was never policed. It's an unfortunate thing.

Ralph Vigliotti: We have no control as a Planning Board on policing.

Chairman Cosentino: So maybe it did pass the test of neighbors not complaining; I don't know. You're absolutely right, but it was never, never policed. So here we are. I'm not trying to say that we should change the hours, but I think the guy is entitled to make a living. I'm not too concerned about the guy upstairs. He knew what he was getting into when he rented the place. The only thing is the porch stuff at night, the drinking out there. We never gave our permission to do that. Are we going to say go ahead and do it now and be responsible for it? We could have stopped it before, but once you say go ahead and do it, now you put yourself in a different situation.

Ralph Vigliotti: In the resolution several years ago we limited the type of foods that were being served. Are you planning to serve any food at all?

Anthony Colasacco: It's the same type of thing. There is no gas. Tapas, finger foods, cheese plates, olive bowls, paninis, basically what I can do on a toaster oven and a panini grill. The kitchen is exactly as it was from the day it opened. Same exact equipment, nothing's changed. It's a matter of me being creative with next to nothing. Eating goes with drinking. I don't want just the drinking place. I don't the type that is going out to drink. Wines, cheese, an upscale; something that's not around here, and I'm not big on noise. Again, I was going on the very first place. I knew the original owner, Michael; there was never a problem there. If anyone was loud, which I've never seen, he would be right on them. I would do the same. I'm hoping I don't have any of that, that's why I'm going for a different concept.

Vice Chairman Sturniolo: You also have the support of your landlord as far as stepping up to the plate regarding the parking, enforcement and taking care of in-house issues between you and upstairs versus the Municipality of Mount Kisco getting involved in parking issues.

Anthony Monaco: Like I said, he's entitled to four, I'll put up a sign they are reserved for him at those hours from eight am to five pm, this way he has his clients and he can't say he doesn't get any parking. He has the other ten spots that he can use. I've come up there lots of times, especially since the other guy was out to make sure my property was fine, and there is hardly anybody in that parking lot. There is him and his secretary and occasionally he has a client that shows up.

Vice Chairman Sturniolo: What kind of business is it?

Anthony Monaco: It's an accounting business. Most of the work is a guy comes in, brings his papers, and stays for fifteen or twenty minutes, maybe an hour with him and leaves. It's not the type of business where people are constantly in there, like a doctor's office.

Chairman Cosentino: You know he did retain an attorney that sent us a letter.

Anthony Monaco: Yes, not that I know that exactly but I know he said something at the original meeting.

Chairman Cosentino: Not that it made any difference to us. My only thing is the porch, and I would want to say that it's a maybe smoking area, I guess, and that it will be monitored. There are older people that live next door, if there is noise they are going to call, you know that. It's a small town, if you start serving food; we're going to find out. You know that. And we want you to be successful.

Vice Chairman Sturniolo: Is it your intent as you serve the tapas to have it available to carry out to the porch?

Anthony Colasacco: Again, it's hard for me to say. I don't know if people are going to eat in their lap. If anything it's going to be just a couple of small round tables to put a glass of wine on. I don't even intend on having ashtrays, hopefully it won't be a smoke fest.

Vice Chairman Sturniolo: Especially if you say you're trying to make it an upscale wine bar and appeal to women as your base clientele. It's a different image than Joe six packs.

Anthony Colasacco: There will be no inexpensive beers; it's going to be done impeccably to the best of my ability.

Chairman Cosentino: I'm willing to bend a little bit on this and let him have his hours and be successful.

Ralph Vigliotti: Does the porch have to be smoke free if you're serving food on the porch according to any New York State regulations on smoke free establishments?

Whitney Singleton: There is no outdoor serving of food on this property. You would need an outdoor dining permit.

Ralph Vigliotti: And if one was secured, for an outdoor dining permit on the porch, would it have to be a smoke free area since its outdoor dining and a partially enclosed area?

Whitney Singleton: My gut reaction is to tell you yes, it's a place of public assembly.

Chairman Cosentino: So if they're going to have their cheese outside, he's going to have to get an Outdoor Dining Permit?

Whitney Singleton: Yes.

Chairman Cosentino: So you're going to have to go to the Building Department and get an Outdoor Dining Permit.

Vice Chairman Sturniolo: My personal opinion Ralph is I'd like to see that happen.

Ralph Vigliotti: It's not that I don't want to see it, I'm just questioning, trying to dig out a little information.

Vice Chairman Sturniolo: Bringing up historical facts, absolutely.

Chairman Cosentino: You know that it's going to be monitored.

Anthony Colasacco: I know that I will be under a microscope from all aspects due to what happened in the previous business. I'm well aware of what I'm going up against.  
Chairman Cosentino: I myself don't have a problem of deleting the hours that are on the resolution right now and let him go along with the New York State Alcoholic hours of business.

Doug Hertz: It's a new application so we would need a new resolution.

Chairman Cosentino: We want to lift the restrictions on his time of opening and closing.

Whitney Singleton: There will be no restrictions at all.

Chairman Cosentino: You'll be like every other bar in the Village.

Whitney Singleton: There will still be no outdoor music, correct?

Chairman Cosentino: Yes.

Whitney Singleton: And you'd like to resolution that was previously adopted to be amended to reflect that you're going to authorize the chairman to sign that resolution.

Chairman Cosentino: Yes.

Ralph Vigliotti: If the alcohol control board says its four am that you can stay open till, the concern I have is the porch, whether there is six or eight people on the porch at three am. I need to bring all this up because it is in a residential area. The bar stays open till four am, but at what point do you say the porch is now closed?

Chairman Cosentino: There are rules and regulations on dining, and I could tell you he's got to close at eleven o'clock. Dining is open from seven am to eleven pm.

Ralph Vigliotti: What about bringing just a drink out?

Anthony Colasacco: Honestly, I'm not sure. I don't know with like say Eduardo's, I don't know what he has. I do drive by at night.

Doug Hertz: That would not be the ideal reference.

Ralph Vigliotti: What reference would we use? Is it four am?

Anthony Colasacco: It's four am. Personally if I could go home by midnight every night I'd be more than happy.

Ralph Vigliotti: But if we don't have this in a resolution then it could be three thirty in the morning and there are eight people out having a martini on the porch. We need to control some of this. I have no problem with it opening till four am, and it's indoor like every other bar in town, and if Eduardo's does close at some point and they close their outdoor dining at ten pm, then everything is inside. I want to protect again, as we try to do early on, the neighbors that exist in that surrounding area. The only question that I am kind of down to is insuring that we don't abuse the porch at two am. I think we need to kind of regulate that piece.

Anthony Colasacco: I guess it would be my job to almost police it and if there was a problem, address it again. I'm just curious about eleven pm.

Ralph Vigliotti: How about one, two o'clock? Do we just leave it alone or do we try to monitor it?

Chairman Cosentino: I say this. If they're going to be drinking outside and making noise the police are going to be called and problems are going to happen there. If we say one o'clock, who is going to police it? I say let him have it, and he's got to take care of his own business.

Vice Chairman Sturniolo: How many inside seats are you having?

Anthony Colasacco: It holds forty nine. I'm not sure how they come up with number, because it's really small couches.

Vice Chairman Sturniolo: But forty nine seats.

Anthony Colasacco: I think that's a stretch.

Chairman Cosentino: The Fire Commissioner is going to go take a look at it as soon as he gets this.

Vice Chairman Sturniolo: I'm thinking the one-third ratio.

Anthony Colasacco: There are six bar stools and then basically banquettes along the walls.

Whitney Singleton: I don't think forty nine is the number either; otherwise the parking requirement would be...

Anthony Colasacco: I don't know if that includes outside.

Ralph Vigliotti: Why do we have a restriction on outdoor dining and its eleven pm? Why don't we let it go to whenever they want to close?

Whitney Singleton: Noise.

Ralph Vigliotti: Noise. Okay, I'm just bringing that forward.

Chairman Cosentino: He can't serve outside anyway.

Ralph Vigliotti: He can serve liquor inside and they can go outside onto the porch until whenever he closes.

Chairman Cosentino: And if there's noise they are going to call the police.

Ralph Vigliotti: We have some guidelines already in place for outdoor dining and there is a reason; it's based on noise, not anything else. I don't have a problem with anything else listed, I'm only one member, we'll vote on it and that's it.

Chairman Cosentino: My initial problem was that, but there again what does one do?

Ralph Vigliotti: If it's not in writing and in a resolution we have nothing we can hold our hat on. So if it's not in here, we have nothing. We're lifting the current restrictions, the total. There are neighbors in the back and they are concerned. This is one problem that I have.

Doug Hertz: I really don't see if it's onerous to restrict the outdoor part of the property to the same time that the outdoor dining is restricted to. Why would we let outdoor drinking go later than we would allow outdoor dining? It's really the same.

Vice Chairman Sturniolo: Then what happens if the applicant never applies for an Outdoor Dining Permit?

Chairman Cosentino: Then he can't have anything outside.

Ralph Vigliotti: They are allowed to step outside and finish their wine.

Whitney Singleton: Not trying to advocate one way or the other but you get into the definition then through the interpretation as to whether or not the drinking of alcohol constitutes dining. Quite frankly, that's not defined here. I think what Ralph is suggesting is that it be regulated in the same fashion as dining.

Chairman Cosentino: Would you be willing to cut the drinking out at the time of the dining at eleven o'clock on the porch.

Anthony Colasacco: Honestly, I think that would hurt me. How do I go out and say, there's eight people, again, being quiet, not being loud, and corral them in?

Whitney Singleton: The definition says that outdoor dining areas are defined as a restaurant/café or other for profit dining facility located outside a building. So basically the question comes down to what is dining? And is getting a Panini inside and walking outside with that and a glass of wine outdoor dining? I would think that it is in some respect. But if I'm just sitting on the porch having a cigarette and a beer, is that outdoor dining? You are starting to split hairs.

Vice Chairman Sturniolo: Also, I would think that the spirit of the law, when it talks about dining, to me it's formalized dining with a knife and a fork and a soup spoon and a plate and a tie into a restaurant immediately adjacent to it. If the gentleman applies for an outdoor dining permit, then he's locked into eleven o'clock. We are starting to cut

the last piece of pie here really, really fine and picking it apart, but we need to come to an equitable resolution for everybody.

Anthony Colasacco: If I could give the opportunity to run the business and police the outside to make sure there are no problems. Obviously if a problem arose everyone would know about it, it would be immediate and it will have to be addressed. To have to say every Friday and Saturday if I go past eleven, corral everybody that may be out there, it's taking away part of the charm of the house. There is nothing like a quaint Victorian house that has a wine bar. Part of the charm is, it's a beautiful fall night, you walk outside, it might put me in an awkward position nightly to have to corral people.

Vice Chairman Sturniolo: I'd like to see the "whereas" that refers to the restriction lifted.

Chairman Cosentino: I'm for that part.

Ralph Vigliotti: I don't have a problem with that part. What do we do after that part?

Vice Chairman Sturniolo: One thing we could do; if there are a series of ongoing events and the police will know about it, we could then recall you and your application and then strongly urge you to go ahead and apply for an Outdoor Dining Permit which would automatically kind of drop the hammer at eleven o'clock predicated on X Y and Z issues with the police department. That may be one way to solve it without making it overly cumbersome. I think that way it's cleaner. We're not regulating the hours of your operation versus the State Liquor Authority, and God bless you if you stay open and it's quiet and there's no police incidents.

Joanne Monaco: What if you compromised with something like he won't have waitresses serving alcohol out there. If people like bought a drink inside while standing at the bar and they just wanted to finish it out there.

Chairman Cosentino: You can't have waitresses out there anyway.

Vice Chairman Sturniolo: I think we can accomplish more without the Outdoor Dining Permit initially as a test run to see what kind of activity takes place.

Chairman Cosentino: What is stopping Austin from giving him an Outdoor Dining Permit?

Vice Chairman Sturniolo: He's got to ask for one.

Chairman Cosentino: And he's going to get one.

Vice Chairman Sturniolo: From your point of view, I don't think you'd want to go ask for one because you know it's going to come down at eleven.

Anthony Colasacco: If it means that no one can be outside at eleven, then I probably wouldn't want to ask. I do not anticipate service out there anyway.

Chairman Cosentino: It doesn't help the person that is going to go outside and drink.

Vice Chairman Sturniolo: Correct.

Whitney Singleton: May I offer one thing again not going either way on this? I think that you should either have no prohibition or you should simply say that the outdoor porch area shall be subject to requirements set forth in 93-4 governing outdoor dining. At least that's the operational aspects of it.

Vice Chairman Sturniolo: As if he had a permit?

Whitney Singleton: One or the other, I don't care. But if you think that we're going to see what the police incidents are here, and then we're going to haul him back before your board under your continuing review jurisdiction and we're going to enforce new regulations upon him, or new conditions upon him that didn't previously exist because he didn't keep his verbal ramification to you, or there is a new owner or anything else, that's not going to happen. If you want to initiate any restrictions at all, that's fine, but I just don't want you to operate under the misunderstanding that police incidents are going to somehow give me control to bring this back and resurrect it.

Vice Chairman Sturniolo: That being the case, why don't we just go with the concept of just lifting that restriction and that "whereas" and end it. Period.

Ralph Vigliotti: Or put it in the form of a motion and we could just vote on it. It will be either yea or nay and see where it takes us. Otherwise we'll table it.



Chairman Cosentino: We could table it and think about what we want to do.

Ralph Vigliotti: Or you can have a restriction saying the porch closes at midnight.

Anthony Colasacco: I understand but on my end it could vary every night if there are people on a weekend on a beautiful night, this couple is sitting out there and I have to say sorry can you come inside.

Chairman Cosentino: You could have a sign saying outdoor closes at a certain time.

Anthony Colasacco: I think I would still have to be the police on that and enforce it. I don't know if people are going to run inside at twelve or wait for me to come out. And if they're out there and for some reason it's a good night, knowing there is no seat for them inside, then they leave. There is nowhere for them to go, there is not a seat at the bar and you're basically kicking me out.

Vice Chairman Sturniolo: I'd like to see us just move forward to lifting the restriction and clean this up tonight.

Chairman Cosentino: That's what I say. Just lift the restriction and do what you have to do; otherwise you'll be policing it. I felt the same as you, Ralph, until I thought about it a little more. What are you going to do? You're not going to police it, you're not going to be there, and you're restricting him again.

Whitney Singleton: Before you agree on a motion the applicant should be advised that anything short of four votes of this board constitutes a majority of who is present. You still need a majority of the full board which is four votes. So the applicant does have within his right the ability to come back in a point in time when there is a full board present.

Anthony Colasacco: This is not a full board?

Chairman Cosentino: We do not have a full board here right now. If two people vote against this, you're shot down.

Vice Chairman Sturniolo: Or you could wait.

Whitney Singleton: Or you could poll the board. I want the applicant to understand that if it's put to a vote and you only get three votes, which does not carry.

Chairman Cosentino: Let's do the right thing here. If we're going to lift the time and then tell him that he has to close down at eleven o'clock on the porch and police it, it's not going to work.

Vice Chairman Sturniolo: Being practical, you're correct.

Ralph Vigliotti: We may not be in agreement with the eleven o'clock hour; it could be some hour but certainly not two in the morning.

Chairman Cosentino: Even if he says one o'clock in the morning, you've won the lotto. Who is going to be there at one o'clock to tell you to move the people in? So agree to one o'clock and let's end it.

Anthony Colasacco: I agree.

Ralph Vigliotti: Why don't we bring it to a motion and see where it goes?

Chairman Cosentino: Somebody make a motion on this. Are we doing it for one o'clock?

Ralph Vigliotti: I'm just looking to lift the restriction.

Chairman Cosentino: You're either going to do it with the one o'clock or do it with none. You can't have two votes on something. Whoever makes the motion either has to make the motion with the one o'clock or just leave it out or just leave it with the "whereas" comes right out.

Vice Chairman Sturniolo: Whitney, legally can we tack on a time on this thing? What ever time we pick?

Whitney Singleton: If you put in a time that is not overturned by the Article 78 preceding it is enforceable. If you don't put on a time, it's up to you. Right now you

have an enforceable restriction as a prior applicant from your board did not appeal it within the appropriate time. If this applicant does not appeal that decision to the Supreme Court in the form of an Article 78 within thirty days, and if he doesn't prevail, then the answer will be enforceable.

Chairman Cosentino: So I say lets remove it with the one o'clock time, which he agrees and let's get it done.

Vice Chairman Sturniolo: And you'll have an answer within thirty days.

Chairman Cosentino: The time limit is one o'clock and no restrictions for inside, that's on your own. Do you agree to that?

Anthony Colasacco: So, I'm supposed to tell people at one o'clock to come inside.

Ralph Vigliotti: There should be a sign.

Chairman Cosentino: You know you're not reading in between the words.

Anthony Colasacco: Okay, I got you. Absolutely.

Nanette Bourne: So we're not calling this outdoor dining; we're calling this usage of the porch.

Whitney Singleton: If there is outdoor dining, it must end at eleven.

Chairman Cosentino: So it's just the usage of the porch.

**Motion to Lift the Current Restriction as it's shown in the "Whereas" and Impose a Restriction of the Usage of the Porch must end at 1:00 AM**

**Motion:** Vice Chairman Sturniolo  
**Second:** Doug Hertz  
**Aye:** Sol Gibbons  
**Aye:** Ralph Vigliotti, with reservations  
**Aye:** Vice Chairman Sturniolo  
**Aye:** Doug Hertz  
**Aye:** Chairman Cosentino

Vice Chairman Sturniolo: We have another subject to discuss besides that; the request in the letter for the \$500.

Chairman Cosentino: He agreed to pay it plus he sent another donation of five.

Vice Chairman Sturniolo: You agreed?

Chairman Cosentino: He agreed in the last part of his letter that he would pay it.

Anthony Colasacco: Thank you very much.

**Formal Application**

**Chappaqua Transportation  
33 Columbus Avenue  
PB2007-08**

**Present:** Joan Corwin, President, Chappaqua Transportation  
Joseph Cipriani, Vice President, Chappaqua Transportation

Chairman Cosentino: When you came here originally we had no information from staff or from our engineers. Since then we have obtained the information that we needed. We have certain problems that we want to go over with you.

Joan Corwin: First, thank you for doing the site visit on a Saturday morning. I appreciate that.

Chairman Cosentino: Thank you. First of all you have a building there that is not two bays. Its three bays but one building, one bathroom. It's not consisting of a separate unit.

Joseph Cipriani: There are two bathrooms.

Chairman Cosentino: We only saw one.

Joseph Cipriani: There is a second bath. It's locked up. The previous tenant still hasn't moved his stuff out and it's locked up.

Chairman Cosentino: We only saw one, and it's not divided separately, and there are issues because of that. I don't know whether you received a copy of the Engineer's Report and a copy of our own Assistant Village Manager's report on this of the building code.

Joseph Cipriani: We haven't gotten copies.

Chairman Cosentino: I'm going to read to you some of the problems that we have here so you understand. (At this time Chairman Cosentino read a memo from Mr. Jeffrey A. Econom, P.E., and Assistant Village Manager to the Planning Board and Staff stating his review of the project, and offered his comments and suggestions). On the Village Engineer's report, the site prepared for Chappaqua Transportation was prepared by Campbell Engineering Company.

Anthony Oliveri: Mr. Chairman, if you'd like I can go through that. The first memo you read from Jeff Econom basically is looking for some back up as far as turning radius, turning templates on the buses and how they are going to circulate internally on the site. He was concerned with the number of vehicles he saw on the site and how that is going to interact with the three bays. So that is something that would have to be demonstrated. His second comment was regarding the circulation patterns off the site and in particular the site distance on Columbus Avenue.

Joseph Cipriani: That was on our cover letter, the site distances.

Anthony Oliveri: That is something obviously you have to demonstrate to his satisfaction. His third comment was a building code comment in relation to the sprinklers in terms of the repair shop and the body shop and the fact that he thought there was one bathroom. So those are code issues that need to be addressed.

Joseph Cipriani: I don't know where he came up with three bays. There are only two garage doors and each one is its own bay.

Anthony Oliveri: He mentions the dividing wall and he does mention three bays.

Chairman Cosentino: There was an oversized bay and a small bay.

Anthony Oliveri: That was from the Assistant Village Manager, Jeff Econom. Our office also produced a memo with a number of questions mainly on the tank construction. The site plan consists basically of just a survey with an overlay of the location of the tank, and just the dimensions of the tank, and end view and an elevation. The site plan needs to have more detail in terms of the tank, the location of the fuel pumps, how all that is going to be weighed out. There are bollards shown on the plan, they need details for all this on the plan.

Joseph Cipriani: You should have gotten a copy of this; all the information on the tank.

Anthony Oliveri: Those are the manufacturer's cut sheets. The engineering plan needs to have details on it because that's what the board will be approving as a site plan. The slab under the retaining wall, the drawing seems to show an interval slab and retaining wall in the detail that's there, but the plan looks like you're just going to have the tank against the existing wall, which is like a concrete block wall... that loose wall. If you're not going to construct a new wall and you're going to use that existing wall, we would need some kind of certification structurally that that wall is sound. That is a loose wall next to that tank. A couple of things in this memo we just cited; the Westchester County codes, the register of the site, the gallonage that's required. One thing that wasn't clear. The tank was on skids on the cut sheet that you submitted; you showed skids. Is that to move the tank around?

Joseph Cipriani: It's not a permanent tank, it can be moved if it has to.

Anthony Oliveri: There are special requirements for a removable tank. I think one of them might be to contain it in a roofed facility, according to Westchester County codes. That is something you need to look at and clarify. Mainly more detail on the tank itself, the construction. There is a requirement in the code to provide secondary containment for above ground tanks. It's a double-wall tank. What wasn't clear in the code actually was, and if you met the quantity of the secondary tank. That's something you have to

look at and demonstrate. There are other provisions in that code which you may have to meet for other types of secondary tanks. You'll get a copy of this to review, and if you can address those. I think probably the biggest issue might be the traffic moving since it's inside a site. That has to be demonstrated.

Joan Corwin: May I say something? After the last time I went out myself, six o'clock in the morning and we did traffic observations, I had drivers sit there all day long and do this and I realize what you're talking about when you say traffic because look, I've got every vehicle that went in and out. The thing that I found out, just for your information was, that between five thirty and seven in the morning maybe four cars go out. Everybody's going in to go to work. There is not that much traffic there. To get a bus in and out of there, it's two tenths of a mile from the gates to the recycling center to the Stop sign on where you come to Lexington Avenue. I timed it. Going very slowly it takes twenty five seconds to go out of there. I wouldn't want my buses going in there after eight o'clock when, everybody, all your trucks and everything are going out. The drivers punch in about five thirty and eight vehicles a day between five thirty and seven I thought would be not unreasonable.

Anthony Oliveri: One thing we brought up when we talked with Jeff Econom is the circulation pattern of getting into and out of the site. He's talking more about site distance when the bus pulls out; how far they could see down the road.

Joan Corwin: The driver's sit pretty high. I'll be happy to work that out with you.

Anthony Oliveri: There is quite a show of site distance on the engineering plans.

Joan Corwin: I'll take pictures from the driver's seat or something. I'll be happy to do more for you.

Joseph Cipriani: We'll just get copies of all the memos.

Joan Corwin: There are twelve copies here. We did it this week from the early morning when I realized I couldn't do it after seven o'clock, it's really too busy. These are the ones where I had the driver sit there at five thirty this past week and get the counts. Three or four vehicles went out.

Ralph Vigliotti: These are vehicles on Columbus versus Lexington on Columbus.

Joan Corwin: There was nobody on Lexington when I was there.

Ralph Vigliotti: The vehicle count on Lexington Avenue will change when school starts.

Joan Corwin: But not at five thirty in the morning.

Ralph Vigliotti: Closer to seven there are buses going up and down Lexington Avenue.

Joan Corwin: We'd be out of there by then.

Joseph Cipriani: Some of these counts were taken in early June when school was still in session.

Ralph Vigliotti: I thought you did it last week.

Joan Corwin: I did it, but I did it before too. I sat there for a week.

Vice Chairman Sturniolo: Is this considered an accessory use to the site as opposed to a Matter of Right?

Whitney Singleton: I believe based upon the description that the applicants put in there are vans or buses, three a day that will go for servicing and then there's a separate group of buses that will go to the site for refueling, like eight or ten a day.

Joseph Cipriani: Eight or ten tops.

Whitney Singleton: So, I think that that's a factor. My personal opinion... I was going through some things here. You were enforcing at our meeting in June. My personal opinion is that this is not a permitted use.

Nanette Bourne: The fueling, not the buses.

Whitney Singleton: Correct. I think it's a separate and independent use for the site based upon the description. And I say that with all due respect to this applicant. I've met this applicant at my Rotary lunches and she's a very nice woman, but before we go down a path that's too far; I went down during our meeting to pull Austin's old memo. I think we're going down a path with a thing that is simply not permitted on this site. And I'm saying that up front with you so that there is no mincing of words that this is not a site distance issue. This is not a "are you short two parking spaces" issue.

Joan Corwin: Is there something I could refer to in the code to show Chuck, my lawyer?

Whitney Singleton: Yes. Gasoline and refueling is a permitted use in other zones. It is not permitted in this zone. Automotive body shops are permitted in this zone but not refueling.

Chairman Cosentino: Isn't there something in the code where if you have a body shop you can't have another one, or a repair shop?

Whitney Singleton: Within one thousand feet.

Chairman Cosentino: That's what we were blocked with.

Whitney Singleton: But that's almost separate in part. That's if that were permitted in the zone. It's not permitted in the zone.

Joan Corwin: There was another truck company there before we came in.

Whitney Singleton: If that's the case and you're going to use what they have, that's a continuation of a pre-existing use; it's been in operation non-stop. That's something else. But if you want to expand it with a six thousand gallon tank, then you would have to demonstrate that whatever was going on there has been continuously going on there without cessation for more than a period of a year. I know you have done a tremendous amount of work on this.

Joan Corwin: I just feel bad because we're going to be fueling up right there on East Main Street at the Getty Station. That's going to be worse.

Vice Chairman Sturniolo: Could you fuel at Fox Lane School?

Joan Corwin: No. The contract said I have to provide a tank.

Vice Chairman Sturniolo: Could the tank be at Fox Lane School?

Joan Corwin: They won't do it.

Vice Chairman Sturniolo: And the people at Norm Avenue in Bedford where you're storing the buses won't do it either.

Joan Corwin: I think because it's a wetland down there and it hasn't got the tanks that there are where the garage is where I'm leasing, where it has the oil separator and all that kind of stuff. That's up to code there with the DEP and all that stuff. That's the problem there.

Whitney Singleton: What is permitted in this zone is automotive and equipment sales service and repair subject to the requirements set forth in Article Five. If you go to Article Five, that says nothing about fueling. But it does say, in another use, in a different zone, is gas and fueling stations. But that is for the CL District and other districts. Not this district. That's where you have the Mobil Station and the BP Station and the Exxon Station. It also says under regulations any use that is not permitted shall be deemed prohibited. So, even if there were some language that could be tied to refueling.

Joan Corwin: If I used the existing tank on the property. There is a fuel tank there now.

Whitney Singleton: Isn't it two hundred gallons?

Joan Corwin: It's two seventy five.

Whitney Singleton: It's totally separate, supplemental regulations. There is automotive repair and then there are gasoline stations, and they are completely separate and distinct. Now with a gasoline station you can have automotive repair, but it doesn't

mean that with a repair station you can have gasoline sales. It's pretty black and white here. I know this is only your second meeting, but I don't view it as a permitted use.

Chairman Cosentino: We just searched it, and this is what we found out also. This is the nicest lady I've ever met on the board in twenty five years.

Joan Corwin: If you can give me something I could give to the attorney.

Chairman Cosentino: Austin is going to have to give you something.

Whitney Singleton: Unless Austin disagrees with me I think this was just probably an oversight on his part.

Chairman Cosentino: Our hands rights here are tied.

Joan Corwin: I understand what you're saying, but if you give me something in writing so I could get my teeth in it.

Vice Chairman Sturniolo: So you could look up the code?

Joan Corwin: No, why I'm being denied and everything so I could give it to my lawyer.

Whitney Singleton: I'll confer with Austin. Austin may disagree with me but I doubt it when I show him this.

Joan Corwin: He seemed to be favorable to the fact that I was going to fuel up the six or seven buses between five thirty and seven in the morning.

Chairman Cosentino: We never got that information.

Joan Corwin: I understand how uncomfortable it is for you. Let's see where we go from here. Is there anything else I can do other than have the attorney look at it? If I could get something in writing.

Whitney Singleton: I will talk to Austin in the morning, and I will get him to send something, and if he disagrees with me I will have him call you and say that he disagrees with me. I don't think that that is likely.

Joan Corwin: As I said I will appreciate something in writing. I appreciate your time. Thank you.

Chairman Cosentino: Okay.

Chairman Cosentino went on to read the list of Building Inspector Reports, Site Monitoring and Correspondence which appeared in this evening's Agenda.

Doug Hertz: We need to do the minutes.

Chairman Cosentino: We'll have to wait until Stanley gets back.

**Adjournment:**

**Motion: Vice Chairman Sturniolo**

**Second: Ralph Vigliotti**

Meeting adjourned at 11:05 pm.

Respectfully Submitted By,

Stanley Bernstein  
Board Secretary