

**Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Wednesday, September 9, 2015**

Vice Chairman Sturniolo called the meeting to order at 7:54 pm in the Municipal Building.

Members Present: Vice Chairman Anthony Sturniolo
Doug Hertz
Enrico Mareschi
Sol Gibbons

Members Absent: Chairman Joseph Cosentino
Ralph Vigliotti

Staff Present: Jan K. Johannessen, Village Planner
Anthony Oliveri, Village Engineer
Robert Melillo, Interim Building Inspector
Whitney Singleton, Village Attorney

Michelle K. Lailer was the Secretary and transcribed the following minutes.

Vice Chairman Sturniolo led the Pledge of Allegiance.

Vice Chairman Sturniolo stated welcome everyone to the September 9th Planning Board of the Village of Mount Kisco and the first thing on our agenda are minutes but am I correct, we don't have a quorum, okay. The second thing is a public hearing for special permit and change of use at 27 Radio Circle, it used to be call the Little Garden Day Care Center, for this no one has signed to speak except you're about to sign.

**A. Devereux NY Cares – 27 Radio Circle (Former Little Garden Day Care)
PB2015-0304, 80.64-1-2 (SBL)
Special Permit and Change of Use**

Mr. Scott Blakely of Insite Engineering, Ms. Krista Yacovone of Zarin & Steinmetz and Mr. John Lopez of Devereux were present to represent the application.

Ms. Yacovone stated I'm the attorney for the applicant.

Vice Chairman Sturniolo stated no one has signed up to speak on that. Jan, question, we have the September 8, 2012 Site Plan/Special Permit resolution in our packet and that was provided to us by the applicant, what purpose does that serve.

Jan Johannessen stated I think it just serves as background and history for the property, it identifies the prior use and the requirements that were specified at that time by the Board. I think it's just being provided for informational purposes only as the last use for this space.

Vice Chairman Sturniolo stated okay. Anthony, do you have any comments on this even though this is a public hearing.

Anthony Oliveri stated we didn't do a comment memo on this, it's mainly a parking issue at this point.

Vice Chairman Sturniolo stated okay. And Rob, anything from your end.

Rob Melillo stated the applicant has to correct depict the parking required. What they've submitted is insufficient at this point and we feel in the Building Department that it was a unique use and that the Planning Board should deem parking for this.

Vice Chairman Sturniolo stated okay, since there's nobody here to speak from the public, would the applicant like to say a few things.

Ms. Yacovone stated yes Vice Chairman, my name is Krista Yacovone, I'm an attorney with the law firm of Zarin & Steinmetz, we represent MRE Corp which is the landlord for the Devereux Foundation, with me tonight is Scott Blakely of Insite Engineering, John Lopez from the Devereux Foundation and Donny Martabano. As you stated before this is an application for a change of use and special use permit for the Devereux Foundation which runs schools for children ages 5 through 21 who have been diagnosed with Autism. Since last appearing before

your Board I think in June or perhaps in May, a few months ago, we have redesigned our parking plan for the site when we were last before the Board there had been some offsite parking proposed, we have taken the summer to revisit our plans and we have designed a new plan which Scott will walk through in a moment where all of the parking was contained onsite. We also took into account your other comments requiring a bus queuing plan which has also been submitted and is in your packets, we reviewed the memos from both Jan and Rob and we're prepared to address those at this time and have incorporated a lot of those comments into our current submission, so I will let Scott walk through the specifics of the plan especially since this is with the parking...

Vice Chairman Sturniolo stated Scott, you're more than welcome to do that again this is really a public hearing and no one signed up to speak, however if you could compress your thoughts into a small package time wise, I'd appreciate it.

Scott Blakely stated I will keep it brief, we've been working with the Devereux Foundation in developing a parking plan for the site, the Devereux Foundation is looking to take over the 11,000 plus square foot space where the Little Garden Child Care Center was approved, that's this area here. As part of their negotiations with, I'll go over here, with the landlord, they have taken an additional 5,000 square feet in this corner so they have a total of roughly 15,000 square feet. Based on the use, we've taken a look at the circulation, that was one of the issues that Jan had brought up in his initial memos, how the circulation works, the bus queuing, they anticipate a maximum of 24 small buses delivering the students on site. They deal with 24 school districts, the school districts do get together and try to work out transportation so the maximum number of those small buses are 24. We prepared a bus queuing plan with an entrance off of Lexington Avenue, circulation on the south side of the building, one way access through and drop off at the door here. The bus queuing plan shows the ability to have those 24 buses on site at one time without blocking circulation through the site.

Vice Chairman Sturniolo stated Scott how are you going to handle the parents that want to try and obviate the bus system and drop off and bring their own, pick up their own children.

Mr. Lopez stated the students we serve are locally served, a number of them come from New York City, all across Westchester County, so the commute is usually not feasible, the parents would want or do not take advantage of that. We haven't run into that issue at our current site and I don't foresee it here.

Vice Chairman Sturniolo stated okay.

Mr. Blakely stated and again that's a maximum of 24 buses. We've also look at the circulation and we've designed a one way system, so you access off of Lex, you come in here, you take a left hand turn, this would be a one way circulation through, drop off and out. We've redesigned that parking to allow that access. We've created an access aisle here and an access aisle here, we've eliminated the parallel parking along the building here so we have two way access through there, we've reconfigured some parking in this area, there is an existing loading dock shown on the approved site plan. There is a loading door there but inside the building that loading door has been blocked off and that's where the Sport Time, there is a wall there on the interior so we've eliminated that loading space and we've moved the loading space here, we've shown a loading space in this location where there is currently a loading dock, circulation does work around that space, we've also run some bus turning templates to show you that that the circulation does work through there. Devereux has a total of 36 full time employees, 10 part time employees, they also have currently 10 minivans, 4 of which are used for a separate program not associated with this Devereux school, so those 4 minivans will not be on site, they have found locations offsite for those 4, they're not associated with this program. We have a total of 46 employees with 6 minivans, that 52 spaces. We have allocated 55 spaces in the back of the parking area for Devereux, we've discussed visitors with John Lopez, they average less than 1 visitor per day...

Vice Chairman Sturniolo stated okay.

Mr. Lopez stated yeah typically the visitors would be the parents attending meetings, again not a daily occurrence and since our families are widespread, you know, it is infrequent or not heavy in traffic.

Vice Chairman Sturniolo stated okay.

Mr. Mareschi stated are those buses going to drop off at the same time.

Mr. Lopez stated there's a range of time...

Mr. Mareschi stated what's the range.

Mr. Lopez stated the school day starts at 8:30, they are coming anywhere from 8:30 to just before 9:00, depending on the district and transportation.

Mr. Blakely stated so it's about a half hour. Well we have it setup that if they all got there at the same time, they can be accommodated.

Mr. Mareschi stated 24 buses.

Mr. Lopez stated buses or minivans, we don't do full size school buses.

Mr. Blakely stated yeah you'll see it on...

Mr. Hertz stated I was going to ask you Scott, what size bus are you using here.

Mr. Blakely stated it's a 23'.

Mr. Hertz stated which is a...

Mr. Blakely stated they vary by manufacturer, it can be anywhere from an 8 to a 12 passenger.

Mr. Hertz stated it's like the half size bus you're saying.

Mr. Blakely stated it's the very small buses, yeah.

Ms. Yacovone stated and then the vans that were just discussing are, I'm not sure what the sizes are but they fit in the regular spaces, they're not the mini buses.

Jan Johannessen stated Scott, that was 46 staff, 4 vans, is that right.

Mr. Blakely stated 6 vans.

Jan Johannessen stated 46 staff, 6 vans.

Mr. Blakely stated that's correct, there was also a, there was a tenant program put together for the day care center at the time of the approval, so we also pulled together an updated tenant program and we've listed in there the tenants, the number of employees, the number of anticipated parking spaces required, the initial program that was put together for the day care center had 27 vehicles for the use, not including the day care center the updated program that we put together based on discussions with the landlord we have 27 vehicles required for the tenants, not including Devereux. There was a parking analysis that was done by John Collins' office at the time where they looked at the number of spaces that were occupied during peak periods.

Vice Chairman Sturniolo stated when you say at the time.

Mr. Blakely stated this was 2012 during the time of the approval for the day care center.

Vice Chairman Sturniolo stated so we really should get that information updated.

Mr. Blakely stated alright and basically what that study showed was that during the morning peak between 8 and I believe 9:30 there were approximately 20 to 24 empty spaces in the lot and then the same in the peak, there were 24 space vacant and that only included the east lot and the north lot, that didn't include anything for the back lot.

Vice Chairman Sturniolo stated okay.

Mr. Blakely stated and I don't know why that analysis didn't include that but we weren't involved in the project then.

Vice Chairman Sturniolo stated excuse me, Jan, how do we get somebody to do the analysis.

Jan Johannessen stated you can have the applicant have that study updated, I'm not sure if the mixed of uses has changed since the Little Garden was approved. If it's consistent with what

was approved it might be sufficient as it stands, if the uses changed considerably, you might want to get that updated. Also what we need is a zoning analysis identifying of all the existing uses and they're parking requirements to determine whether we have a shortfall or deficiency in parking from a zoning perspective.

Mr. Mareschi stated what time is pick up time, 3 o'clock, same as school.

Mr. Lopez stated 2:30.

Mr. Hertz stated do you stagger that at all for the different grades.

Mr. Lopez stated it's an ungraded program for the dismissal time and then we wait for the districts.

Vice Chairman Sturniolo stated so we're looking at zoning analysis and the, updating the parking analysis that was done for Little Garden and see how it applies to your operation now.

Mr. Blakely stated okay, that's fair and I think we can work out the details with Jan's office.

Jan Johannessen stated yeah.

Mr. Blakely stated in pulling that together.

Vice Chairman Sturniolo stated okay, alright.

Jan Johannessen stated if you were to flip the circulation patten, reverse the circulation pattern, I understand why its setup that way, how many buses do you lose queuing if you were to flip it because right now the way the circulation runs, the child would have to get out of the bus and cross in front of the bus to get to the building.

Mr. Lopez stated the nature of the students we serve and their level of supervision, they're always with staff, so staff will be picking them up from the vehicle, bringing them to the classroom and vice versa, we're bring them out of the building and to the vehicle so they're not unattended at any time during that transition.

Jan Johannessen stated okay but if it was flipped, do you know how many buses you lose, is it considerable or...

Mr. Blakely stated it could be 10.

Jan Johannessen stated okay, so it's significant.

Mr. Blakely stated yeah that's why we thought it would be more efficient to do it this way and in speaking to John and the way the kids are picked up that they're fully supervised and physically able to walk from the bus to the...

Vice Chairman Sturniolo stated so Scott once you get this information together that our Assistant Building Inspector, Acting Building Inspector needs and Jan, we'll put you back on the agenda for that.

Mr. Blakely stated okay.

Vice Chairman Sturniolo stated thank you.

Mr. Hertz stated can I ask a question Tony.

Vice Chairman Sturniolo stated sure.

Mr. Blakely stated sure.

Mr. Hertz stated sorry, the, you had done a breakdown of interior space based on I guess what Little Garden's had done in terms of their partition walls but then you have an additional lease area, can you just talk about how that space is going to be used.

Mr. Lopez stated sure, we're going to repurpose that, well not repurpose it but we had identified in Little Garden's area that space where we're going to hold gym classes and with that additional

space we're going to make that our gym facility, additionally there is a shower setup in there which we're proposing to add to the Little Garden space, which we won't need anymore, so we'll need to add an access door...

Mr. Hertz stated and this was formally the combine...

Mr. Lopez stated it was part of the combined space.

Mr. Blakely stated with the sports, yeah.

Mr. Hertz stated okay.

Mr. Lopez stated yeah, so its setup ideally for physical activity, provides a great opportunity for our students.

Mr. Hertz stated and what about the front because they had oriented everything to use a front door, and all that. Are you going to, is this going to be parents or visitors or staff, I mean are you going to be using that front, those front spaces, are you...

Mr. Blakely stated the parking that's been allotted for Devereux will be in the back, so they will be using the main access through the rear of the building...

Mr. Hertz stated but the occasional visitor might, in terms of signage and everything how are they going to find you, will they find you through this front door or will they find you through this rear entrance.

Mr. Lopez stated most of the visitors that will be coming to us will know who we are and come to the rear door but yeah the occasional visitor pops in through the front door.

Mr. Hertz stated okay so then I imagine you're going to propose to remove all the specific signage.

Mr. Blakely stated yeah, that was one of Jan's comments, to update to remove those day care parking...

Mr. Hertz stated right, right but not only are you going to remove it but you're not planning on really using it, it's not part of your allotted count.

Mr. Blakely stated that's correct.

Mr. Hertz stated so this will be available to...

Mr. Blakely stated this will be available to the other tenants and visitors.

Mr. Hertz stated alright and what is, I don't remember off hand, this is, there's a ramp back here or there's a...

Mr. Blakely stated there's a loading dock right here, oh here.

Mr. Hertz stated where you exit in the rear.

Mr. Blakely stated right here, there's two doors here and there's a door at the top of the ramp.

Mr. Hertz stated okay and you come down, the ramp goes...

Mr. Blakely stated the ramp you come here and this is handicap accessibility.

Mr. Hertz stated okay, it goes up and...

Mr. Blakely stated yeah because there's a couple of steps here to get up into here so this is the handicap accessible level.

Mr. Hertz stated oh okay, so that's your handicap.

Mr. Blakely stated and we have a wide access aisle proposed.

Mr. Hertz stated so you don't need to make any improvements there for safety or for...

Mr. Blakely stated no, there's a handicap ramp there that meets code.

Mr. Hertz stated okay.

Whitney Singleton stated Scott, did, since you've changed your plan and you layout, have you identified any variances that might be needed.

Mr. Blakely stated we haven't modified any of the impervious surfaces, it's basically a restriping, there was a variance granted for coverage when Little Garden developed that access for the drop-offs at the, on the north side, they came in and torn out some turf and added this asphalt in this area which required, they were, I believe, already over coverage and in order to do this they had to go for a variance for coverage which was granted. We don't anticipate...

Whitney Singleton stated but you said you were eliminating some parking spaces, correct.

Mr. Blakely stated we're eliminating parking spaces and developing those in a different location, so there's 111 spaces on the approved site and 111 spaces on the proposed site plan without any modifications to asphalt, it's just striping.

Whitney Singleton stated but with your proposed layout are you going to have a sufficient number of off street parking spaces under code.

Mr. Blakely stated yes, we believe there's going to be, for the uses in the building with a parking accumulation study, there's more than enough parking on site, if we run the numbers based on square footage, I'm not sure, that's what Jan has asked us to do.

Jan Johannessen stated that analysis hasn't been done.

Whitney Singleton stated I just want to make sure, the Vice Chair is asking to change some things and come back, you might want to confirm with the Planner and more importantly the Building Inspector as to your Code compliance because if you need to go for a variance that should be identified.

Mr. Blakely stated that's what they've asked us to do in Jan's letter, we will take care of that.

Mr. Hertz stated alright, Whitney, also, the Building Inspector in his letter on this did say that that parking requirement for this is a unique use and we should determine it.

Jan Johannessen stated I think establishing that based on staff level and service vehicles is appropriate.

Mr. Hertz stated yeah.

Vice Chairman Sturniolo stated based on the sign-up sheet where no one wants to speak or choose not to speak.

Mr. Hertz stated yes, we do have someone.

Vice Chairman Sturniolo stated oh.

Gina Picinich stated I'm sorry, I just want to ask a question.

Vice Chairman Sturniolo stated come on up closer, just so we can...

Gina Picinich stated my name is Gina Picinich, I'm a resident of Mount Kisco and I apologize this is the first time I'm hearing about this so I may be a little bit late to the party but I'm wondering if the prior occupant had 24 buses up Lexington Avenue at that one light and going into this area and I'm wondering if a traffic impact study needs to be done because this is the same time the buses are going to Mount Kisco Elementary School and coming out of Mount Kisco Elementary School, so I have a bit of concern with regards to the traffic on Lexington because there is only way in and out of Radio Circle, so it's just something to consider.

Vice Chairman Sturniolo stated the applicant will address your comment with their written comments as well.. Does anybody see any reason to keep the public hearing open other than for a 10 day written comment period.

Mr. Hertz stated I think keep it open for written comment but if we have no further, unless you guys feel you need to give us more information that we don't have.

Mr. Blakely stated no, I would request that you close the public hearing and then we can work with Jan and develop the details that you're looking for and with Rob.

Vice Chairman Sturniolo stated in that case, let's close the comment period tonight and keep it open for 10 days for written comments. Thank you for your time.

Mr. Mareschi stated thanks Scott.

Mr. Blakely stated thank you.

Anthony Oliveri stated Mr. Vice Chairman we were requested by I think the applicant for Lexington properties, had a request on the agenda order...

Vice Chairman Sturniolo stated to do what.

Anthony Oliveri stated I think he wanted to get moved up because he has a conflict.

Mr. Levy stated its okay now, my representative left.

Anthony Oliveri stated you're okay, okay, thank you, never mind.

Vice Chairman Sturniolo stated next item on the agenda still under public hearing, this is a special use permit for 164 Main Street formerly Border's Books and Michelle is there a signup sheet for that one and I'll give you this.

**B. 154-162 East Main Street – 154 Main Street (Former Border's)
PB2015-0309, 80.25-2-9 (SBL)
Special Use Permit**

Mr. William Null and Mr. Taylor Palmer of Cuddy & Feder were present to represent the application.

Mr. Hertz stated and if anyone hasn't signed up and would like to talk, you can still add your name, don't worry.

Vice Chairman Sturniolo stated okay, the first person that signed up is Melissa Nell, am I pronouncing it properly or, okay...

Mr. Null stated Mr. Chairman I'm William Null with the firm of Cuddy & Feder, I put my name on that list, I'm the attorney for the applicant.

Mr. Hertz stated that's who it is.

Vice Chairman Sturniolo stated oh, okay, go.

Mr. Null stated we submitted a letter yesterday September 8th, which I apologize for it being as late as it was but we wanted to be able to get to you in writing response to questions that had risen during the...

Vice Chairman Sturniolo stated excuse me, let me stop you for a moment, I should have said to everybody, please keep your thoughts limited to 3 minutes in duration so everybody can get a chance to speak.

Mr. Null stated we're the applicant so I just wanted to be able to answer the questions of your consultants and comments that were made during the public hearing session last Planning Board meeting, so...

Vice Chairman Sturniolo stated you know, excuse me, that microphone doesn't work you're better off coming up here, there's not amplification.

Mr. Null stated it looked good.

Vice Chairman Sturniolo stated it's impressive.

Mr. Null stated so I don't know if you've had an opportunity or to look at the letter that we submitted but basically, I can make this very quick. We've been asked what would take, what would occur with the stockade fence that is screening the garbage off the parking lot, we're happy to replace that with whatever the Village prefers, same thing with landscaping, we'll bring it back to the status of the original landscaping plan and replace whatever material may not be particularly good condition. We provided you plans that distinguish between existing and proposed floor plans, we've done that before as one plan, we separated it out as two plans and I've got larger size here to show you if you have any questions regarding any of it. The elevator machine room that was shown on sheet A-201, there'd been an inconsistency in the elevations and we corrected that, it's not a different location, it was just the visual didn't quite line up, so we gave you a revised sheet A-201 and then you asked us for a list of newer Modell's stores located in nearby communities, we provided that list to you and we also provided photos, sample image illustrating type of street side, appearance it would have mainly from the windows since I think it's critical to recognize, as I'm sure you do that we're not making any physical change to the building that was once Borders, so the building will look identical other than signage changes and we're comfortable having open glass so that you look into the store, there is only one area of the store where we need to screen that and that's where our storeroom is going to be located, if you were facing the store on the East Main Street side, it's the far right side, we've got two panels there, two windows there that we're going to need to put something in, we can have a display that we coordinate with the Village, as far as any historic society we can just put screening on it that will make it look appropriate and we showed something like that as a sample on the façade drawing that we gave you, we also gave you a separate plan that showed the signage that's proposed both East Main Street side and parking lot side.

Mr. Hertz stated you understand that anything you submitted yesterday hasn't been circulated to the Board, right. It doesn't get circulated to the Board.

The Secretary stated just so that, I know that Patti Tipa spoke to Taylor Palmer yesterday...

Mr. Null stated yes, yes.

The Secretary stated the submission that you submitted yesterday, will not appear to the Board until October 13th.

Mr. Null stated so because this is a public hearing and the interest is to have public's comment, if I may I'd like to be able to show the public those drawings and I don't know how to orient it so that you can see it at the same time but I'm happy to try and do that.

Vice Chairman Sturniolo stated I'll grant you the time but you're better off coming up here and holding the Board and speaking to us and if anybody can't see it, please come closer. Oh Neal, you can see it from where you. Come on, I'm joking with you.

Mr. Null stated so these, this is essentially what the windows will look like on East Main Street, you'll be able to see through into the store, the façade as I said is not changing, the signage that's on this A-201 plan is not the signage that we are proposing, we have a separate plan for signage that we presented in these plans. As I said, I apologize for not getting it to you timely. So the signage is this Modell's sporting good signage and the brick façade is similar to what's on the store but this is not an identical image of the store on East Main Street. So at the parking lot side (applicant knocked over the digital recorder at 8:23, audio stopped momentarily). Future tenants, we don't have those identified or secured so we're not presenting anything on it, so that's what I have on the Modell's windows and signage.

Mr. Hertz stated can you identify the windows that would be blocked by your storeroom.

Mr. Null stated yeah sure, on the far right side, these two panels here are where the storeroom is going to be, so rather than looking into a storeroom, we're going to screen it in some way and we're open to suggestions but and that's what these, what we did was essentially zoom in to give you a visual of what those windows would look like. I'm sorry for the rustling, these are the floor plans, the main street level, it's basically just open floor plan and we're separating out two tenant spaces, this very, not substantive difference in anything that we've submitted, from what we had

submitted to you and was presented at the last hearing. We are just responding to your consultant's comments, so...

Mr. Hertz stated so there are two tenant spaces, not one.

Mr. Null stated yes, we said that in this initial application, there is, the special permit as you know is needed for Modell's because it's in excess of 8,000 square feet, so Modell's is 12,800 square feet on the street level and 4,000 on the lower level, there's an additional 5,050 square feet at the street level and another 1,050 at the lower level, how it will be partitioned, we don't know, it could be one additional tenant that has both floors and we're proposing an elevator that would be internal to the space to provide for ADA access to that space. We're hoping it will be one tenant we just don't, as you know it's been difficult to re-tenant the space, Borders left three or four years ago.

Jan Johannessen stated can I just clarify a couple of the comments that we had in our last memo and the response this evening. The dumpster enclosure, it is my understanding that on the parking lot side, there is a one story enclosed building that was to house all of the garbage and that's a fully enclosed building, that's what was approved, what was installed was that plus a stockade fence 10' by 10', I think the comment was if the storage building is sufficient and you don't need the stockade fence enclosure, given its condition can that be removed. So I think perhaps you need to just look to see if that one story building is going to be of sufficient size for the two tenants and if so, perhaps you can remove the dumpster enclosure because it's actually built on top of the sidewalk, it was never intended to be there.

Mr. Null stated I know that it's been there for a good long period of time.

Jan Johannessen stated it has.

Mr. Null stated so if we can have that be as a condition, we don't, not knowing what or who the tenant will be, it's hard to make any commitment on not needing it.

Jan Johannessen stated it never showed up on an approved site plan, so from my perspective, it's something that is to remain or to be replaced it should be updated on a site plan, it's something that can be removed, we can make that a condition.

Mr. Null stated we can file an updated plan as a condition, we don't have a problem with that and if it's not needed, we're fine on removing it, we just don't, can't make the commitment until we have the tenant.

Jan Johannessen stated okay.

Mr. Null stated with the understanding that if we had a tenant in the future that might need it, we may need it. Obviously it was needed for Borders or they wouldn't have put it there.

Jan Johannessen stated that's fine, if it's to remain you would need to file a site plan application to keep it there, come back before the Board for a site plan.

Mr. Null stated I thought the special permit includes site plan.

Jan Johannessen stated that would be a separate application.

Mr. Null stated okay, so we'll at this point, we'll remove it. If we need to add it back then we will.

Vice Chairman Sturniolo stated the application is to strictly to show the new location or new dumpster of whatever it is, that is not currently shown on your drawings predicated on who the tenant is as you said.

Mr. Null stated I hadn't looked closely at the existing conditions plan, I would have thought that would have shown it, so we'll go back.

Jan Johannessen stated now the landscaping should be shown on a plan, going back to the site plan of record that landscaping might not be sufficient and it might not appropriate given the fact that it was 10 or so years ago and the landscaping has matured, so installed or supplementing with stock that was shown on that original plan might not necessarily be appropriate, I would like somebody to look at that and just identify what should be installed.

Mr. Null stated okay, you had asked us about special events and the information that we put in the letter is that while special events and signings are unusual, they happen no more than once or twice a year and the events would happen around 6 pm on weekdays or early afternoon, around 2 pm on weekends. They'd be scheduled in coordination with the Village to ensure there's no conflict without Village scheduled events. These events typical of the tenant can range between 50 and 100 people over an approximately one hour period of time. To coordinate traffic and parking if needed, off duty police officers could be hired to assist in directing traffic, although the number of people that we're talking about is less than typically attending movies that are right next door. We're open to what the Village considers appropriate but they're not regular events, once or twice a year. You had asked us about truck loading, trucks delivering to the store arrive by Modell's, this has been said at the last hearing, they'd arrive between 6 am and 7 am twice per week, Tuesdays and once later in the week, vehicles are 48' tractor trailer with single axel cabs and it takes between an hour and two hours to unload, so they would be in and out before peak traffic would be an issue or be parking. We were also asked to consider whether we could delay opening the store on Sunday to accommodate the Church's services, we went and we looked and the adjacent St. Frances of Assisi Catholic Church, has services on Sunday 7:30, 9:30, and 11:30 and a Spanish language service at 1:00 pm. It should be noted by the way that the former Borders Bookstore opened at 9 am rather than 11 am that we were asked that we could delay to, so the store that was there before was open at 9. The Church itself has a sizeable parking lot on it's on property, so we'd probably be talking about overflow parking in the nearby Village operated Village center Shopper's Park which adjacent to this site and actually is leased to the Village, the Village operates that parking even though it's on our property as you probably know. So we respectfully submit that opening the store at 10 am which is done to accommodate needs of the community, there are a lot of Little League games and other games that are scheduled on Sundays, sort of last minute needs can be accommodated, we don't have large amounts of traffic but we have occasional needs by people being open an hour later than Borders would have been open is appropriate. Of course you're open at 10, anyone who is looking to use the parking for 9:30 church service would have already parked in that area, if that's what they wanted. So our, we respectfully are not comfortable delaying and opening at 11 am, instead of at the proposed 10 am time would be suggested for all the reasons, in fact the adjacent has its first Sunday movie time at 11 am and obviously there are more people parking for that in all likelihood than would be walking into Modell's for the occasional pickup item. Lastly you'd asked us about a guide wire on a telephone pole and if we could do something about that and we've looked at it and it's not on our property where we can control, it's part of the public utility pole and we unfortunately can't do anything about it. Those are the answer that I think address what has been raised by the Planning Board and I will step away so that the public can make the comments and if I respectfully ask the opportunity to reply if there are any issues that come up.

Vice Chairman Sturniolo stated thank you, the first person that signed up is Cathy.

Ms. Deutsch stated good evening.

Vice Chairman Sturniolo stated Cathy, if you can do this within three minutes, I'd appreciate it.

Ms. Deutsch stated easy. Thank you for your time, I appreciate it and as you know I've addressed the Board before, I own Tiger Lily Boutique, I've been in retail for 30 years and I've been in Mount Kisco for 13 years, I represent my business and the Main Street Merchants Association which is the majority of merchants on Main Street and please, if I may. Mount Kisco is not Katonah or Chappaqua or Pleasantville, we're a large spread out diverse village with many commercial districts, Main Street is not even Moger Avenue, Main Street is in a depression, it is not charming, we have 13 long standing empty store fronts, bodegas, smoke shops and check cashing shops, it is dark and unkempt. I'm afraid that if we do not allow Modell's to take occupancy, that the building will remain vacant and more stores will close, making it impossible for businesses that have held on to remain, it will become a barrio and it will take years to rebuild our former stature in Mount Kisco. There are vagrants loitering in our empty store fronts and in front of our business, there is garbage and beer bottles to clean up every morning, customers who are largely women are uncomfortable walking after dark. Traditionally a retail store should make at least 30% of their annual revenue during the Christmas season, since Borders closed none of us have as there is no longer a continuous array of desirable shops along Main Street to encourage strolling, Modell's will change that, bringing a bright active business to the center of Town, they will once again make Mount Kisco as destination keeping customers in Town during the day and into our restaurants at night. New stores will be motivated to come into Town changing the downward spiral. We cannot wait any longer to have the space filled, we cannot go through this process every time someone wants come into Town, as to competition, unfortunately that is the nature of the retail business, we all

have the internet to deal with so small stores define themselves by remembering their customers' needs and asking how their children are, no website or chain can do that, any business that would be interested in the site would likely overlap with one business or another. All of our local appeal retailers have been affected by TJ Maxx, I've had to drop entire brands because they buy end close outs at the end of year, you adjust. I see my customers there and yes, I shop there too and greet them warmly knowing that I cannot expect them to make every purchase with me. That's life in a big town, that's America, the character of a town is its people, its programs for the disadvantaged and it's broad appeal. Modell's though large, is a family business, Modell's has character and Modell's will give back. I encourage that Board to speedily approve this application so that Modell's can begin work and open quickly, that for us would be a Christmas miracle. In closing, I would like to add that it is very unfortunate that this has divided our Town, we are all hard working people who want to have thriving businesses who want to be able to send our children to college and we love Mount Kisco and want to see it again, be the hub of Northern Westchester. Thank you for your time.

Vice Chairman Sturniolo stated thank you for comments, I appreciate it.

Ms. Deutsch stated thank you.

Vice Chairman Sturniolo stated the next person who signed up is Leslie...

Ms. Bijoux stated Bijoux.

Vice Chairman Sturniolo stated you can come up closer.

Ms. Bijoux stated is this close enough.

Vice Chairman Sturniolo stated or here, actually, that's the microphone.

Ms. Bijoux stated okay, so I'm Leslie Bijoux and my husband Eric and I own Yogi's Paw and Evolution, which is right across the street from Modell's, near Tiger Lily. We are mom and pops, we've been in business in Mount Kisco for nearly 13 years, we're well liked and well respected. We understand that some small business owners are against Modell's coming to town because they fear it will force them out of business, on the other side of that coin we and many of our neighboring mom and pop stores on Main Street are terrified about what will happen if Modell's does not come to Town. There are already many longstanding vacancies as Cathy pointed out. If Modell's is not allowed in and that space remains vacant, many more mom and pop stores will go out of business, some people have argued that a big box store does not belong on Main Street but the reality is there is a very large retail space already there, Borders was a large box store on Main Street and it's going to take another large retailer to fill that space. It's unrealistic to think that that space could be divided up into spaces small enough to fill it with mom and pop stores, we need a large retailer and the reality is in all the time this space was being marketed since Borders closed four years, no other stores have come close to occupying that space, there's no one waiting in the wings, we on Main Street, are thrilled that Modell's sees potential in Mount Kisco. I'd also add that most of my customers who I've talked with over the summer, support Modell's coming to Town, these are local people, they signed the petition that was already submitted to the Board, you had it the last time we met, several of those customers said they already shop at Modell's, other locations, wouldn't it be nice to bring those people and their pocketbooks back to Mount Kisco, Modell's will do that, people in this area already shop at Modell's but they just spend their money in other towns. Lastly, I'd like to acknowledge that emotions are running very high on both sides and that's understandable because we all have so much at stake but I would implore the Board to put emotions aside and make this decision based on what's right of the community.

Vice Chairman Sturniolo stated thank you for your time. Tina Bernstein.

Mrs. Bernstein stated hi, thank you for hearing me.

Vice Chairman Sturniolo stated Tina, if you don't mind coming up a little closer so the mic can...

Mrs. Bernstein stated yeah, my name is Tina Bernstein, my husband Robert is the owner of Mount Kisco Sports. I'm here to object to the issuance of a special use permit to Modell's and here's just some food for thought. Since the last meeting I did some research on all 155 locations of Modell's and you want to know what I found out, not one store is in a village, village like what we have, they are either in indoor shopping malls, strip malls or urban streets,

so Mount Kisco, why our small quaint village be the guinea pig experiment to see if a store in a village sticks. I find that a bit concerning, it then left me wondering about the demographics of our village and the surrounding towns, does the population density of our warrant that existence of a 16,000 square foot sporting goods store, so again, why here. And what happens when the experiment fails, what happens and it will, the population density does not warrant a store of this size in the village, that's why it hasn't been filled, it's too much space, it's just too much. That temporary, and I say temporary false sense of security that Modell's is thought to bring to the table will fade and as the numbers fail to meet the projected averages, you know what will happen, Modell's will pull out and again there will be this huge vacancy that no one will be able to adequately fill and along with this experiment and their eventual disappearance will be the carnage that will exist, I'm sorry, that will consist of numerous mom and pop stores that were depending on their existence. Modell's is a mistake, it is too big for our Village, it doesn't belong a two lane street with a church next door, this is a mistake and all of us here know it. Thank you for your time.

Vice Chairman Sturniolo stated thank you for your time. Robert Bernstein.

Mr. Bernstein stated hello.

Vice Chairman Sturniolo stated again if you could kind of limit your comments to three minutes.

Mr. Bernstein stated yes, I'll, honorable Planning Board.

Vice Chairman Sturniolo stated thank you.

Mr. Bernstein stated in 1997 when I opened up my store, Mount Kisco had the whole street of South Moger [Avenue] was vacant, there were vacancies all over the place, I still opened my store there, I didn't really go there depending on other retailers...

Vice Chairman Sturniolo stated yeah, I'm fine.

Mr. Bernstein stated okay, other retailers to feed my business, I did my own research, I went out, I saw what businesses were doing well and that my business would probably have a really good chance to succeed, it was a chance, it was risk, it was big risk, even my own family was asking me, are you sure about this, I went ahead and I did it. 18 ½ years later, I'm here to speak to the Planning Board. Somebody from Modell's talked about giving back and the amount of money they give back and it is a lot of money that they give back, they give back \$750,000, their comments. Doing the quick math, that equates to 1/10 of 1% of their revenue for the year, I give back about 1% and I give back more in the time and effort to help volunteers at all the neighborhood clubs and outings and places where the volunteers the most, the need bodies, they need people to help them, I'm out there helping them, setting up, cleaning up, I'm part of several committees, I'm very involved with the Turkey Trot, actually I'm the person that started the Bedford Turkey trot. I help a lot at the Fox Lane Sports Booster Club, I donate a lot of money and a lot of time there, we do know our customers by name as well and I am opposed to issuing Modell's a special use permit. I am a member of the Chamber of Commerce, I don't know if Modell's is a member of any chamber of commerce in Westchester where they have stores, I did a little research, I don't see them on the list, I could be wrong but I don't see them on the list. Competitors, I've had three come in and out of business while I'm here, okay, Game Gear was a 4,000 square foot sporting specializing in baseball and football and other team apparel, they went in and out business in Bedford Hills, there was another place that recently closed, Ed Sports they tried their hand in it and Acadia Sports that was right across the street from Borders. So I'm not new to competitors, I'm still here, I'm talking to you, we're doing pretty well and I want to continue to do well and Modell's could possibly put that at risk. Thank you very much for your time.

Mr. Mareschi stated thank you.

Vice Chairman Sturniolo stated thank you. The last speaker is Eric Simpson.

Mr. Sussman stated Sussman.

Vice Chairman Sturniolo stated excuse me.

Mr. Sussman stated Eric Sussman, thank you gentlemen for you time. I own Yogi's Paw and Evolution, small store on Main Street and I have (inaudible) I feel Modell's is going to be a homerun for Kisco and it will bring Kisco back to being the hub of Northern Westchester

shopping, it will bring the crowds back to Town and I hope the Town welcomes them and rolls out the red carpeting and starts the remodeling as soon as they can. Thank you for your time and I think this is a really good match.

Vice Chairman Sturniolo stated thank you, is there anyone else who like to speak but they neglected to sign up on the sheet.

Mr. Null stated Mr. Chairman can I just address...

Vice Chairman Sturniolo stated pardon me.

Mr. Hertz stated before you do let me just, let me add something, so Michelle has received Mr. Chairman, 168 e-mails that's, is that in aggregate or is that just today.

The Secretary stated this was just today.

Mr. Hertz stated okay, you've received a number prior as well.

The Secretary stated probably about 15 prior these were, there are a couple from earlier in the month and then a couple from yesterday but the majority of them were received today.

Mr. Hertz stated okay, so there are another 168 e-mails, I had a chance to go through a good section of them, they are both for and against, some people are residents, some people are interested parties, some people identify themselves, and some do not. My very rough count was approximately, not that this is a vote but there were supporters on both sides, it did lean towards the negative but there were e-mails favoring both sides here and certainly the comment about emotion was evident.

Mr. Null stated well as you correctly said it, the only vote is here is your vote based on what the zoning ordinance says, it's not a decision on who you'd like to have as a tenant, it's whether this particular tenant and frankly part owner, they've invested their own money in this site, so their commitment is in the brick and mortar, they're part owners and cotenants in this site, so they believe strongly that they would just be a tenant and they're more than that, they're an owner. As you know this is not about competition, this is not about who's good and who's bad, this is about participating in Mount Kisco and bringing a business that's a respectable, reputable business that's known not just in the region but elsewhere as being able to deliver a product that's in need, it's also about filling a store with a tenant that's a permitted use in the district, so we're not changing the building, this isn't a situation where it's a new building that you're reviewing and you know things we've talked about, it's not a site plan application with a special permit to building a new 8,000 plus square foot store. This is an existing store that's been vacant for four years and it needs to be occupied and whoever is going to occupy it is going to be a tenant larger than 8,000 square feet which would mean more than half, actually less than half of it, they're going to be here and maybe one or two. We're here, we think we meet the conditions, I laid that out in my initial letter, we're going to go back and address the other comments that came up about the landscaping and confirm to you that we're going remove that fence and keep the garbage internal, if we have a change, we'll do so. If there are any other issues that you want us to address, we're happy to do so, we respectfully ask that you close the public hearing at this time, the ability to answer questions doesn't require a hearing to remain open and I don't think with due respect to everybody who has spoken, that new issues have really been raised, these are similar issues about whether Modell's is the right tenant or not and I don't think keeping the hearing open is going to provide meaningful information on which you can make a decision, so with due respect, if you would close the public hearing we look forward to coming back and seeing whatever review comments you have, as I said the plans that we submitted, while we know their late and your consultants didn't have time to review, merely respond and don't raise any new issues, we didn't change anything, we just showed you the signage, we showed you the windows, we are open to having a condition on how much open space, open glass you need on the windows, we don't have a problem with that, it's not unusual and we look forward to coming back in October to hopefully address this Board at that time and be able to conclude the matter.

Vice Chairman Sturniolo stated may I add something to what you initially said when you were talking about the Planning Board's obligation to do x, y, and z, predicated on conforming to zoning, this Planning Board as any other planning board is charged with the health, safety, and welfare of the village at all, not just the people that leave near an applicant or the people that leave further away from an applicant but what is important to consider the entire village and how the applicant affect either in a positive or a negative way and I just kind of wanted to add my

little editorial comment to what you initially stated. I have a question, Whitney, since we've got these stack of e-mails, would it be prudent to keep the public hearing open.

Whitney Singleton stated that's entirely the call of your Board, if you feel as though the public is still commenting, it's within your purview to keep the public hearing open.

Ms. Deutsch stated may I respond to that sir...

Vice Chairman Sturniolo stated pardon me.

Ms. Deutsch stated may I respond to that or ask a question sir.

Vice Chairman Sturniolo stated in a moment, I'll let you, how do my fellow Board Members feel about...

Mr. Mareschi stated Doug has a question.

Mr. Hertz stated yeah, well I was just going to, I did read through a number of these, while they, they seem to raise very similar points to the points that have been brought up by the members of the public in person at this meeting, at the last meeting, so I haven't, not that I've gone through each of them with a fine tooth comb but I haven't identified any new issues, we're getting volume but we're not getting substantive changes in the issues being brought up so I would, as one Board Member, I think we've had this open for two meetings, we've held this open, we've held it open for public comment, so I would be happy to suggest that we close the public hearing, keep it open for another week for written comment, so the rest can trickle in if there are going to be any more that will come in via e-mail and then we act accordingly.

Vice Chairman Sturniolo stated Sol.

Mr. Gibbons stated yeah, I think we can keep it open for a short while but not for too long.

Vice Chairman Sturniolo stated keep the public hearing open.

Mr. Gibbons stated for a short while so maybe for another week or so.

Mr. Hertz stated for written comment Sol.

Mr. Gibbons stated for written comments, you have so many of them, I don't know how many of these are from people that live in Mount Kisco.

Vice Chairman Sturniolo stated but Doug's point is, am I correct, keep it open, I mean close the public hearing but keep it open for 10 days.

Mr. Hertz stated my suggestion is we close the public hearing, keep it open for additional written comment.

Mr. Gibbons stated okay, I'll go along with that.

Vice Chairman Sturniolo stated Enrico.

Mr. Mareschi stated I'm okay with that as well, you can close it.

Vice Chairman Sturniolo stated Whitney, do we formally have to vote on that subject.

Whitney Singleton stated you need a motion, a second and a vote.

Vice Chairman Sturniolo stated I would like to entertain a motion that we close the public hearing tonight on the applicant at 154-162 Main Street, however keep it open for written comments.

Mr. Mareschi stated I'll second that Vice Chair.

Vice Chairman Sturniolo stated is there a second.

Mr. Hertz stated yes.

Vice Chairman Sturniolo stated there is a motion made and duly seconded.

Upon Roll Call Vote:

| | | |
|-------------------------|---|-----|
| Vice Chairman Sturniolo | - | aye |
| Mr. Mareschi | - | aye |
| Mr. Gibbons | - | aye |
| Mr. Hertz | - | aye |

The motion carried by a vote of 4 to 0.

Vice Chairman Sturniolo stated thank you.

Mr. Null stated thank you very much.

Vice Chairman Sturniolo stated Cathy, please.

Ms. Deutsch stated thank you sir, I would just like to say this is reminding of the movie the War of the Roses where everybody just ripped each other apart and look, I can keep my computer open in my shop and ask every customer that walks in to sign on and send you guys an e-mail and it will just be more of the same. Obviously there's always going to be division here no matter what we do and I feel that it is really not useful at this point to just keep that open form going because it's just yay, nay, yay, and then just pile them up and divide it, I think it's, I'm just not sure it's useful to your time and I don't think it's going to change any information that you already have.

Mr. Hertz stated like we said, I haven't seen anything that brings up new and different issues but you know it, it's a public hearing and if there are some new and different issues that come up and people don't necessarily and everyone isn't as informed as they might want to be, there's really no harm in keeping it open for a few more days because if something else does come up, it makes sense, you know this is a substantial application, there's a lot at stake for everyone involved, obviously or emotions wouldn't be running high and I think we wouldn't be doing our jobs if we didn't let as many people speak in whatever form it took...

Ms. Deutsch stated so 10 days did you say.

Mr. Hertz stated it will stay open for written comment for 10 days.

Mr. Mareschi stated 10 days, written comment.

Ms. Deutsch stated ok.

Mr. Hertz stated again, it's not a popularity vote.

Ms. Deutsch stated pardon me.

Mr. Hertz stated it's not a popularity vote.

Ms. Deutsch stated agreed.

Mr. Hertz stated there's not going to be a, you know how heavy is this stack versus this stack, we really want to know, has someone brought up another issue of substance that we've all missed here and should be properly addressed.

Ms. Deutsch stated thank you.

Vice Chairman Sturniolo stated one second, Cathy...

Ms. Deutsch stated yes sir.

Vice Chairman Sturniolo stated I've sat here through numerous public hearings and issues come up, you get 50 people pro the issue, 50 people against it, putting that aside as Mr. Hertz just said, when you go through these e-mails or you get a new email, it may trigger something that we missed, never thought of, didn't calculate, whatever. We need every opportunity and every piece of paper available to us to make a proper decision at the conclusion and that's what part of this

10 day written comment period is and it may sound onerous on our part but this is the best way to be equitable to everybody and to ensure that the process works to its fullest. Thank you.

Ms. Deutsch stated I appreciate your time.

Mr. Mareschi stated he has a question.

Vice Chairman Sturniolo stated Jan.

Jan Johannessen stated just a follow up question on the deliveries, the applicant had mentioned that there's going to be approximately two deliveries a week, they would occur in the morning and they would last one or two hours in duration and it would be via a 48' tractor trailer, I don't think that Borders received their deliveries via tractor trailer and I would just like you to identify where that loading area is going to be because the loading area can't occur within the drive aisle or a parking space, so if you could just identify that on the plan where that loading area exists, that'd be helpful.

Mr. Null stated can I also just make one clarification, I've seen the solicitation that was sent out inviting people to comment by Mount Kisco Sports and one of the facts in there was incorrect and that is and I just want to make it clear for the record, Modell's does not sell bicycles, so there was a reference that Modell's may be competing with Bike World and I just wanted to make that clear that they are not selling bicycles.

Vice Chairman Sturniolo stated thank you, okay.

Mr. Null stated thank you.

Mr. Mareschi stated thank you.

Vice Chairman Sturniolo stated thank you everybody, the next item on our agenda is the Hearth of Mount Kisco, 270 Kisco Avenue, this is a formal application pertaining to a site plan, special use permit and steep slopes permit along with a wetlands permit.

**C. The Hearth at Mount Kisco -270 Kisco Avenue
PB2012-15, 69.49-4-1 (SBL)
Site Plan, Special Use Permit, Steep Slopes Permit and Wetland Permit**

Mr. Mark Miller of Veneziano and Associates and Mr. Chuck Utschig of Langan Engineering were present.

Vice Chairman Sturniolo stated Mark, you're clearing the room, they say you come up and everybody left.

Mr. Miller stated I took a shower this morning and everything. Mr. Chair and Members of Board, for the record Mark Miller from the firm of Veneziano and Associates here tonight representing the Hearth at Mount Kisco. I know you've got still more items, so I'll try and be brief, first, as to where we stand with respect to the DEP work on the site, your Board adopted a resolution with a whole host of conditions, sort of following in the footsteps of the cooperation that we've received from your staff and consultants with respect to reviewing our plans, a lot of coordination was needed to get everybody out on the site who needed to be there, submit all the materials, that was all done successfully, we went out onto the site, I believe it was last Friday, the drilling and test boring work was completed by, I understand, 2 pm that day and we have begun and almost completed the short term remediation. We were hoping to have that done tomorrow, the weather doesn't look like it's going to cooperate so we'll certainly target Friday and then as I indicated in my letter which you may or may not have received, we did make a submission on September 1 in anticipation of the 3 week deadline for your September 22nd meeting, so that's why I'm going to be brief tonight because obviously your consultants haven't had the time, chance to review. One of the items that Mr. Hertz had requested was some additional information about the disturbance on the site and in my letter I indicated that we would be providing that in effect, as we back out of the site we'll be able to evaluate exactly where it took place and what took place, so we'll be in a position to do that. Anthony had requested, as I indicated we have been working, submitting piecemeal plans if you will, to address, to tick off various check boxes, Anthony asked, rightly so that we bundle all those up into one complete submission package and we did that, Chuck's got a sample of that here which he's going to give to me but that will be in your package well and it was again submitted 3 weeks ahead of time for the September 22nd meeting. We, so we are continuing to work with your

consultants we hope at the meeting on the 22nd they'll be in a position to report to you that essentially everything that you've requested has been provided and as I indicated last time, we want to work towards a resolution. I don't know if it's appropriate at this point to and I'm happy to assist in any way possible to start drafting, I think the bulk of the issues we all know what they are, the conditions, the devil will be in the details and the conditions will be significant, so I don't know what the process for getting that process started but we'd like to keep that moving forward again, we think we've made significant progress addressing the issues from the DEP work done on the site and that's where we are. We're looking forward to talking to you on the 22nd, having a full forum discussion based on the plans we submitted last week.

Vice Chairman Sturniolo stated Mark, thank you for your time.

Mr. Mareschi stated thank you.

Mr. Miller stated okay.

Vice Chairman Sturniolo stated the next item on the agenda is Open Door Medical Center, 185 Kisco Avenue.

**D. Open Door Family Medical Center – 185 Kisco Avenue (Kisco Ave Business Center/Beldotti)
PB2014-277, 69.57-1-4 (SBL)
Amended Site Plan and Change of Use**

Ms. Geraldine Tortorella of Hocherman, Tortorella & Wekstein was present to represent the application.

Vice Chairman Sturniolo stated and this is pertaining to an amended site plan and change of use.

Ms. Tortorella stated good evening, Geraldine Tortorella of Hocherman, Tortorella & Wekstein and we're counsel for the applicant. We're actually here on a referral from the Zoning Board of Appeals on our variance application for the property at 185 Kisco Avenue, it's a joint application between the owner of that building, Kisco Avenue Business Center and Open Door proposes to lease just under 10,000 square feet in the building. When we were here last week, we had a discussion about what sort of recommendation the Board might make to the Zoning Board of Appeals with respect to the parking variance and you had indicated that you would like to hear from your consultants, your traffic consultant on that issue and I have seen the memorandum that's been issued by your traffic consultant, I also understand and I have seen a memorandum that has been issued by Jan Johannessen on the issue and if you have any questions that you want us to address with respect to that, we're happy to address it but they're really just a couple of things that I'd ask you to keep in mind as you consider whether you'll make a recommendation and what the nature of that recommendation is. We respectfully disagree with some of the conclusions in the memorandum we've received, you're probably not surprised to hear that but I don't really want to go back and forth with what we disagree about, there are just a couple of things that I would like to remind you about with respect to this application and ask you to take those things into consideration as you think about your recommendation and one is that we think this application and this building are different from any others that you typically see in terms of variance applications or situations with the buildings, we have a situation, yes, where we're seeking for the building, the entire building a parking variance for 55 spaces but that variance we believe...

Vice Chairman Sturniolo stated no, I'm sorry.

Ms. Tortorella stated okay, that variance we believe is really comes from three different sources, one source is Open Door's use and occupancy, we have a need for 55 parking spaces and we have the right to use 24 parking spaces so a portion of that, a substantial portion of the that 55 number is associated with Open Door but the rest of it, of about 15 parking spaces really comes out of result of a calculation of parking different from the calculation the former Building Inspector employed in calculating the parking required for the building. Previously as the suites in this building were being occupied, the previous Building Inspector did not include or require the inclusion of common area in any of the parking calculations so what we were required to re-measure the building and to include those areas and when we re-measured the building we found that the building was slightly larger than the prior measurement had been over the course of 10 or 12 years and the a different person measuring it, there is a slight difference in the measurement so when you include or compound the additional area that was recovered plus the requirement now to count common area in the parking calculation. There's 15 parking spaces

that are associated with just that recalculation methodology, it has nothing to do with the owner the building having misrepresented information or done anything of contrary to what he was instructed to do, it was simply a determination by the current building officials that the correct method of calculation was to include the common area, so rightfully or wrongfully, the prior building inspector didn't include it, it is not included and based on that there is a need for an additional 15 parking spaces for the variance. So the variance isn't all Open Door and it's not 55 parking spaces that Open Door itself requires at least that's not the way we view it, we think that it's important to consider the source for the variance. The common area and that recaptured area I mentioned has always existed in that building to the extent it generates a demand for parking, that demand is reflected in the number of parking spaces that are occupied on a regular basis in the building by the existing uses, so that common area and that recaptured area isn't really generating any new or additional parking that it might otherwise have generated. It's not like its being used differently, it's not like its being reconfigured, it's not being expanded, it's the same space that's always been there and frankly that variance, that component of the variance is always going to be needed by the owner. He finds himself in a situation now where he's deficient in parking, not only because of the uses but because of the way the requirement for parking is not calculated and the standards and rules that we're subject to at this point in time. So that is a variance that will always be there and that makes it different I think from just general parking variances that you might see and Open Door is not your typical medical office and I know you've heard us say that previously, it's got a different population it serves, a different requirement for parking that we've seen, in fact what's going to occur at 185 Kisco Avenue is going to be a series of specialty practice services as well a dental practice which is really focused on and operates on a residency program, residents are notorious for taking longer so even operationally it will be different from what you see at 30 West Main Street and for that reason we believe and we've done an estimate based on how appointments will be scheduled that there be even less of a parking need for the 185 operation than there would be at 30 West Main Street. So there are differences with respect to those particular operations and Open Door at 30 West Main Street and at this site would be prepared to have all of its staff park offsite so that and it would make arrangements to do that and to shuttle those people so that they could actually get from the parking lot to 185 Kisco Avenue by vehicle if they chose not to walk that distance, I know there's been some concerns expressed about the length of the distance from the North Moger parking lot.

Vice Chairman Sturniolo stated Gerri, if I could interrupt you for a second, the concept of a shuttle is against zoning, you are shy 50 plus spaces, there's no question about that, I'll finish my comments after you do.

Ms. Tortorella stated yeah and I understand what you're saying and that was something that was pointed out in Jan's memo as well, I'm not asking this Board and we had this discussion and I think you probably remember when we were here for the conceptual review. I recognize that this Board cannot rely on that offsite parking as a means to say that we meet our parking obligation, I do think it's something that the Board of Appeals can impose and require as a condition of a variance I think that's different and we have offered that to the Zoning Board of Appeals, we've offered that condition, we've offered it as mitigation, it's mitigation and a condition of the current variance that's in place for 30 West Main Street, there are no staff that park at 30 West Main Street, we are required on an annual basis to purchase parking permits and that occurs and all staff, medical doctors, as well as nurses, as well as office clerks, all parking offsite at 30 West Main Street, pursuant to those parking tags. So I recognize that this Board under zoning cannot make a recommendation based solely on the fact that we have offsite parking we're accommodating it that way, I recognize that you can't recognize that as a legitimate means of providing parking under the authority that you exercise, I do however think that it's something that the Zoning Board of Appeals can impose as a condition, we've offered it as mitigation, we're prepared to commit to it and we're prepared to take the risk, if that off street, offsite parking doesn't continue to exist, we have the risk now at 30 West Main Street and we're prepared to take that risk with respect to 185 Kisco Avenue. I think it's important just for your Board to understand what we're prepared to do in terms of trying to mitigate some of the potential impact that the Board is concerned, your Board and I'm sure the Zoning Board of Appeals is concerned about. We don't look at this as and when I say we, I think in this instance I'm speaking both for the owner and for Open Door. We don't look at this variance as being a blanket variance for any and all medical uses at 185 Kisco Avenue in the two suites that Open Door would be leasing. We would not anticipate that it would be so open ended, we have offered to the Zoning Board of Appeals our consent to a condition that would limit it to Open Door and a not-for-profit medical office that would have the dental residency program, I think there is a condition that could be fashioned that would be such that would be such that it would restrict it and should Open Door deviate from the kind of practice that we've characterized or described that it would require use to revisit the variance with the Zoning Board of Appeals and

we're prepared to do that. I don't want you think that we think that if this variance were granted Mount Kisco Medical office could come in six days later and we could flip our lease and Mount Kisco Medical Office could open, that's not what our application has been and we've made representation to the Zoning Board that we would not expect such an open ended variance from the Zoning Board of Appeals. It's similar to what we've done at 30 West Main Street and 30 West Main Street is also conditioned on it being an Open Door operation, a not-for-profit operation consistent with what was originally described to the Board when it was originally approved. I also just want to explain that the reason we were relying on the ITE, the Institute of Transportation Engineers figures for calculating the parking demand for the entire building was in part because the original approvals for this building when it was converted from the mill work to a multi-use building, actually required that ITE standards govern the determination of parking for the site, so that was one of the reasons that we relied on that and I think that that's another fact or factor that distinguishes this building and this application from other that may have come before or may come in the future because I fully recognize the concern about precedent with respect to this application, I understand the concern that there's going to be a line of people lining up right behind us who want to come in for parking variances if Open Door and this building owner gets his variance and I think there are enough factors that would distinguish the application from any others that you had seen and any that I'm familiar with that you have seen before that you wouldn't be boxed in by precedent, I mean we are not unmindful of that. So I would just ask you that as you consider whether you're going to make a recommendation and what's its nature is going to be and what its tenure is going to be, that it be couched in, not in categorical terms, I hope that you'll consider if you're going to make a recommendation, one that wouldn't foreclose the Zoning Board of Appeals from considering whether there are ways for us to reduce the variance and mitigate impacts and if we could do that to be able to achieve a successful compromise, we have an owner who is prepared to talk to the Zoning Board of Appeals about leaving space vacant in the building in such a way so that we could reduce the amount of the variance at least for so long as Open Door would get opened and operating and we could monitor what happens so we'd have actual data of actual site conditions and if in fact the operations are as we anticipate they would be, that the demand for parking won't be nearly what the mathematical calculations say they will probably be, that there would be another basis for that owner to come back in and make an application to the Zoning Board of Appeals to be allowed to occupy some of that space that he might have made vacant. There is no interest, I'm sure the Village doesn't have an entrance in seeing more vacant space and we if can reach a balance where there could be some amount of vacant space until we could really demonstrate with empirical data that there isn't going to be an impact, maybe we can achieve a resolution and I'm just hoping that you'll keep that in mind and hopefully couch any recommendation you make in terms of the Zoning Board of Appeals will feel like it can consider those alternatives and you know additional mitigation and not feel like it can't grant any variance.

Vice Chairman Sturniolo stated Gerri, I am a strong believer in the 55 spaces that are missing and I think it's been well proven, well documented and the ITE standard the Village is not obligated to follow at all, we have our own zoning and as one member of the Planning Board, I have a very, very strong tendency to recommend to the ZBA not to grant any variance, just my opinion. The need for Open Door and the services it provides to the needy people of Mount Kisco and the surrounding community has never been in question with this Planning Board, its, the usage is not in question, what is in question is the ability to handle the cars and that parking and most importantly to the compliance of the zoning and that's one obligation that this Planning Board has and that is to see that Zoning is adhered to and a recommendation to the ZBA other than a rejection of your application, in my opinion is not promoting proper zoning and I believe this Board would be disingenuous to the residents of Mount Kisco if we recommended anything otherwise, my feelings. Sol.

Mr. Gibbons stated well you mentioned before creating a precedent and what we don't want to see is a lot people coming up behind you and asking for the same privilege and it's a dangerous precedent, I think.

Mr. Tortorella stated and I understand that and I understand and I, which is why I tried to explain some of the reasons that I think it could be distinguished but I fully understand the concern about the precedent.

Vice Chairman Sturniolo stated Enrico, you're thoughts.

Mr. Mareschi stated I'm not comfortable with the 55 spots and I do feel the same way, once you say yes to them, people just would be knocking on the door and you just can't go back.

Vice Chairman Sturniolo stated okay, Doug, your thoughts.

Mr. Hertz stated I am torn, I would love to find a way you know, for Open Door to use the space, I am I think using a shuttle to move people half a mile through our congested corridor is not a good idea and I don't think people are going to walk when the weather's bad, so I do think that shuttles going to have to be there, you know we've seen, it's very concerning, it's also, my concern is that we're creating a use that requires the use of the North Moger Lot and I don't know what long term planning is going to use for that lot, I can't imagine that that's going to stay the way it is for any long period of time, given the kind of development that the Village is looking at, so I would be really concerned you know if you did allow something that gave you, I mean that's a large number of spaces and all of a sudden they weren't able to be, you'd have to go elsewhere, there is no elsewhere, I mean I don't know what that would be. You know and that would force you to have to abandon your lease and that would put everyone in a terrible position so it is, it's a real conundrum. So I'm, but I do and the one thing that we have seen year after year here is that no matter how much parking in your lot for medical use and I fully understand that yours is truly a unique use, I mean it really is, but even the codes within the Village that we use for medical uses are inadequate and they've been shown time and time again to be grossly inadequate, I mean if you try to park at Mount Kisco Medical with their valet service, there are still no spots and they are tripled parked with valet service, so I do understand that my concern moreover goes to most people's, most applications to some degree unique, nothing every truly fits in the precise box that you're trying to place them in or it doesn't sit square in the middle, it sits to the edge of its allotted use, so to the extent that the uses try to slot people into smaller and smaller spaces, my concern is not that we couldn't write in a Planning resolution or Zoning variance that would create a precedent for that space but that we're creating a precedent that we're looking at the uniqueness of a specific application and that each application therefore is so outside of the definition of what it's trying to comply with that we look at it in a special way as well. So where we can, I personally would try to use the biggest definition and try not to allow for unique uses because everyone now wants to be a unique use and yes we can write an ordinance and a resolution for every single but I'm not, I don't have that many years left of my life, so I'm reluctant to vote to say no and reluctant to say yes.

Vice Chairman Sturniolo stated one moment. Whitney, at this point what should we do as far as communication to the ZBA predicated on what we just heard.

Whitney Singleton stated I wasn't certain that I heard of all Doug's final words there because of the air conditioning, what was it that you, I heard distill to...

Mr. Hertz stated distill to, I don't see, I don't want to say categorically no but I don't know how to say yes or I don't know how to make a recommendation that's in favor, as much...

Whitney Singleton stated what I can do is if your Board does not have a quorum, a majority vote a quorum to make a recommendation, I can convey your individual thoughts to the Zoning Board, that four members were present and I can convey what those thoughts are individually as the three members or if you wish for me to for me to adopt a resolution your Board want me to draft a single letter on behalf of the Board expressing your joint concerns and for you to see that draft before it goes out, we can also do that, it's got to be...

Mr. Hertz stated I don't want to, you know, I mean Ralph I'm sure wished he could be here, he made his opinion very well known.

Whitney Singleton stated Ralph can't vote on what to direct me to do.

Mr. Hertz stated I understand that I am reluctant to simply, I think we should convey one message.

Whitney Singleton stated I can also write that if your Board was uniform in its position, I can temper the letter to express your reservations and categorical denial.

Mr. Hertz stated yeah, I mean it's not a categorical no but I'm concerned and I don't see it make way to make it work. Maybe they're wiser than I, I hope they are but it wouldn't take a lot.

Ms. Tortorella stated can I ask a question.

Vice Chairman Sturniolo stated is that, one second Gerri, Whitney, is that sufficient.

Whitney Singleton stated yeah, I think...

Vice Chairman Sturniolo stated do we need to vote on it.

Whitney Singleton stated I think your Board should make a motion to have me draft me letter or have somebody draft a letter to convey your thoughts to the Zoning Board. They asked for a recommendation, they're allowed to seek your input as they are from other professionals and Boards and they're not seeking, they're seeking your input as Board, they're not seeking your input as individual members.

Vice Chairman Sturniolo stated would somebody like to put that in the form of a motion and second it.

Mr. Hertz stated Mr. Chairman I will make a motion that the Village Attorney draft a letter expressing the opinions that we all put forth today...

Mr. Mareschi stated of our Board.

Mr. Hertz stated to the best extent that he can.

Vice Chairman Sturniolo stated a second.

Mr. Mareschi stated I'll second.

Vice Chairman Sturniolo stated Michelle, will you poll the Board.

Upon Roll Call Vote:

| | | |
|-------------------------|---|-----|
| Mr. Hertz | - | aye |
| Mr. Mareschi | - | aye |
| Mr. Gibbons | - | aye |
| Vice Chairman Sturniolo | - | aye |

The motion carried by a vote of 4 to 0.

Vice Chairman Sturniolo stated one second Gerri, Mr. Beldotti.

Mr. Beldotti stated Beldotti, yes.

Vice Chairman Sturniolo stated Beldotti.

Mr. Beldotti stated I'm the owner of 185 Kisco Avenue, I've owned the building for 12 years, we have several medical tenants in the building, you know that. When we bought the building we turned into a mixed use building, I think we did a pretty good job. If you go by that building any day in the week, any hour of the day, the parking lot on the north side of that building is virtually vacant, okay, we went through the process and we hope we do things legally, we try to do everything on the up and up, we went in, we got building applications, building permits, C.O.'s on every space, when we came back in with Open Door because we respected that type of tenant, the Building Department said to us you got to do that following, number one, produce C.O.'s for every space, which we did, every space had the number of parking spaces required, the use, the tenancy and how many, you know, so we got a C.O. on that. When we came back in the Building Department said no, you must now use a new calculation so they took 15 parking spaces area from us because they said that we must use the common areas which really don't generate more parking, in all of our calculations, so we lost 15 spaces. So what we did then to make Open Door work we gave up 3,000 square feet, okay, we turned it into warehouse, like everybody had suggested but it's never going to be warehouse because it's on the second floor, it's not usable because we lost 15 spaces, those space have to come back some way, regardless of what you do with your recommendation for Open Door, I'm going to be back here again in a hardship because you took 15 spaces away from me because I got C.O.'s on every part of the building, so now I can't use the space for what it was originally zoned for, so I need those 15 spaces back. Open Door is really looking for 41 spaces, we're being penalized because we did the right thing and I don't think the Planning Board or the Zoning Board or anybody in this room wants to penalize a builder or a developer or owner for doing the right thing and that's where we're at. This application should be approved.

Vice Chairman Sturniolo stated thank you for your time.

Mr. Mareschi stated thank you.

Vice Chairman Sturniolo stated Gerri.

Ms. Tortorella stated I was just going to ask kind of as, I didn't know what Mr. Beldotti was going to say but as a segue to that, you know there's something between 0 and 55 and we're going to be hopefully having a very frank conversation with the Zoning Board of Appeals next week about whether there is something between 0 and 55 where we can meet on a compromise that they will feel comfortable that there's enough parking on the site to address all of the demand for all patients and staff of Open Door on site plus the other existing tenants, we're going to try to come to that number and some other occupancy of what's still vacant in the building. I am just hoping that the recommendation from this Board isn't so categorical that they're concerned that they can't approve any sort of a compromise and that's just what I want you take into consideration, we are going to try and find a common ground. I don't know whether we will, we're prepared to offer more mitigation we've offered mitigation already, we're going to try to find that common ground and I'm hoping that they won't feel unable to do that because of a recommendation from the Board. I don't know whether this Board has any sense of whether something in between 0 and 55 might be possible depending on what the mitigation is and depending on how it's monitored over time, maybe that's also something that, kind of that flexible language that your Board might consider including in a recommendation to the Zoning Board of Appeals, so that they don't feel like it's an all or nothing proposition as far as this Board's concerned.

Whitney Singleton stated on that note I will present the letter to your Board, your Board can make comments as you deem appropriate additions, deletions, modifications and if it is acceptable to all four members here tonight, it can find its way to the ZBA before its meeting next week.

Mr. Mareschi stated thank you.

Ms. Tortorella stated I appreciate that and I appreciate you taking the time and taking those things into consideration.

Mr. Mareschi stated thank you.

Ms. Tortorella stated have a good night.

Mr. Hertz stated thanks Gerri.

**E. Cosentino Westchester Center – 333 N. Bedford Rd Suite 220
PB2015-OD1, 69.50-2-1 (SBL)
Outdoor Display**

The Applicant did not appear.

Mr. Mareschi stated go ahead Tony.

Vice Chairman Sturniolo stated the next item on our agenda is the outdoor display as Cosentino Westchester Center.

Mr. Mareschi stated anybody here for that.

Vice Chairman Sturniolo stated is there anybody here for that.

The Secretary stated unfortunately it seems no one appeared, so they appear on another agenda and I will be in contact with them.

Mr. Mareschi stated again.

Mr. Hertz stated this is three in a row.

The Secretary stated it is, it is three in a row, I did speak to someone last week.

Vice Chairman Sturniolo stated I'm wondering how do we get this to a head, they keep missing meetings and meetings, it's to me, not worth the time to type it on an agenda.

Whitney Singleton stated I think probably the best thing to do would be for Jan, Rob and myself to confer to see where they are with the prosecution, if they're not seeking to remediate their violations on the property, we'll get their violations lawfully approved and perhaps they shouldn't be appearing on any agendas.

Rob Melillo stated Whitney, my understanding is the prosecution was closed tonight and a fine was paid and it's all done and over with at this point.

Whitney Singleton stated so then maybe another.

Rob Melillo stated I guess another summons will have to go out to them to because they are well aware, Michelle has called them every single, the day after every meeting advising them that they've missed a meeting, they say yes, yes, yes we'll be there, we'll be there. They told David Squirrel tonight in court that they didn't even do anything else and it's done.

Whitney Singleton stated okay.

Vice Chairman Sturniolo stated okay, thank you Rob.

**F. Lexington Properties – 15 Locust Street
PB2015-0311, 80.48-2-7.2 & 80.48-2-8 (SBL)
Site Plan**

Mr. Leonard Brandes, AIA and Mr. Gus Levy of Lexington Properties was present to represent the application.

Vice Chairman Sturniolo stated the last item on our agenda under conceptual application is Lexington Properties, 15 Locust Street, if you'd like to come up and identify yourself.

Whitney Singleton stated Vice Chair Sturniolo, I just wanted to apprise the Board that this applicant and the principles of the corporation that constitutes this applicant, are clients of mine and I feel as though it is appropriate to recuse myself, I will make sure that there is review and counsel available to you should it be needed and that there will be review and counsel available to the Zoning Board in my absence but given the fact that I represent both the family and the corporation and to be closing on this piece of property, I think it's appropriate for me to recuse myself.

Mr. Mareschi stated Vice Chair, I might have to recuse myself as well, I am the neighbor 15 Locust Street for future...

Whitney Singleton stated I'm not sure that that automatically qualifies you for a...

Mr. Mareschi stated I'm not sure, that's why I put it on the record.

Whitney Singleton stated for a conflict.

Mr. Hertz stated may I suggest that for conceptual purposes until you can confer maybe you can sit in so he'll have a quorum so he can do this but before any vote be taken, you determine whether or not you need to recuse yourself.

Mr. Mareschi stated absolutely.

Vice Chairman Sturniolo stated would you kindly step and identify yourself or give Michelle a business card.

The Secretary stated we're good Gus.

Mr. Levy stated okay, Gus Levy, I do not live in the Town, I live in Manhattan, I own a portion of an estate that owns several buildings in this Town, I am now...

Vice Chairman Sturniolo stated let me interrupt, I'm sorry, I didn't realize you were going to start. This is a conceptual application.

Mr. Levy stated and I wanted to tell you who I was, you gave these other people in here 20 minutes and you told them only three, so I'm just going to explain my piece.

Vice Chairman Sturniolo stated I need to explain to you what a conceptual application is, this Planning Board needs to hear what your thoughts are, what the application is like and predicated on that, you have to be the judge, whether you're going to go ahead with the application, spend X amount of dollars on professionals, yes or no, so we need to give you some guidance on that before you go ahead, now.

Mr. Levy stated okay, would you like me to show you the...

Vice Chairman Sturniolo stated sure, start with whatever your concept is.

Mr. Levy stated these are concepts for the existing lot at 15 Locust Street, these are plans with landscaping, a new driveway proposed and a new two family building, currently zoned for two family, the lots were combined several years, it lies in a zone in Town that was originally zoned for CL, it is RT-6, the lot has now been combined into one RT-6 lot, you can see the surrounding lots are very much similar to the lot that I have here, right now the building that's on this lot, occupies a very small portion, as you can see from Google Maps, it's highlighted in yellow here on this page, you can see other building surrounding, all the other buildings are much bigger in size than the building that's on this lot, so basically what's going on here is there's a building right here on this lot and this is the new building that we're trying to build. The building right now is two stories, we're looking to build a three story unit with the third story being below ground for parking, the parking would be increased to support four parking structures, the Town asks for about 40' of back up space for an underground garage or a garage and we don't backup onto the street because that's now illegal, we backup off the street, the garage's entrance is here on the side and then we can park two cars here and exit onto the street here. We feel that this goes with the surrounding areas of Town and that it doesn't do anything different then what's already there and what's already being used for. We want to improve and develop the property as we've been trying to do for several years, I think the prior development or the prior attempts to develop the property, were nothing like this, the concepts were very different.

Vice Chairman Sturniolo stated when you say the surrounding area, are you referring to architecturally or the usage of the individual structures.

Mr. Levy stated I am referring to the usage of the individual structures and the architecture, both.

Vice Chairman Sturniolo stated so you're implying that the houses surrounding this are two family homes.

Mr. Levy stated yes.

Vice Chairman Sturniolo stated okay, go on.

Mr. Levy stated we're not trying to do anything different, we're just trying get the property that we purchased developed and we're expanding the amount of parking area that currently exists, we're not parking anywhere on the street, we are not backing up into the street, I think previous iterations of this concept had that and a lot of other things that didn't give the Town back enough space, I knew that we were using 3-4' of Town space for parking that was originally legal, we won't be doing that in this new conceptual design, yeah, it kind of adds to our building next door at 325 Lexington where we have a property that's being used right now, in a very similar manner. This is a very different building from that building and the two lots were originally combined so that it could be developed and now we were in kind of a log jam bureaucratically trying to figure out what it could be used for and there was no good concept given and this now, we feel, is a good concept and we feel that we've taken enough and we've given back enough so that we feel like this is a proper, it goes with the rest of the area and we feel like the Town should be able to approve this because it's very reasonable, considering what's around Town and what's in the area as well and what we're proposing. I'm not an architect, my architect couldn't be here tonight, he had another, he was here originally, we were told we were going to go first, I guess that didn't happen, so, he would probably be able to handle this a lot better than I would, he could give you a lot more information than I could possibly give you.

Vice Chairman Sturniolo stated this is a conceptual, Rob do you have any brief comments to.

Rob Melillo stated yeah from my memo, you have some issues here, I mean I know this is conceptual but you need to show some proposed landscaping, you also require if this does get approved, a separate driveway permit, it needs to show exterior lighting just to make sure we don't have any onto the neighboring properties or anything like that. He needs to show stormwater management, some of this stuff is going to be more on the formal side of things but

these are just letting him know that you know what to start working on as he goes into formal and he's also going to require multiple variances for this on maximum lot coverage, front yard setbacks and rear yard setbacks.

Mr. Levy stated this is my architect, right on time.

Mr. Brandes stated sorry, I had to be in Tuckahoe for a zoning meeting, at least I got approvals there.

Vice Chairman Sturniolo stated Jan, at this point do you have any thoughts.

Jan Johannessen stated it's at the conceptual stage, we haven't reviewed it yet.

Vice Chairman Sturniolo stated and Anthony the same for you.

Anthony Oliveri, yeah, it's just Building Department review at this point.

Mr. Levy stated we're just asking to go in front of the Zoning Board.

Vice Chairman Sturniolo stated pardon me.

Mr. Levy stated we're just asking to get to the Zoning Board, right...

Mr. Hertz stated no.

Mr. Brandes stated we have to finish here with the Planning Board first.

Vice Chairman Sturniolo stated say that again.

Mr. Brandes stated I'm assuming we need to come back...

Mr. Hertz stated this is a conceptual application, so this is not a formal application.

Vice Chairman Sturniolo stated this is just scratching the surface to give you an idea of whether you want to go ahead with the project before you commit hard dollars to drawings and consultants, et cetera.

Jan Johannessen stated typically the referral to the ZBA wouldn't take place until the formal application is submitted and we've all had a chance to review the application.

Vice Chairman Sturniolo stated once the facts are in front of us. Sol, your thoughts.

Mr. Gibbons stated well, they have to go before the Zoning Board to get the variances and that will be their next step if they decide to go ahead with it come back to us if the Zoning Board allows the variances.

Vice Chairman Sturniolo stated Enrico, you're going to stay quiet.

Mr. Mareschi stated no comment.

Mr. Hertz stated I'll be honest, I'm not a fan of starting with an application of this level, a variance required, you're significantly over on lot coverage, I mean basically more than half the lot is developed and paved and your you know, both your front and rear yard setbacks, I mean you're not a little bit into them, you're a lot into them. I think you're overdeveloping the lot, that's what the Code talks to, this Town has site after site of overdevelopment and we've tried to come to a modicum of what's appropriate you know I really think as one person you know the Code is there for a reason, we try to develop within this Code, these are tough lots and you may not be able to develop the size house that you want but I for one, you know, aren't going to you know, say, hey it's great, you know get a 25% lot coverage variation, you know variance and you know 30% front and side yard variance, I mean those are significant variances, so I would suggest you think about if there's a lesser impact that you can develop on this that still makes economic sense for you but I'm not in favor of starting project that's significantly over the development coverage and these lot coverage issues.

Mr. Brandes stated well...

Vice Chairman Sturniolo stated sir, let Mr. Hertz finish.

Mr. Hertz stated yeah that's really, you know I'm, I have problem with, it's a two family zone, I have no problem with that, you do have some interesting, you're doing some things that will work but we've created these zoning requirements and they've gotten stricter over time because we've seen every variation of how to overdevelop a lot.

Vice Chairman Sturniolo stated you're finished.

Mr. Hertz stated yes.

Vice Chairman Sturniolo stated this is in the RT-6 zoning district which was recently revisited by the village Board, I have to agree with my colleague Mr. Hertz 100%, with the fact that you come in initially with a huge amount of obstacles facing you and it's kind of like backward, if you didn't have all these variances required because of setbacks, front, side, whatever, it's a different story but I'm not inclined to go along with this presentation as we see it tonight, primarily because of the variances, my thoughts. You were going to say something.

Mr. Brandes stated yeah, I was going to say a comment was, this is a very unusual lot in terms of its size, it was originally two lots, I don't know if you discussed that at all, how it was originally commercial and residential and the house that's on it right, only has a footprint of 512 square feet, it's hardly anything on that lot right now and the whole idea of combing the lot that they came to the Town and it was done and it is combined now, it is only strictly residential lot, which has been done here was so that we can develop something within the space itself to make it a more viable usable space when they should be able to develop the lot, the house itself is well within your coverage range, that's well under the coverage, part of the issue I know comes in with the parking lot where there is, this is where we go over in terms of site size and that's because your Code changed that I cannot put a driveway going straight up into the house and set the house back 20', that has been changed in your Code, I'm not allowed to do that, I have to come in from the side and once you force me to come from the side, I now have an area where I'm forced to have a lot of lot coverage, that's something that has been done recently in this Town where it was changed and that's you know for small lots, it's very big hardship, for a large lot it's not a hardship but these are existing lots, these aren't new lots, this isn't a new subdivisions, this is a place that was there and the houses around the area are very tense, they're very tightly packed, they're not set back 25', most of the houses across the street, I can show you photographs...

Mr. Hertz stated that's one of the things that...

Mr. Brandes stated it's more of the character of the neighborhood, it's not like it's out of character.

Mr. Hertz stated but part of the reason that the zoning has changed is because of overdevelopment of these lots and the Village recognized that and changed the zoning. So it's not, you know, I can understand your argument when it comes to the issues of site development but it doesn't at all talk front and rear yard setbacks.

Mr. Levy stated why would you allow somebody to combine the lot if you weren't allowing them to develop the lot.

Mr. Hertz stated I didn't allow anyone, I didn't allow or not allow, you guys are coming in...

Mr. Levy stated no, I'm not saying you sir, I'm saying the Planning Board as a whole.

Mr. Hertz stated you're just coming in front of us with a blank slate, you're showing us a project, you made an economic decision that this made sense to you and we're giving you our feedback as to what we think...

Mr. Levy stated which is what we're here for.

Mr. Hertz stated in my opinion, you're trying to build to big a house on a very small lot, a lot that was, that you acknowledge is challenged and I don't think you're addressing the challenges, I think you're you know to make it make financial sense, you've got to build a big enough house and it's too big. So you have to make that determination but I'm, I feel pretty strongly that this house is too big for the lot, you're always welcome to go before the Zoning Board and get a variance.

Mr. Brandes stated well the depth of the lot is very shallow, if I have a 50' lot which is what I have over here and I have a 25' setback and 20' front and back, I have a 10' house left and that's, you know it's an existing lot, that's what I'm saying, we're dealing with an existing situation and there's no way you can build a house or anything or develop this in anyway without getting variances, there's not possibly way to meet the code.

Jan Johannessen stated you might need setback variances but you can certainly work on the coverage.

Mr. Brandes stated the lot coverage, we can work on the lot coverage, right now I said the lot coverage is really the hassle, (inaudible) in terms of size but...

Jan Johannessen stated but you could reduce...

Mr. Brandes stated I could reduce some of the lot coverage.

Jan Johannessen stated you could reduce the size of the house to reduce your development coverage even though that the building coverage is in compliance.

Mr. Brandes stated it's a combination, I mean it's not a large house either, it's still a small house.

Jan Johannessen stated well that's what the Board is directing you to do.

Mr. Brandes stated I understand that, like I said, we're dealing with a very unusual lot, a very unusual area and it's not like it something that we created this lot is, you know, it's not a subdivision where we said okay let's make this one little small lot, this was here and they went before the Boards to combine the lot so that they can find a way to develop it and everybody did know at that time that they have to go before the Zoning Board to get variances.

Mr. Hertz stated I will just throw this out there that if this were a one family home, you wouldn't need that much parking space which means you wouldn't need that much driveway space which means you wouldn't have a lot with these things.

Mr. Levy stated I agree with you fully, there is not financial reason for us to build a one family one or knock down the existing structure.

Mr. Hertz stated I'm not going to argue with that that might be completely correct.

Vice Chairman Sturniolo stated you may have answered your own question.

Mr. Levy stated this is a piece of junk lot and we were just trying to fix it up and make it nice. Okay, appreciate your time.

Vice Chairman Sturniolo stated your motives are not in question at all as far as the visual improvements. Anything else to add.

Mr. Brandes stated no, any other comments from you guys, that's why we're here.

Mr. Levy stated what would you suggest, you suggested a single family home, do you have any other suggestions beside a single family home.

Mr. Hertz stated I didn't suggest it, I simply offered that that could be a solution that might allow you to be more in compliance.

Vice Chairman Sturniolo stated suggestions have to come from your side with your consultants and property owners and everything.

Mr. Hertz stated my concern is just that you're asking for substantial variances on a small site and at the end of the day you know, after you know, every way of looking at this, if that's the thing that you feel is the best and most appropriate, you know come, you have every right to apply for it, we just want to give enough feeling from, at least from the Board Members here tonight so that you come in with open eyes, we don't want to blindside you and once you're in and you know because it is a process.

Mr. Brandes stated we understand and we know it's a give and take process, that's why we're here to hear and listen to your ideas and see if we can modify it and still make it a viable piece of property to develop. If I tried, I couldn't develop the house where it is right now because it also doesn't meet code, it doesn't have the setbacks, the existing house wouldn't meet any of the setback requirements so that's why we're trying to do something, we know that we're going to need variances, no question about that.

Mr. Levy stated it's like somebody gave us a pile of sour grapes and we're trying to turn it around, not just for ourselves but for the Town as well, we feel that the development would help the area, it goes in with the area, it fits in with the area, we've tried very hard to limit the amount of setback and variances that we require and we feel like this works very, very well and we'd like to move forward but if the Town feels otherwise, we understand.

Mr. Hertz stated I think you know one thing we'd really have to look carefully at and the ZBA would as well, is that you know what is the common setback on that side of the street, what is it, it looks to me like you've got a real setback on one side and a smaller setback on the other, you know what would be the impact of being this close, what is the neighbor behind, what does it look like.

Mr. Brandes stated its all close, that's what I'm saying, it's all very compact that area, there's no question that that's already preexisting as a compact area, it's within the character of the neighborhood, that's what we're trying to do.

Mr. Hertz stated I understand but you know because it's compact...

Mr. Brandes stated yes.

Mr. Hertz stated little changes have big effects.

Mr. Brandes stated absolutely.

Mr. Hertz stated every foot is critical because it's all about feet here, it's not about yards...

Mr. Brandes stated we know that.

Mr. Hertz stated so.

Mr. Brandes stated we appreciate that.

Vice Chairman Sturniolo stated thank you for coming tonight.

Mr. Mareschi stated thank you guys.

Jan Johannessen stated Chairman, can I just point out again that the appropriate time to go to the ZBA would be after the submission of a formal application.

Vice Chairman Sturniolo stated correct. There is nothing else on our agenda.

Mr. Mareschi stated nope.

Vice Chairman Sturniolo stated if not, I'd entertain a motion to close the meeting.

Mr. Mareschi stated I second it Vice Chair.

Vice Chairman Sturniolo stated and is there a second.

Mr. Mareschi stated I second it.

Vice Chairman Sturniolo stated oh I'm sorry.

Mr. Mareschi stated no problem.

The meeting adjourned at 10:02 p.m.