

Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, December 8, 2015

Chairman Cosentino called the meeting to order at 7:37 pm in the Municipal Building.

Members Present: Chairman Joseph Cosentino
Ralph Vigliotti
Enrico Mareschi
Michael Bonforte
John Bainlardi (Alternate)

Members Absent: Vice Chairman Anthony Sturniolo
Doug Hertz

Staff Present: Anthony Oliveri, Village Engineer
Jan K. Johannessen, Village Planner
Peter Miley, Building Inspector
Whitney Singleton, Village Attorney

Chairman Cosentino led the Pledge of Allegiance.

The meeting commenced at 7:37 p.m.

Minutes

Chairman Cosentino stated welcome everybody, this is Tuesday, December 8th, this is a Planning Board meeting and we have minutes of October 13th, do we have a mix? Yes, we do. Any questions on the minutes? I have none.

Mr. Mareschi stated I have none, Chairman.

Chairman Cosentino stated thank you, Michelle for doing them, they were excellent.

The Secretary stated thank you Chairman.

Chairman Cosentino stated do I have a motion.

Mr. Vigliotti stated so moved.

Chairman Cosentino stated do I have a second?

Mr. Mareschi seconded the motion.

Chairman Cosentino stated will the Secretary poll the Board, please.

Mr. Vigliotti	-	aye
Mr. Mareschi	-	aye
Mr. Bainlardi	-	aye
Mr. Bonforte	-	aye
Chairman Cosentino	-	aye

The motion carried by a vote of 5 to 0.

Chairman Cosentino stated okay, the first thing on the agenda is a formal application, Lexington Avenue Realty. Would you come up and identify yourself for the record, please?

- A. Lexington Avenue Realty, LLC – 326 & 328 Lexington Avenue (Former Lexington Avenue Gym)
PB2015-0291, 80.48-1-6 & 7.1 (SBL)
Site Plan**

Mr. Peter Gregory of Keane, Coppelman, Gregory Engineers and Mr. Jim DeFrancia, the property owner, were present.

Chairman Cosentino stated excuse me, before we start, I want to introduce our new Building Inspector, Peter Miley. We were fortunate enough to get him from another municipality and we feel good about it Peter, and welcome.

Mr. Miley stated thank you very much, Chairman.

Mr. DeFrancia stated Jim DeFrancia, Lexington Avenue Realty, J&J realty.

Mr. Gregory stated and Peter Gregory of Keane, Coppelman, Gregory Engineers.

Chairman Cosentino stated okay gentlemen, we have a resolution, finally. A draft resolution.

Mr. DrFrancia stated I think we're at 16 months, I believe.

Chairman Cosentino stated I know it took a while but at least everything is clear now, you do what you have to do.

Mr. DeFrancia stated we're getting close to starting work.

Chairman Cosentino stated okay, I want to go to staff, Jan, do you have anything on this resolution?

Jan Johannessen stated the outstanding comments that we had have been folded into the resolution, mainly deal with lighting and landscaping, they've been discussed with the Board previously and discussed with the applicant a couple of times, so from my standpoint its ready for a resolution.

Chairman Cosentino stated okay, thank you. Anthony?

Anthony Oliveri stated yeah, we just noted that there are certain site plan details that should just be added to the final plan for final signature of the site and I believe those can be reviewed myself, Jan, and the Building Inspector, prior to the signing of the site plan. I think its ready to go to resolution.

Chairman Cosentino stated okay, Whitney?

Whitney Singleton stated I have no issues with the resolution.

Mr. Vigliotti stated Mr. Chair, I just have one comment. Page 5 of 7, conditions to satisfy prior to issuance of Certificate of Occupancy, number 17, let me read it if you don't mind. "Prior to the issuance of any Certificate of Occupancy for either 326 Lexington Avenue or 328 Lexington Avenue, the nonconforming residence located at 328 Lexington Avenue, shall be removed to the satisfaction of the Building Inspector." I'm happy that that condition is in here, how do we ensure, as a Village and as the owner of the property, that it stays unoccupied as a residence?

Chairman Cosentino stated I think I can answer that for you because I asked the same question a few days ago. As of now, there are no, it's been satisfied with the Building Department that there is nobody living there, they moved out, am I correct.

Jan Johannessen stated no, the residence is there now. They have a lease, the applicant needed some time to get them to vacate the premises, so we felt that the adequate time would be given by linking the removal of that unit to the C.O.

Chairman Cosentino stated okay.

Jan Johannessen stated that unit is going to be removed and replaced with an office. So I guess just like any other use...

Chairman Cosentino stated so I guess what Mr. Vigliotti's question is when is the lease up and when are they going to be moving out.

Mr. DeFrancia stated we're presently looking for a space of them now.

Mr. Vigliotti stated okay, okay.

Jan Johannessen stated they won't be able to get a C.O. on either of the properties.

Mr. Vigliotti stated so it will be going from a nonconforming residential space to an office.

Jan Johannessen stated and that's reflected on their floor plans.

Whitney Singleton stated and presumably, Peter, it will be reflected on the C.O. as well, correct.

Mr. Miley stated it will be.

Mr. Vigliotti stated okay, alright, that's all I had.

Mr. DeFrancia stated when you mentioned office or warehouse or something else that could be approved at that final time but not a residence.

Chairman Cosentino stated okay, I got the wrong information or I misunderstood. Okay, does that satisfy you, Ralph?

Mr. Vigliotti stated yes.

Chairman Cosentino stated okay, does somebody want to make a motion on this?

Mr. Mareschi stated Chairman, I'll make a motion on Lexington Avenue, 326 & 328 Lexington Avenue Section 80.48 lot 1 blocks 6 & 7.1 and the application number is PB2015-0291 on December 8, 2015, Lexington Avenue Realty, LLC.

Chairman Cosentino stated motion made by Mr. Mareschi, do we have a second?

Mr. Bainlardi seconded the motion.

Chairman Cosentino stated seconded by Mr. Bainlardi, will the Secretary poll the Board, please?

Upon Roll Call Vote:

Mr. Mareschi	-	aye
Mr. Bainlardi	-	aye
Mr. Vigliotti	-	aye
Mr. Bonforte	-	aye
Chairman Cosentino	-	aye

Motion carried by a vote of 5 to 0.

Mr. Gregory stated thank you very much.

Chairman Cosentino stated next thing on the agenda is Hudson City Savings Bank, 29 Carpenter Avenue. Will you come up and identify yourself for the record please?

**B. Hudson City Savings Bank – 29 Carpenter Avenue
PB2014-0260, 69.91-3-2.1 (SBL)
Site Plan**

Ms. Linda Whitehead of McCullough, Goldberger, & Staudt, was present to represent the application. Ms. Whitehead stated Linda Whitehead with the firm of McCullough, Goldberger & Staudt, for the application.

Chairman Cosentino stated okay, there were, Mr. Singleton, I'm going to let you address this.

Whitney Singleton stated sure, the cliffs notes version is that this was a project which was approved by your Board some time ago, the property owner, the developer was foreclosed upon by the bank. The bank has taken over and has limited access to documents and plans and has been trying to finalize an outstanding item or two and there were, as many of the Board members will recall, there were a series of approvals for this application. The building to the south, I believe it's to the south, that goes down the slope towards Main Street, was originally approved to be 2 ½ stories of space. The rear units were to be a single story efficiencies or one bedroom units, I can't remember which. What happened was due to the topography of the land, the applicant thought it would be beneficial to rather than build all the way up and not be able to provide the landscaping, they instead decided that it would be better to keep the excavation at a point where there would be a rear court yard, a retaining wall and then screening placed on Village property. Your Board ultimately approved an amended site plan, the specifics of which I'm not completely familiar but you approved an amended site plan.

Ms. Whitehead stated in 2005.

Whitney Singleton stated the construction of that began and as a result of a change in the layout of the plans, the then applicant, not the current applicant, the then applicant/property owner began with a set a construction plans with building permits from the Building Department for finished space in the basement which was originally supposed to be, as per your approval, was supposed to be storage space or common area. It was being finished with cabinets and bedrooms and everything else and there were building permit issued for that and the Assessor at the time, signed off on the filing of the floor plan to be filed with the Westchester County Clerk's office, so the common elements and everything else which emanate from that were all dictated based upon a floor plan that was approved by the Village, the building permits that were approved by the Village, for a plan that was not approved by your Board. So there's a slight, not a massive differential but a slight differential between that which was approved by your Board and that which exists in the field. You are stuck with the unenviable task of having to deal with reconciling that difference and Ms. Whitehead is here to address, has the unenviable task of getting that authorization because her client doesn't even have access to the plans since they foreclosed on the former owner. We have, rather than bat through this back and forth at the Planning Board level, your Board directed that staff meeting with the applicant, I believe you were there Chairman, at some of these meetings to address this. A good compromise was reached to address the concerns of the Building Department regarding the requisite handicap accessibility under applicable law and what the applicant's come back to with is a revised plan to make the unit on the south building on the westerly side, handicap accessible with a ramp and to redesign the bathrooms in such a fashion that there will no longer be a staircase going downstairs, it will be a single story unit and it will be entirely handicap accessible. The other unit which was two stories in the back on the other site, so that would be the south eastern side of the southern building. The unit is proposed to remain exactly as it was issued building permits for, a two story unit accessed from the rear of the building. So the compromise being that there will be dead space below the first unit, there will not be dead space below the second unit and I believe that your Board conducted a site visit to examine what was there.

Chairman Cosentino stated yes.

Whitney Singleton stated and so what the applicant is seeking to do is get some degree of after that fact blessing of what was done here and I believe that they've submitted all the documentation that's necessary, however the Building Department, through Mr. Melillo, has raised an issue as to whether or not the as-built shows compliance with the last record of approval and we're operating a little bit in the dark on this because we don't know if actually have the last record of approval and the builder [inaudible].

Chairman Cosentino stated and I guess under State Code, a handicap ramp is needed as per the units.

Ms. Whitehead stated yes, we were advised by Mr. Melillo that a handicap accessible unit was required in this building. There was some question as to which Code applied because of the timing of when this started, when building permits were issued, we decided not to fight it at this point, therefore we have converted one of the units from a proposed two story or one story accessible. To do that we've had to provide the handicap ramp, so we've given you a new site plan that shows the handicap ramp, as well as the new floor plan. The lower level of that unit will now be strictly a utility and storage space and only accessed from back. The other unit we are proposing as two story as the construction started, that one can only be accessed from the back, so it really has to be a two story unit, there's no way to access it because of the slope of on the other level.

Chairman Cosentino stated now there were some other issues that Mr. Melillo brought up, now unfortunately, we don't have the original site plan.

Ms. Whitehead stated I couldn't really understand how he was raising things as being different from the original site plan when he said he didn't have, well not the original, the 2005, the latest amended site plan. So he keeps asking us for it, we've been before you for a year and a half or more now on and off, as we've said, the bank has very little information, they brought an architect in to as built plans of what was built. We do have the resolution.

Chairman Cosentino stated so at the end of the day we don't have an original site plan to compare anything. I just need to know that the site plan is satisfied.

Ms. Whitehead stated so Mr. Chairman, you may remember about a year and a half ago, I think in February and March of 2014, we first came back here because when our client went to get building permits to complete the construction of the six units, the building permits has expired, we had to get new building permits, they said we had to get the site plan amended, extended, we came back here and at that time, staff did a site visit and you asked them to confirm to you that the site plan conformed, that everything that was built on the site conformed and everything that was required was there before you would grant us that extension. I don't know how they did it because I don't know what they were looking at but it was done.

Chairman Cosentino stated so, Whitney, I just need to ask you. Jan, I guess you looked at this and Anthony you looked at this.

Jan Johannessen stated I had looked at the site landscaping on Village property during that site visit. That was the only thing I was asked to look at and that landscaping plan exists in the file and I was able to verify that that plant material is there.

Chairman Cosentino stated now were there trees planted towards North Bedford Road...

Jan Johannessen stated yes.

Chairman Cosentino stated and they're there.

Jan Johannessen stated yes.

Chairman Cosentino stated we needed them and they are there. On our site visit we saw them but there was one tree that was dying.

Mr. Vigliotti stated I also have a question, a statement on that. When the original applicant was here in 2003, 2004, 2005, all of the above. There was a concern by the Board at that time and I think the Chair and I are the only surviving members on the Board at this point. The question was would the site be visible from Route 117, North Bedford Road, as you travel from the Indian northward and there was a guarantee by that client at that time through all four seasons, you would not see the building at all. The question was, that they were tearing down, taking down trees that had been there for years that were creating quite a nice buffer and they guaranteed us that you would not be able to see the building at all. Now, here we are X number of years later and we are able to see that building, so my question to you is and this may be the time Jan and the Chair mentioned one dying tree, we want to make sure that if that tree is dying, that its replaced.

Chairman Cosentino stated yeah but they satisfied the approval at the time by planting the trees that are there now, unfortunately the trees didn't grow fast enough but you are right, we did say that.

Mr. Vigliotti stated now 2003 versus 2016, there was a guarantee I just shared with you and that's why sometimes when the Board says we don't really think that's going to happen or the type of shrub you put in isn't going to grow the right way to provide the right screening for this property. Here we are, case in point, almost 15 years later, 14 years later and the property is fully visible through that greenspace when the foliage is down, which is a considerable amount of time. I guess I'm asking and you certainly don't have to, if you were to add a few more hemlocks up in that area, then that guarantee that was shared with us 12-14 years ago, would keep that greenspace appearance to be green all the way up through that steep slope and onto your property. So I just share that with you and maybe that's something that you may want to do in working with the Village.

Maria DeCandia stated can I just say something.

Mr. Vigliotti stated sure.

Maria DeCandia stated my name is Maria DeCandia, I'm a homeowner and Vice President of the Homeowners Association. I found out this afternoon, just by accident because our president happen to be in the Town this morning and found out that we were on the docket for the meeting, we had no idea that we were on the docket for this meeting. Our attorney's not here, I don't have anything, I just got home from my job. I've lived in Mount Kisco for 32 years, my children went to school with Ralph's son, and I sold my property on Byram Lake Road and bought this property 8 years ago, in August of 2007, in good faith that the building was going to completed and that I had an investment for my future because this is my retirement this property, I have a jumbo mortgage on property that I've paid 600,000 for and I love living here, I love living in the Town, I'm an active member of this Town, I volunteer, my children grew up here, and this is my home but it seems like we're all being held victim, we have 5 homeowners, 1 previous builder who lives there who doesn't pay his common charges, he probably doesn't pay his taxes, so we have 5 people carrying this property, we're all just working people trying to live here and for 8 years, I couldn't refinance my mortgage because 51% of the units weren't sold. I need to sell this property and we're maintaining this property, we've dealt with homeless people living there and we've maintained the property, a tree died in front, we replaced the tree last year, we shovel the snow, we do everything that we're asked to do as good citizens and we are maintaining a beautiful piece of property, so if we're talking about when the trees are all down 117, you can see the building, what are we talking about, I don't even understand.

Chairman Cosentino stated if I can answer that.

Mr. Vigliotti stated it's just a share.

Maria DeCandia stated you're holding 5 homeowners victims here.

Chairman Cosentino stated no, make no mistake and I want to very clear. We're not going to hold you up, we want to solve this problem. We didn't cause this problem, we're trying to solve the problem. If you, of course you do, you know the background on this property, you know the background on the contractor and you've suffered with it.

Maria DeCandia stated I do, I know it all, he's my neighbor, I live it.

Chairman Cosentino stated we're just trying to get it back up to where its supposed to be so you can remortgage or you can sell it.

Maria DeCandia stated it just feels like you keep stumbling blocks, the bank is trying to build this unit and finish and now we're not going to get C of O tonight.

Chairman Cosentino stated in all fairness, I didn't see one stumbling block tonight that's going to hold this up, okay. All that we're trying to do is bring it back to where the bank, the bank took it back, right and we're just trying to bring it back where it's supposed to be for you. You just made a statement that you couldn't mortgage it or you couldn't sell it or anything like that. We're trying to make that happen, we don't want to lose you, we want you to stay here by that way. We want to do that and that's what we're here tonight to do.

Maria DeCandia stated it just doesn't feel like it when we're talking about now we need a handicap, now we need this, not we need that, it just feels like there's always something else that's being added.

Chairman Cosentino stated let me answer that question for you. Under State Code and we have the Building Department right here, under State Code, it needed a handicap ramp, it wasn't there.

Maria DeCandia stated it wasn't in the offering plan in 2007, it's grandfathered in when the offering plan was originally approved. It was approved.

Ms. Whitehead stated they are saying there was some question about it.

Maria DeCandia stated I spoke to the Attorney General yesterday and the Attorney General said the offering plan was filed in '06 and approved in '07 for 12 units and it should not be a problem and they don't understand that there's...

Chairman Cosentino stated and we're not going to make it a problem.

Maria DeCandia stated well why would the offering plan need to be changed from what was approved already.

Chairman Cosentino stated Whitney, maybe you want to answer that, I don't want to.

Whitney Singleton stated I'll be happy to address that. Let's just step back for a moment and say the reason that no construction has gone on in the south building for the past 6, 7, 8 years...

Ms. Whitehead stated it has, remember the front 4 units.

Whitney Singleton stated the reason that there has been diminished construction here is because of lack of building, not obstruction from the Village or this Board or anyone in the Village. It has been a function of the fact that no construction was undertaken by the property owner. It's not this Board's job to mandate that it be...

Maria DeCandia stated but that was the bank and now we feel like the bank is trying to get it done for us.

Whitney Singleton stated now that we've had an opportunity to sit down with the new owner of the property, who doesn't have records, we are speaking with and meeting with the owner to resolve any outstanding issues. The Building Department raised an issue as to handicap accessibility, the bank has addressed that. There are some discrepancies as to the compliance with the site plan of record, as any unit owner over there would want to make sure that it's built in accordance with the plans.

Maria DeCandia stated we don't want the bank to run away from the project and be stuck again because of all of the obstacles.

Whitney Singleton stated I understand but by the same token, if the bank were to do something that was substandard, you would want to come to this Board and say why did you allow them a Certificate of Occupancy when they didn't put in landscaping, when they didn't put in lighting, when they didn't put in curbing. So we evaluate the application from the perspective of compliance with what was approved and that's what this Board is doing. The Building Inspector has identified the possibility of there being a discrepancy so what my recommendation is going to be to the Board tonight and I'm just going to segue to that, is that there's. The outstanding issues are compliance with the last site plan of record, I spoke to Ms. Whitehead today, I told her that I would go up in the attic in the next week or so and go through, there's a room up there with all the plans and see if we can find the most recent approved site plan for review by the Building Inspector, the Building Department and the as-built that's been provided by the applicant, additionally the applicant has recently submitted to the Building Department its assessment of whether or not its compliant with the maximum height of this building, within the zone and that needs to be evaluated and they've indicated that if it satisfies the height requirement as based upon the average building height, so be it. If it doesn't satisfy it, they will go to the Zoning Board of Appeals for a variance and I think that those two things can be done administratively before this application returns to your Board.

Ms. Whitehead stated and just to clarify because I'm sure you have seen some construction activity, about a year ago, this Board did authorize us and instructed the Building Department that they could issue the building permit for the front four units and that we just had to come back here for the rear two, so those units, you've seen the construction, I'm sure.

Maria DeCandia stated yes, they're beautiful units.

Ms. Whitehead stated so they're done, we don't have the C.O.'s yet but they are done. Construction is pretty much complete on those and we've submitted for the C.O.'s.

Chairman Cosentino stated I want to make it very clear, we're trying to work with you and with the bank to get this done. It was a horrible thing that happened there, unfortunately, it happened and I feel for you, I do.

Maria DeCandia stated it just feels like with all these requirements that you keep making, it just prolongs the project further and further and further, we just need to sell the units and then we can breathe a sigh of relief.

Chairman Cosentino stated you wouldn't want to sell the unit and have a title search come and pick up something that wasn't proper. So when we're completed with this and it will be soon, okay, you'll be able to do what you want, so we want to do it quick but we want to do it right, for your sake. I want to work with you.

Maria DeCandia stated I hear what you're saying but we don't want the bank to run away and do a fire sale on these units because...

Ms. Whitehead stated I just have a change in banks, so I can't promise, Hudson City Savings Bank has just been taken over by M&T, their now a division of M&T Bank. They know I'm here tonight, they've instructed me to come here tonight and try to finish this up.

Chairman Cosentino stated well tell them we're at the end.

Whitney Singleton stated Chairman, we're just conferring over here...

Chairman Cosentino stated I'd like to solve this problem really.

Whitney Singleton stated there is no reason that once these items are addressed on an administrative level, that it cannot appear back before your Board for a resolution of approval.

Chairman Cosentino stated can we do that under the circumstances.

Whitney Singleton stated well there are certain things outside of your control. You need to determine the height of the building...

Ms. Whitehead stated I thought we had discussed that the height really didn't relate to this Board, it's more of Building Department...

Whitney Singleton stated understood but its either going to have to be something that's acknowledged or its going to have to be a condition of approval on a resolution.

Ms. Whitehead stated I thought we were going to make it a condition that if the Building Department determines it doesn't comply, then it will go get a variance, I don't think it should up this Board's...

Chairman Cosentino stated its not going to hold us up.

Whitney Singleton stated no, what I'm saying is that we either need to confirm its compliance or that it's going to go to the ZBA for...

Ms. Whitehead stated well what I'm saying is we had talked about not confirming it even before this Board acts and I have all the plans but...

Whitney Singleton stated okay, alright but you have that, we also have to have to confirmation from the Building Department as to see whether there's any reconciliation of the as-built and the site plan of record.

Ms. Whitehead stated again, I just say, I thought was done a year and a half ago and I hear what Jan is saying that he did it with respect to the offsite planting from the landscaping plan. I thought that was done, now we've heard on and off over the years, they have the plan, they don't have the plan.

Jan Johannessen stated what was the plan that was taken out at our last staff meeting.

Ms. Whitehead stated I thought it was the site plan that the Building Department had but now we're being told no. You're right, there was a plan here.

Jan Johannessen stated that you hadn't seen before, right. Wasn't it like the missing plan.

Maria DeCandia stated are we talking about the offering plan or are we talking about a survey.

Ms. Whitehead stated no, a site plan.

Whitney Singleton stated this Board has nothing to do with offering plan.

Ms. Whitehead stated and if there's something in the attic, we have that.

Mr. Bainlardi stated I'd just like to clarify for my own understanding here, factually what has happened here, so I'm going to try to summarize it and correct me, if I'm wrong. So based upon Robert Melillo's memo here, he looked at a site plan from April 11, 2005 and then looking at that together with, comparing it to the current proposed, amended site plan, he's noting some discrepancies and he's itemized those. Some of those and then in connection with the present application, there are some proposed amendments to be made to accommodate...

Whitney Singleton stated yes.

Ms. Whitehead stated can I just ask one question though, he told us he doesn't have that April 200 site plan, so how could he have looked at it to compare because he's asking us for a copy of it.

Anthony Oliveri stated it's got to be the plan that was in that meeting.

Ms. Whitehead stated so why is he asking us for a copy of it?

Mr. Bainlardi stated so my first question is, with respect to site plan items or the existence of as-built stuff that currently exists out there, that has nothing to do with the pending application for these units in the back. We're perfectly fine, we're permitted, I believe to approve those as provided that we're asking that they be incorporated into this new amended site plan, correct.

Whitney Singleton stated correct.

Mr. Bainlardi stated and there's nothing there, based upon what I'm reading, that would indicate that any of those things have any compliance issues with Code.

Whitney Singleton stated that's what is the thing that needs to be handled administratively, we don't know whether or not there are issues in that regard. Rob Melillo is identifying a disconnect between what is shown on the as-built and that which approved and as Ms. Whitehead is pointing out, the plan of record is

something that the Village has said that they don't have. So we just need to confirm that and its nothing that your Board can do here tonight.

Chairman Cosentino stated if we don't have the original...

Whitney Singleton stated they are not, just to pick up on your point because I kind of see where you're going with this, these are not major issues, they are confirmations, slight corrections and we have had a number of meetings with the applicant to address the issue of whether or not what they are proposing is compliant with the plan and is compliant with State law.

Jan Johannessen stated and to the extend that there's discrepancies, so long as those discrepancies are not Code issues, we can approve them with this amendment.

Anthony Oliveri stated it seems to be the discrepancies he's highlighting are on this amended plan, so you'll be approving that plan. There's one item where he's citing the retaining wall maybe needing a variance because of side yard setback, that could be conditioned the same way the building height is going to be conditioned.

Ms. Whitehead stated I think it's a low wall, we can certainly clarify that.

Chairman Cosentino stated is this something that can be handled by the next meeting.

Whitney Singleton stated yes.

Antony Oliveri stated I think so, yes.

Whitney Singleton stated well, if you get the information that you need.

Ms. Whitehead stated I think the point that Mr. Bainlardi was trying to make is that these don't affect the units, we're really here for an amended site plan for the two units.

Chairman Cosentino stated that's what we want to do.

Mr. Bainlardi stated and I think the Board is heading the direction that it's, notwithstanding that there may be things that didn't comply with the original site plan. If they meet Code, then we can just approve them now.

Ms. Whitehead stated and they're there.

Chairman Cosentino stated Jan and Anthony, I would like this on for the next meeting, and get all these things straightened out, so we can satisfy this site and these people can go on with a happy life as a resolution, can we do that?

Mr. Mareschi stated did the bank merge or they bought them.

Ms. Whitehead stated M&T Bank took over Hudson City.

Chairman Cosentino stated okay, so I'm going to have this on for the next meeting, alright.

Ms. Whitehead stated and hopefully we'll finish it up.

Maria DeCandia stated the bank is threatening that they're just going to give it away and just be done with it.

Chairman Cosentino stated just tell them to hold on, it will be completed.

Whitney Singleton stated what your Board is going to do is not going to necessarily alter the events of the Universe. Whether the bank does that or not has nothing to do with your Board.

Chairman Cosentino stated okay. Have a nice Christmas.

Ms. Whitehead stated thank you.

Chairman Cosentino stated Mike and Justine Rutherford.

C. Michael & Justine Rutherford – 87 Beverly Road

**PB2015-0318, 80.23-3-40
Steep Slopes Permit**

Mr. & Mrs. Rutherford were present to represent the application.

Chairman Cosentino stated this is 87 Beverly Road. Would you identify yourselves for the record, please?

Mrs. Rutherford stated Justine Rutherford.

Mr. Rutherford stated Michael Rutherford.

Chairman Cosentino stated welcome. Anthony, I'm going to turn to you, this is not much of a big thing, why don't you just address it for these two young people right here.

Anthony Oliveri stated yeah, this is on for a steep slope permit for basically a stone wall in the side yard area of their residence at 87 Beverly Road. We did do a review memo, really nothing of any major issue, just some conditions that I would include in any approval, regarding bringing imported fill onto the site, which I don't believe they need to at this point and just making sure they stay within that disturbance area that they are delineating on their plan. I just noted that the wall is in conformance with the steep slope criteria, they really made an effort to keep the wall down below the 6 foot height and the 60 foot length, to stay within the steep slope restrictions.

Chairman Cosentino stated okay, just a couple things and of course all the fill will be on their property that they're going to fill back on that.

Mrs. Rutherford stated yes.

Chairman Cosentino stated there's no underground sewage or, nothing under there, no. At this point...

Whitney Singleton stated there's a sewer line that comes down the hill.

Chairman Cosentino stated I just asked if there's any sewer line or water line, or anything like that.

Mr. Rutherford stated in the front of the house, we have like two lots, this is on the side of the house, so I don't believe...

Whitney Singleton stated down from Forrest, there's a water and/or sewer line that comes down. We just want to make sure it's not through your property.

Chairman Cosentino stated then it would be a right of way, you'd have it some place on that.

Anthony Oliveri stated I know where you're talking about, it's not this.

Mr. Rutherford stated I mean we did a topographical survey, it would have been in that.

Chairman Cosentino stated Anthony, since you see no engineering problems with this and Jan sees no problems with this. Where do we go from here?

Jan Johannessen stated you need a public hearing, they need a steep slopes permit.

Chairman Cosentino stated so why don't we set a public hearing for steep slopes and get this done.

Mr. Rutherford stated that would be great, appreciate it.

Chairman Cosentino stated I turn to Michelle for a date.

The Secretary stated January 12th is going to be the soonest for notification purposes and mailing.

Chairman Cosentino stated January 12th.

Mrs. Rutherford stated alright, thank you.

Chairman Cosentino stated okay, HVA Realty.

Amended Site Plan

Mr. Charles V. Martabano, Esq, attorney for the applicant, Eric Kingsbury of Langan Engineering and Mr. Tom Kriz of the Premier Collection.

Chairman Cosentino stated gentlemen, identify yourselves for the record, please.

Mr. Martabano stated Charles Martabano, attorney for the applicant.

Mr. Kriz stated Tom Kriz, HVA Realty, Premier Collection.

Mr. Kingsbury stated Eric Kingsbury with Langan Engineering.

Mr. Martabano stated Eric, you can even bring them up here closer because there's nobody left in the audience, as we get older our vision isn't what it used to be. Chairman, if you'd like me to give a little bit of background, I can do that.

Chairman Cosentino stated yeah, give a little background.

Mr. Martabano stated okay, great, sounds like a plan. You're all familiar with this facility, it's presently occupied by Volvo and Range Rover, it's 299 Kisco Avenue, we're here tonight for a very, very limited purpose and if you go back, at least most of you will remember, previously we brought in an application to discuss the possibility of putting Jaguar and Ranger Rover at this location but we have to take interim steps and I'll tell you why. We need to obtain a site plan amendment for the very limited purposes that we're talking about tonight, in order to determine whether another franchise will come in and actually utilize this so we can basically take the building down, build it back up in place and give you a while new facility there. So we have a very limited application tonight but its very necessary because one of the things that we're looking for is the ability to install pervious pavement, not impervious but pervious pavement where we presently have gravel, it's about 7,200 sqaure feet where we store cars. In order to do that, we need permission from DEP and DEP needs a negative dec. so we have to take this interim step of getting a modified site plan approval with a negative dec. in order to get that process under way and determine what is ultimately going to be here. So I will let Eric take use through the minor modifications we're going to ask for approval for and right now we're here for a conceptual basis but assuming there are not obstacles, we're going to move forward immediately to a formal application. Eric.

[Interruption in recording at 8:17 p.m.]

Mr. Kingsbury stated thanks, Charlie. Porous pavement will be put right on top of the gravel storage area, we're going to be staying within the limits to do this we'd also be proposing a small knee wall in the northeast corner of the gravel storage area, just to assist with some minor grading. Also, we were planning on restriping the parking lot to bring it into conformance with the original site plan.

Mr. Martabano stated and I believe also in the rear though, Eric, isn't it to bring it into conformity of the existing conditions.

Mr. Kingsbury stated yes.

Mr. Bonforte stated the concrete curb is going to remain.

Mr. Kingsbury stated the concrete curb is going to remain, yes.

Mr. Martabano stated also, I think there's some landscaping also.

Mr. Kingsbury stated yup, I was just talking about the parking. The northern parking strip in the original site plan approval shows it at 16'-6" and that is the only variance that was approved for the parking a shorter parking space. Now with this 16'-6", there is a two foot overhang over the existing curb. And then there are two spots that are east and west of the existing gravel storage area that the landscaping is proposed to the approved landscaping plan back in the '90's.

Jan Johannessen stated what's the purpose?

Mr. Martabano stated the pervious pavement.

Mr. Kriz stated basically we've met with our manufacturer and in order for them to approve a new facility on the site, they want me to have that area paved.

Mr. Martabano stated even though it is pervious pavement.

Jan Johannessen stated why do they want you to do that now and not when you come in with the new facility.

Mr. Kriz stated its just part of, they won't consider this a site for a new facility unless I can show that I have a permit to do that work. They won't even entertain it.

Mr. Martabano stated that's the whole purpose of this interim step.

Mr. Mareschi stated Charlie, when you're facing the building, it's on the left side, correct.

Mr. Martabano stated correct, the left side, that's correct. Behind the landscaping, parallel to the parkway, exactly, its an area that's been gravel for at least two decades.

Mr. Bonforte stated I would want to ask, can you comment on what's on the other side because we see a lot of construction there now.

Mr. Kingsbury stated other the side, north of the site. This is the Saw Mill entrance ramp and right now it's just existing lawn.

Mr. Bonforte stated so they're not, do you know what those plans are and whether they're going to impact anything you're doing or not doing.

Mr. Martabano stated you mean on the other side of the park way?

Mr. Bonforte stated I mean that property now looks like its being, I don't want to say renovated but there is work going on there.

Jan Johannessen stated that's the DOT storage area. They're going to be replacing that bridge over Kisco Avenue.

Mr. Bonforte stated right, which has been published but I guess my concern was that, yes you may find that this is all well and good and gets approved but then is there anything that could take place on the other side of the property line there that might impact your plans and I'm just more curious about that.

Mr. Martabano stated we can obviously check that out, by asking to see what those plans for development area but I think we're pretty self-contained here, I don't think it will have an adverse impact on what we're doing.

Mr. Bonforte stated and probably not anything we can really judge or decide on other than what we see before us.

Mr. Martabano stated exactly correct.

Mr. Bonforte stated looking just further out, you never know, it's the State.

Mr. Kingsbury stated I'm not aware of those plans.

Mr. Martabano stated that's my thought, I think our parking area butts right up to the slope and the ramp for the...

Mr. Kingsbury stated where this concrete curb wraps around right in front of you, that's the entrance ramp.

Chairman Cosentino stated they would have to reconstruct the ramp in order for that to effect...

Mr. Martabano stated and I don't think they'd be able to do that because I don't think they'd be able to get the arc to get onto the parkway.

Anthony Oliveri stated there's actually a drainage channel right on the north side.

Mr. Kingsbury stated there is an existing drainage pipe that discharges, north of the property.

Jan Johannessen stated you're going to need a wetlands permit as well. It's within 100 feet of that marsh.

Mr. Martabano stated we'll have to check that out, I wasn't aware of that. We'll put that into our application even in the short term, that's fine.

Anthony Oliveri stated have you guys gotten any feedback from DEP on their acceptance of the pervious pavement.

Mr. Kingsbury stated I went testing out with DEP, since it is a Designated Main Street, we are allowed to put pervious pavement down with a SWPPP approval.

Anthony Oliveri stated would they require water quality or water quantity measures.

Mr. Kingsbury stated we're just putting the pervious pavement down and with pervious pavement comes water quality treatment.

Anthony Oliveri stated my understanding was that they didn't accept pervious pavement as...

Mr. Kingsbury stated they don't but they allow it within the Designated Main Street Area with a SWPPP approval.

Anthony Oliveri stated and what is going to satisfy their water quality and water quantity requirements. Just the storage on the gravel area?

Mr. Kingsbury stated it's just the storage volume provided beneath the impervious surface, yeah.

Mr. Martabano stated I think they're doing the computations already. We can't get an application formally.

Jan Johannessen stated you can submit their application, you can get written comments back from them before you get a neg. dec. we see that all the time.

Mr. Martabano stated right but we're not going to be able to get any action on the application.

Jan Johannessen stated right, I think we're going to want to see you forward your application to the DEP now before we get too far down the process...

Mr. Martabano stated that makes sense.

Mr. Vigliotti stated will there be any disturbance of any of the landscaping that's there, the existing trees that are there. Will there be any disturbance?

Mr. Kingsbury stated there will be disturbance to install the proposed landscaping with the original landscape plans, to bring it to compliance.

Mr. Vigliotti stated so whatever you disturb you will bring back into compliance.

Mr. Martabano stated we're actually bringing it more in now than it exists now and that's part of the application.

Jan Johannessen stated is that all vehicle storage, are there any required parking spaces within that?

Mr. Martabano stated no.

Jan Johannessen stated is there an aisle, are you going to have a parking layout for that area.

Mr. Martabano stated well I think its vehicle storage, so I don't think they necessarily have to have a layout because it is vehicle storage.

Jan Johannessen stated is that shown on the site plan of record.

Mr. Kriz stated yes, it's storage, I think so.

Mr. Kingsbury stated do you have copies of the original site plan.

Mr. Martabano stated by the way, Rob asked for copies, we have copies with us. It is shown exactly as vehicle storage, right there. We have copies there for you.

Mr. Bonforte stated Eric, I have a quick question, mostly for my edification, the two handicap, that space on the left, the handicap, why are there two wheelchair markers there versus just one, I'm just curious. See how there's two of those, versus the other side there's one. I don't know what my rules or the Code are.

Mr. Kingsbury stated well we only needed three handicap spaces.

Mr. Bonforte stated so that actually means three spaces, what's the buffer in between that, that's the sort of shared space.

Mr. Kingsbury stated it's a shared space so they can unload a wheelchair.

Jan Johannessen stated Charlie, what did you make of Rob's comment on the viability of the site plan, that area is [inaudible].

Mr. Martabano stated I am so glad you asked that question because I have the appropriate answer for it.

Chairman Cosentino stated what was the question, I didn't hear it.

Jan Johannessen stated Rob brought up in his memo that there's a note on, I assume, the site plan of record that this area is not to be paved.

Mr. Martabano stated right but if you go to the original record of what the ZBA said or if you go to the resolution of the Site Plan Approval, they say will not be replaced with impervious pavement, that's what it says. And I'll try to provide that to you Whitney as well.

Mr. Bainlardi stated if that's the case, why, do you need to be before this Board at all.

Mr. Martabano stated only because we need the neg. dec. from you for SEQRA proposes to get our approval from DEP.

Mr. Bainlardi stated why would need a, what is the basis for coming for a site plan approval, other than maybe the knee wall.

Jan Johannessen stated amended site plan approval from changing a gravel surface to a paved surface.

Mr. Bainlardi stated but if the basis of the site plan approval was that it was not to be paved with impervious pavement but what they're looking to do is do impervious pavement. Why can't they just go the Building Department for that?

Mr. Martabano stated I think we started there and we ended up here.

Chairman Cosentino stated they said they can't give a neg. dec and that's what they need.

Jan Johannessen stated I think the site plan of record denotes this area as being gravel. I think that the ZBA decision references the pervious pavement.

Mr. Martabano stated that it cannot be with pervious pavement.

Jan Johannessen stated but doesn't the site plan of record denote it as being gravel.

Mr. Martabano stated right, so all he's saying is that because it's a change to the previously approve site plan right here, that's what he's saying.

Jan Johannessen stated I don't think the site plan says pervious pavement or gravel. It says gravel.

Mr. Martabano stated correct.

Mr. Bainlardi stated it says during life of graveled store area, area not to be paved. That's the condition.

Mr. Martabano stated from where.

Mr. Bainlardi stated I'm reading from Rob's, as per the note on the 1992...

Mr. Martabano stated right, he's reading from the note but let me tell you what the...

Jan Johannessen stated there's also landscaping changes.

Mr. Bainlardi stated well if there are other changes that necessitate...

Mr. Martabano stated if you go to the actual approved, what I think that Jan is saying is that because the actual document itself says that it's a gravel storage area and we're replacing it and I believe, are we doing any stormwater treatment as well?

Mr. Kingsbury stated the pervious pavement will be water quality treatment.

Chairman Cosentino stated it's not a major thing.

Mr. Martabano stated no, its not a major thing but what I'm saying is that there are water quality things going in as well, so you do need the SWPPP and you do need changes to the stormwater [inaudible].

Mr. Bainlardi stated so then you have to be here.

Mr. Martabano stated it's unfortunate, we didn't want to be, please don't take any offense, we don't want to be here but we have to be here.

Mr. Bainlardi stated yeah and just an observation from my view of the world on this, I mean, thank you for sharing what your plans are and what you plan to do but I mean, if you simply wanted to pave this with an impervious surface, you could simply do that with, notwithstanding the fact is that you're doing it because it's a means to an end but you could simply do this. You're still going to require, based upon the things you want to do, this Board's approval but I don't see any issue with it. I guess that's my point. If going from gravel to impervious as long as the DEP...

Mr. Martabano stated and we're exactly hopeful that's what you're going to say when we present it from formal, so we can get it through the process. To us, I hate to say it but it's a bit of a no brainer, that is the way we look at as well but we have to go through the steps and that's why we're here. So if the Board is okay with that, we'll go to the formal and then hopefully get an expeditious approval. Then we'll be able to tell you what's going to happen in the future when we get through DEP.

Chairman Cosentino stated Jan, we'll take care of that, we'll go to a formal, I don't know.

Jan Johannessen stated I don't see any reason not to go to a formal. What are these parking spaces on the south end of the site? What's going there? 7 spaces in the back.

Mr. Kingsbury stated the 7 spaces. In the original site plan shows, I believe it's 7 spaces, so we were...

Jan Johannessen stated is this just denoting what's in the field or these proposed spaces?

Mr. Kingsbury stated this is proposed restriping of the spaces, the existing spaces.

Jan Johannessen stated were these on the site plan of record.

Mr. Kingsbury stated I don't know if it's exactly 7, I can double check.

Mr. Martabano stated Jan, there's 10 here.

Jan Johannessen stated so there are some trees, there's not spaces here where they're proposing spacing.

Mr. Martabano stated if you look at my letter, again, we're putting it on our site plan along with the existing conditions, we included the parking, exactly what we're doing.

Mr. Kriz stated I started with a building permit to do this and I was 99% sure that we needed Planning Board approval and then we ended up here.

Mr. Martabano stated Eric, Jan wants to know if this is off an updated survey.

Mr. Kingsbury stated this is off an updated survey and we will be submitting an existing conditions survey as per your request.

Whitney Singleton stated so will your formal application show what was approved on record versus what's out on the site.

Mr. Martabano stated absolutely, yes.

Jan Johannessen stated is this the site plan that, I remember you saying you don't foresee deliveries of vehicles at this site, on-site deliveries.

Mr. Martabano stated we're not going to be. This is the site that we talked about when we presented BMW, hopefully when we present the plan later for JLR we indicated that we had off-site facility that we are going to use and we have that under lease but we still I think, we do show a loading space, I think we're required to show the loading space, we're just not going to use the loading space.

Mr. Mareschi stated can you put a nice range rover there, in that display spot.

Mr. Martabano stated you can always possibly put that as you know, condition of approval, either a Jaguar or a Range Rover, we'll see how we work that out, not a problem.

Chairman Cosentino stated okay, Jan, let's get to the...

Jan Johannessen stated I have no problem with the moving to a formal, I suggest that they meet with us before they make any submissions.

Mr. Martabano stated that sounds like a fine idea.

Chairman Cosentino stated make an appointment with Michelle to clear, if she doesn't clear it...

Mr. Martabano stated I'm in trouble.

Chairman Cosentino stated you're in trouble.

Mr. Martabano stated hey Pete, you're getting the lay of the land, right, it's exactly what I told you when I first met you, right.

Mr. Miley stated I'm getting the lay of it.

Chairman Cosentino stated gentlemen, thank you and have a good holiday. Okay, gentlemen, we have a schedule here, the new schedule for the New Year. Michelle, do you want to go over anything on that or you don't have to.

The Secretary stated if everybody reviewed it and everybody's fine with it...

Chairman Cosentino stated I reviewed it and I don't have any problems.

Mr. Vigliotti stated I have a question, was there some discussion about two meetings in July or two meetings in August because it's not showing on this schedule.

Chairman Cosentino stated let me explain, do you have that here, I see one meeting in August and one in July and we're going to have two in August and two in July.

The Secretary stated you want two in August and two in July, you have your summer schedule, I don't know how far back that goes. Rather than doing one meeting on the second Tuesday of July and one meeting on the fourth Tuesday of August. We've moved them close and bridged the gap, so you will do one meeting the first Tuesday in July and one meeting the first Tuesday in August and then you'll have the gap until your first meeting...

Chairman Cosentino stated I need to talk you about that.

The Secretary stated we can revise it and you can review it for the next meeting.

Mr. Mareschi stated Michelle, the next meeting is December 21st or December 22nd.

The Secretary stated its Monday, December 21st, the Village Board of Trustees did take the Tuesday but you have the Monday.

Chairman Cosentino stated Monday, that's December what?

Mr. Mareschi stated 21st, 7:00 o'clock, Village Hall.

Mr. Bainlardi stated can I just ask one question of Anthony?

Chairman Cosentino stated absolutely.

Mr. Bainlardi stated Anthony, on the application that had the condition for no import of fill, why is there a need to have that condition on the site plan? In the event that they need to import fill, what is the process.

Anthony Oliveri stated I think they represented that they were using on-site material, so we wanted to make sure that was going to happen and if it doesn't, then we want to have certification that its clean fill...

Mr. Bainlardi stated so that condition, my only concern and the reason for the question if they need fill, if they need to import fill, they don't have to...

Anthony Oliveri stated they'll need a fill permit.

Mr. Bainlardi stated will that condition require them to come back here.

Chairman Cosentino stated no here.

Mr. Vigliotti stated the Building Department.

Anthony Oliveri stated fill permits are handled through the Building Department. If it's a condition...

Mr. Bainlardi stated that's my point, so I just hope when we get to that point, we're working in a way that if fill is required, it's just stated that they have to go through the proper process in the Building Department, they don't have to come back here.

Anthony Oliveri stated they don't need fill though, they've got stock piles on-site.

Whitney Singleton stated we have glowing fill elsewhere in Village.

Anthony Oliveri stated yes, there's a history.

Mr. Bainlardi stated no, just if we're not careful, then people get stuck and they get forced having to come back here for something.

Chairman Cosentino stated alright gentlemen, is there anything else?

Mr. Mareschi stated no, Chairman.

Chairman Cosentino stated do we have a motion to adjourn?

Mr. Mareschi stated yes, Chairman.

Chairman Cosentino asked for all in favor. The motion carried by a vote of 5 to 0.

The meeting adjourned at 8:37 p.m.