

**Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, April 26, 2016**

Chairman Cosentino called the meeting to order at 7:33 pm in the Municipal Building.

Members Present: Chairman Joseph Cosentino
Ralph Vigliotti
John Bainlardi
Michael Bonforte

Members Absent: Anthony Sturniolo
Doug Hertz
Enrico Mareschi

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

Chairman Cosentino led the pledge of allegiance.

Chairman Cosentino stated this is a Planning Board meeting, it's Tuesday, April 26th. First thing on our agenda gentlemen, is the minutes of December 8th, we do have a quorum for that. Does anybody want to make the motion?

Mr. Vigliotti stated Mr. Chair, I would like to move to approve the minutes for December 8, 2015.

Chairman Cosentino stated do we have a second?

Mr. Bonforte stated I second.

Chairman Cosentino stated on the question? All in favor.

The motion carried by a vote of 4 to 0.

Chairman Cosentino stated okay, first thing on the agenda is Hudson City Savings. Would you come up and identify yourself for the record, please? Good evening.

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

Ms. Linda Whitehead of McCullough Goldberger & Staudt was present.

Ms. Whitehead stated good evening, Linda Whitehead with the firm of McCullough Goldberger & Staudt. Just to correct, Hudson City Savings Bank has now been purchased by M&T Bank, M&T Bank is currently the owner, we are actually now here on behalf of Realty Holdings LLC which is contract vendee, M&T is still the owner but M&T is looking to sell the property as is. So they have authorized the contract vendee to move forward with the application, just for a little and the last application that we submitted, we submitted in the name of Realty Holding LLC.

Chairman Cosentino stated Mr. Singleton.

Whitney Singleton stated Chairman, as you know, this site has quite a history, a portion was built, the second portion was not built, the second building was not built and there were some modifications that were made both authorized and unauthorized including to the layout in the building and the current applicant or the applicant's predecessor was fortunate enough to take this over in a foreclosure proceeding and try to rectify some of the problems. The Building Inspector has worked very closely with the applicant to make sure that many of the issues which are either noncompliant with the Village Code, with the approval, or with new York State Uniform Fire and Building Code, have been or are being addressed. The Building Inspector, I believe, has spent quite a bit of time over there or on the phone with the applicant reviewing their checklist of different items and I understand from our prior discussions with the Building Inspector that he is either at or near a point where all the issues are resolved or in the process of being resolved. I'll let the Building Inspector speak to that.

Mr. Miley stated we confirm that.

Whitney Singleton stated so the applicant is seeking an approval tonight but because the application has been authorized to be continued to be evaluated by the Building Inspector and the Village Engineer. You don't have a resolution in your packet tonight. If you wish to take a vote on it subject to me drafting a resolution, that is certainly within your Board's purview, I would incorporate all of the prior conditions that you have already approved, as well as address all of the issues that the Building Inspector and the Village Engineer have raised.

Ms. Whitehead stated and as a reminder, we really, sorry, you'll remember we've been here a few times when the bank first took back the property and we went to get the building permits, both buildings were actually constructed. The interior of building B was never completed and when the bank first took over and came back to get permits, they were told that the site plan approval had expired. So we were first here before in February/March of 2014, you granted a retroactive extension and re-approval of the site plan approval so we could move forward and get the building permits. As we started working to get the building permit, it was determined there was a discrepancy on the rear two units, your prior resolution, the amended site plan from 2005 seemed to indicate that the lower levels would be utility and storage. However, the condominium floor plans which were signed by the Village and filed with the County Clerk and included as part of the offering plan, had them as two level units. In fact, one of them, the only access to it is from the rear lower level because of the slope on the side of the building. So we reviewed that with you, we were here again in October of 2014, at that time we agreed we would come back for an amended site plan approval for the rear two units and look into some issues regarding the height. This Board at that time, authorized the issuance of the building permits for the front four units because nothing had changed on those from the prior approved site plan. The building permits were eventually issued for those and those are essentially completed, we're working through some issues for the C.O.'s with the Building Inspector, on those as well right now. So, as instructed we are here really for amended site plan approval for the rear two units to be two-story units as shown on the plans submitted to you and in the process the Building Inspector also pointed out there were a few things on the site that were not build in accordance with the 2005 plans, mostly walls and walkways, the buildings were but not...

Mr. Miley stated I would call them significant changes but there were some changes to the site with respect to walkways, retaining walls, a number of other curbing and some slight modifications including the landscape wall that's slightly encroaching in the public way.

Ms. Whitehead stated right.

Mr. Miley stated other than that and the two units now in the rear that are not currently under construction for reasons of floor damage or whatever.

Ms. Whitehead stated correct.

Mr. Miley stated the main reason why, the other units are working through the process, Chairman...

Chairman Cosentino stated yes.

Mr. Miley stated with respect to completing some of the Building Department issues, firewalls and some other minor modifications but based on the site plan, the current proposed site plan, those have been remedied, I have one or two questions with, where the Village Engineer, I'll have to defer to him with respect to drainage, just ensure and I brought it up just based on a visit and proposed site plan to see if there was an issue, there may not be an issue but until...

Ms. Whitehead stated it has to be confirmed.

Mr. Miley stated yeah, other than I have no issues.

Ms. Whitehead stated right, so at the Building Inspector's request we had an updated as built site plan prepared that now outlines the walls that are different, the walkways that are different, he's reviewed them and as he said, there's just one or two things to be confirmed with the engineer but I think everything else...

Mr. Miley stated everything else...

Ms. Whitehead stated so you now you have a plan that represents the site as built which includes some amendments from the prior site plan. So what really needs to be approved in the amended site plan is the layout for the rear two units and then the minor modifications on site which were done by the prior the builder who went into foreclosure.

Chairman Cosentino stated you've earned your fee.

Ms. Whitehead stated you know this has not been an easy one and we're not done but...

Chairman Cosentino stated under the circumstances, we want to get this off our plate also, we've got the blessing of the Building Inspector. Mr. Singleton if you want to give us the wording on this, I think that the resolution...

Whitney Singleton stated well it would simply be an approval for an amended site plan and floor plan or layout, subject to the review and changes, subject to satisfying to conditions imposed by the Village Engineer, Village Attorney, and Village Building Inspector.

Chairman Cosentino stated okay, that's what going to be in the resolution. We need a motion.

Mr. Bainlardi stated okay, I'll take a crack at it. I make a motion for Hudson City savings Bank 29 Carpenter Avenue PB2014-0260, 69.91-3-2.1 for approval of an amended site plan subject to satisfaction of the and approval of the former resolution by the Village Planning Board Attorney and subject to satisfaction of any open comments of the Village Engineer and the Village Planner and Building Inspector.

Chairman Cosentino stated including conditions.

Mr. Bainlardi stated yes.

Chairman Cosentino stated do we have a second?

Mr. Vigliotti stated I'll second.

Mr. Bonforte stated I'll second.

Chairman Cosentino stated motion was made, seconded by Mr. Bonforte...

Mr. Miley stated Chairman, it's M&T Bank, not Hudson Savings.

Chairman Cosentino stated its M&T Bank. On the question. Will the Secretary poll the Board please.

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 4 to 0.

Ms. Whitehead stated thank you very much.

Chairman Cosentino stated we'll raise the flag for you.

Ms. Whitehead stated thank you.

Chairman Cosentino stated have a good night.

Mr. Bonforte stated thanks Peter for doing all that work on a short order.

Chairman Cosentino stated yeah. Okay, the next thing on our agenda is Tortorello Subdivision, 122 West Main Street. Would you come up and identify yourself for the record, please?

**2. Tortorello Subdivision – 122 W. Main Street
PB2015-0293, 69.80-2-19
Lot Line Adjustment**

Mr. Frank Tortorello was present.

Mr. Tortorello stated I'm Frank Tortorello, my wife and I own the property.

Chairman Cosentino stated okay, alright Jan?

Jan Johannessen stated this application has been before the Board a number of times it had started as a subdivision creating an additional third lot, it warped into a lot line change between, what is referred to as tax lots 18 and 19. The proposal would transfer approximately .2 acres of land from tax lot 19 to tax lot 18. The proposal doesn't result in any zoning nonconformities, it is on tonight for a public hearing and I prepared a preliminary final subdivision plat approval along with a negative declaration of significance.

Chairman Cosentino stated is there anything that anybody has on there? Anybody from the audience? No one signed the sheet. Staff?

Whitney Singleton stated the only thing is what we previously talked about in your work session about the fact that your Board has not evaluated multiple layouts of this and that there's a possibility of a future subdivision without a restriction being imposed, that might not be the best layout of the property.

Chairman Cosentino stated okay, Jan or Anthony, anything? Jan, you have something that you want to add, or Anthony?

Jan Johannessen stated the Board did discuss in a work session the possibility of adding a note to the plat that would restrict the future subdivision of either parcel. I know that's not something we discussed previously but I think the Board wanted to have the opportunity to discuss that with you tonight, see if you had any objections to such a condition.

Mr. Tortorello stated you want to add that as a qualification to an approval motion?

Chairman Cosentino stated I have no problem with that.

Mr. Tortorello stated I have no problem with that, I don't think there's any, I can't foresee of any way that you could do that anyway unless you tore both buildings down.

Chairman Cosentino stated just in case.

Mr. Tortorello stated that's not intent.

Jan Johannessen stated we would add a condition under the category conditions to be satisfied prior to the signing of the plat, add a note to that effect.

Mr. Tortorello stated that's fine, that's acceptable. That would stay with the property?

Jan Johannessen stated yes.

Mr. Tortorello stated it becomes a deed restriction.

Jan Johannessen stated for both lots.

Chairman Cosentino stated okay, then we do, so we're staying with the lot line, Whitney did you read this, did you have knowledge of all this or?

Whitney Singleton stated I'm fine with it Chairman, it resulted in a good layout.

Chairman Cosentino stated you know guys, what I'd like to do is close the public hearing because there's nobody here and we can vote on it...

Mr. Bainlardi stated I make a motion that we close the public hearing.

Chairman Cosentino stated do I have a second?

Mr. Vigliotti stated I'll second that.

Chairman Cosentino stated motion was made by Mr. Bainlardi and seconded by Mr. Vigliotti, on the question. Will the Secretary poll the Board please?

UPON ROLL CALL VOTE:

Mr. Bainlardi - aye

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

The motion carried by a vote of 4 to 0.

Chairman Cosentino stated I believe we should vote on the resolution and clear our plate with it.

Mr. Bainlardi stated have you had the opportunity to review the resolution and draft neg. dec.?

Mr. Tortorello stated yes.

Mr. Bainlardi stated and you're satisfied?

Chairman Cosentino stated yeah, he got a copy of it.

Mr. Tortorello stated sure, yeah.

Chairman Cosentino stated is there any questions with staff on this, if we do this? Okay, then we need a motion on the resolution, do I have a motion.

Mr. Bonforte stated I'll make a motion to take a vote on 122 West Main Street and 25 South Croton Avenue, section 69.80 block 2 lots 18 and 19, application number PB2015-0293, the date is April 26, 2016, Tortorello and Chisholm Lot Line Adjustment.

Chairman Cosentino stated okay that 69.80-2-1-19, we have a resolution by Mr. Bonforte, do we have a second?

Mr. Vigliotti stated I'll second that.

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

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 4 to 0.

Mr. Bainlardi stated just to confirm for the record that we're adopting approval of a negative declaration and preliminary and final subdivision plat approval.

Chairman Cosentino stated and that will also be in the resolution.

Mr. Bonforte stated thank you, John.

Chairman Cosentino stated you're all set.

Mr. Tortorello stated can I just ask a quick question, can you tell me what come next?

Chairman Cosentino stated did you pay your bill? I'm only kidding...

Mr. Tortorello stated I may get some money back, actually.

Chairman Cosentino stated you may get some money back, right. Yeah, go ahead, what do you need.

Mr. Tortorello stated is there anything else that I have to do?

Anthony Oliveri stated you have to submit the Mylar plat for signatures.

Jan Johannessen stated two minor changes on the plat, the title of the plat has to include the words final plat, its currently preliminary plat and then the condition that we talked about this evening about adding the note about no future subdivision.

Mr. Tortorello stated can someone send me the language?

Jan Johannessen stated I'll send you the language.

Chairman Cosentino stated I'm sure you've done this many times.

Mr. Tortorello stated alright, thank you gentlemen, have a good evening.

Chairman Cosentino stated thank you, Frank.

Jan Johannessen stated Chairman, who made the second on the adoption?

Mr. Bonforte stated Mr. Vigliotti.

Chairman Cosentino stated Mount Kisco Supply would you come up and identify yourself for the record please?

**3. Mt. Kisco Supply – 369 & 375 Lexington Avenue
PB2015-0300, 80.48-4-13, 16, 17, (SBL)
Site Plan**

Mr. Anthony Monteleone of Monteleone & Monteleone, Mr. Robert Pasquale, property owner, Mr. Peter Catizone of Catizone Engineering.

Mr. Monteleone stated Anthony Monteleone, attorney for the applicant.

Chairman Cosentino stated how are you.

Mr. Pasquale stated Robert Pasquale, property owner.

Mr. Catizone stated Peter Catizone, Catizone Engineering.

Mr. Pasquale stated good sir, how are you today?

Chairman Cosentino stated still vertical.

Mr. Pasquale stated that's important.

Chairman Cosentino stated okay, you're here for a draft resolution of approval. Jan?

Jan Johannessen stated this application involves a number of approvals from the Planning Board subdivision plat approval for the two lots on West Street, site plan approval, change of use permit, and a wetland permit. Tonight's resolution focuses solely on the subdivision, the granting of preliminary subdivision approval along with the negative declaration of significance under SEQRA, following preliminary approval, the applicant will get approvals from the Village Board for the rezoning of the property or the adjustment of the zoning district boundary line and also obtain required variances from the Zoning Board of Appeals. So the applicant will be back before you for several other approvals, as I mentioned earlier, change of use permit, site plan approval and a wetland permit. But the applicant has revised it conceptual site plans and preliminary plat in conformance with Staff's recommendations and suggestions and I think it's in fine shape for preliminary plat approval for this evening.

Chairman Cosentino stated now this is a public hearing too, we'll have to close the public hearing before we do anything else. Is there anybody from the audience that wants to talk on this behalf? We need to close the public hearing first.

Mr. Bainlardi stated I make a motion that we close the public hearing for Mount Kisco Supply.

Chairman Cosentino stated do I have a second?

Mr. Bonforte stated I'll second that.

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

UPON ROLL CALL VOTE:

Mr. Bainlardi - aye

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

The motion carried by a vote of 4 to 0.

Chairman Cosentino stated we've all read the resolution, its on the site plan, nothing to do with anything.

Mr. Monteleone stated subdivision.

Chairman Cosentino stated subdivision, sorry, there's no problems on this on your end...

Mr. Miley stated no additional...

Chairman Cosentino stated and none with counsel.

Whitney Singleton stated nothing.

Chairman Cosentino stated then I think we should vote on the resolution. Do we have a motion?

Mr. Bonforte stated I'll make another, I'll make a motion...

Chairman Cosentino stated oh, you're good tonight.

Mr. Bonforte stated well I step up sometimes. I'll make a motion to adopt the preliminary subdivision plat approval for 369 Lexington Avenue section 80.48 block 4 lots 13, 16, and 17, application number PB2015-0300, the date is April 26, 2016 and also recognize the negative declaration included in this preliminary subdivision plat and do I need to mention the ZBA in any manner? I think that's fine, I think that's all we need to mention as a motion.

Mr. Monteleone stated I'll address that.

Chairman Cosentino stated the motion was made by Mr. Bonforte, do I have a second?

Mr. Vigliotti stated I'll second it.

Chairman Cosentino stated seconded by Mr. Vigliotti, on the question. Will the Secretary poll the Board, please?

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 4 to 0.

Mr. Monteleone stated we have had, we did appear before the Zoning Board of Appeals, they are reserving their decision until you've advised them as to subdivision approval. So if you might forward to them preliminary subdivision approval. Similarly with the Village Board, we've actually had a public hearing with the Village Board, the petition has been filed and they too are waiting for your action so they can give final approval.

Chairman Cosentino stated good Tony.

Whitney Singleton stated no, the Village Board already approved it.

Mr. Monteleone stated pardon me?

Whitney Singleton stated the Village Board approved it conditionally upon the subdivision being approved, you don't have to go back to the Village Board.

Mr. Monteleone stated so just give the manager a copy of it so that the records complete.

Chairman Cosentino stated gentlemen, thank you.

Mr. Catizone stated thank you so much, good night.

Mr. Monteleone stated thank you.

Mr. Pasquale stated thank you all, good night.

Chairman Cosentino stated thank you Tony. HVA Realty LLC.

**4. HVA Realty, LLC – 299 Kisco Avenue (Volvo)
PB2015-0310, 69.44-2-1 (SBL)
Amended Site Plan**

Mr. Eric Kingsbury of Langan Engineering and Mr. Tom Kriz of the Premier Collection.

Chairman Cosentino stated alright, this is also a public hearing. Is there anybody from the audience that wants to speak on behalf of this application, which is HVA Realty, LLC. Okay gentlemen...

Mr. Kingsbury stated I'm Eric with Langan Engineering.

Mr. Kriz stated Tom Kriz with the Premier Collection.

Mr. Kingsbury stated we're here before you to bring the parking in conformance with the previously approved site plan and to install porous pavement over the gravel storage area. We have gone back and forth with your Staff to address their comments, one additional gravel comment that your Staff had was to eliminate the metal storage area in the northeast corner of the property, the client agreed to it, so we'll note that on the site plan to be removed.

Chairman Cosentino stated alright, Jan?

Jan Johannessen stated the last time the applicant was before the Board, there was some question as to whether there was a jurisdictional watercourse adjacent to the property, they identified on the plans as a drainage ditch. Subsequent to the meeting, we went out there and determined it was a watercourse jurisdiction under the Wetlands Ordinance. Therefore the applicant has now applied for, in addition to site plan approval, a wetland activity permit and the public hearing is being held on the wetland permit. The applicant really had addressed the majority of our comments that were issued under the conceptual review, we noted that the metal conex trailer was on the site and the applicant has agreed to remove it, the only other comments that we had really pertain to the lighting plan, they did provide a photometric layout, there's a table that needs to be provided on that plan that demonstrates conformance with some of the Village's lighting standards absent that I didn't have any additional comments.

Chairman Cosentino stated Anthony, do you have anything on this?

Anthony Oliveri stated most of our stuff was addressed, the one thing that we did note and that we discussed in the work session was the dimension of the parking spaces. The plan is using the old site plan dimensions of 9 feet wide, which is long term parking under our Code. So the question was for the newly created or newly configured spaces, should those come up to current Code standards, 9 ½ feet by 18 ½ feet and I think that's the direction we were going for just the newly created spaces, they should be current...

Chairman Cosentino stated they could comply with the new...

Anthony Oliveri stated the current standards.

Mr. Bainlardi stated can you just identify for us which ones are the newly...

Anthony Oliveri stated well the newly configured area towards the east side along...

Mr. Kingsbury stated you're talking about Holiday Inn...

Anthony Oliveri stated Holiday Inn Drive there, yeah, along there...

Mr. Kingsbury stated these 7 parking spaces.

Anthony Oliveri stated and possibly the ones in the southwest corner that are getting restriped, there was some question as to whether those maybe should come up to standards, current standards and I think there was also a question with the very corner spot in that southwest corner because even on the existing site

plan, it goes over the property line, that space and it's within the buffer area and if you have excess parking can, can that maybe, that corner space be eliminated and maybe the remainder, you have 6 spaces remaining there, could those be 9 foot 6 [inches] wide, up to current dimensional standards.

Mr. Kingsbury stated going back to the one along Holiday Inn [Drive], there is already existing striping there for parking spaces, so I would...

Anthony Oliveri stated I think it's different than the site plan of record.

Mr. Kingsbury stated we configured it so it could flow a little bit better through.

Anthony Oliveri stated so if it's new, newly configured the thought is that it would go up to current...

Chairman Cosentino stated you're up to the new standards.

Mr. Miley stated are they being considered long term parking? Are you storing vehicles? What's the proposed use for those spaces, other than just restriping them?

Mr. Kingsbury stated they would be for storing vehicles.

Mr. Miley stated so you're going to classify it as long term use?

Mr. Kingsbury stated that would be...

Mr. Kriz stated yeah, I think the ones out front would definitely be customer parking.

Mr. Miley stated short term parking for customer?

Mr. Kriz stated yes.

Anthony Oliveri stated so the short term should be 9 foot 6 [inches] under the current code.

Mr. Kingsbury stated okay.

Mr. Vigliotti stated when the vehicles are serviced, where are the customers parking?

Mr. Kriz stated service is usually here and sales is usually right here and the techs are parking back in here.

Mr. Vigliotti stated oh, the techs are parking back here, so this is not then long term parking.

Mr. Kriz stated when I say techs, the techs are parking the service vehicles back there, staging them to come into the shop.

Mr. Vigliotti stated okay, so its not long term parking then it is, cars are going in and out throughout the day as they're being serviced...

Mr. Kriz stated if you want to consider it that, short term I don't know what that means if its 15 minutes...

Anthony Oliveri stated employee parking or something all day would be long term parking.

Mr. Kriz stated then I would say that would be short term as well.

Mr. Vigliotti stated okay.

Anthony Oliveri stated I think the bottom line is that that area in the back that's reconfigured and that front corner should try to be brought up to current...

Mr. Kingsbury stated okay.

Anthony Oliveri stated the other thing was the other spaces along the north side, the original site plan called for a 2 foot overhang, because it was only striped at like 16 feet.

Mr. Kingsbury stated yup.

Anthony Oliveri stated so you need to show that, I don't know if there's going to be a fence there or what...

Mr. Kingsbury stated there's no fence proposed between the proposed porous pavement or the curb.

Anthony Oliveri stated so you need to show that in the site plan that there's enough room for a 2 foot overhang.

Mr. Kingsbury stated okay.

Anthony Oliveri stated that the original site plan called for, that's all we have.

Mr. Vigliotti stated Anthony, can you explain the 2 foot overhang because that...

Anthony Oliveri stated well I think what happened on the original site plan was they had room to, the argument was that they overhang the front 2 feet of the car, the front tires would pull up to that point...

Mr. Vigliotti stated right.

Anthony Oliveri stated so they didn't need to stripe it for 18 feet, they did a 16 foot striping space there because there was space for an overhang. So they just want to continue that condition, so just note it on the new site plan.

Mr. Vigliotti stated should there be a delineation between long term storage with curbing to short term, or are we okay with this?

Mr. Miley stated I think they just need to identify the areas that are going to be proposed as long term/short term. And those proposed as short term create the sizing.

Mr. Vigliotti stated okay.

Anthony Oliveri stated again its continuing what was on the original site plan and if we were to reconfigure that now, we go back to the other argument of bringing everything to current dimensions and you may end up with a shortfall of parking.

Mr. Bonforte stated any questions or...?

Mr. Kingsbury stated no, if the Planning Board doesn't have any major concerns we'd ask that you close the public hearing, since there is no one from the public.

Chairman Cosentino stated I'm going to leave the public hearing open until the next meeting. Were there any other questions, wait, I take that back, were there any other questions or anything else on this?

Anthony Oliveri stated that's all we had, the parking.

Jan Johannessen stated I had some lighting comments that I'm sure can be answered. It was basically adding a table to the lighting plan demonstrating conformance.

Chairman Cosentino stated that's not a problem...

Mr. Miley stated excuse me?

Chairman Cosentino stated any more you want to add?

Mr. Miley stated no additional, no.

Chairman Cosentino stated then we can close the public hearing.

Mr. Bainlardi stated I make a motion that we close the public hearing for HVA Realty, 299 Kisco Avenue.

Chairman Cosentino stated motion made by Mr. Bainlardi...

Mr. Bonforte stated I'll second that motion.

Chairman Cosentino stated second by Mr. Bonforte, on the question. Will the Secretary poll the Board please?

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 4 to 0.

Mr. Bainlardi stated next step to draft a resolution?

Chairman Cosentino stated yeah, we can go on a draft resolution.

Jan Johannessen stated I can have that prepared for the next meeting, Chairman.

Chairman Cosentino stated okay, we'll prepare for the next meeting on a draft resolution for approval. Okay.

Mr. Kriz stated excellent. So that would be something you would vote on at the next...

Chairman Cosentino stated yeah.

Mr. Kriz stated okay, excellent. Thank you.

Mr. Kingsbury stated thank you very much, have a good evening.

Chairman Cosentino stated thank you very much. Thank you for coming. Okay, Bare Burger.

**5. Bare Burger – 441 Main Street (Former Friendly's)
PB2016-0322, 80.50-4-4
Amended Site Plan**

Mr. Viktor Solarik of VKS Architect was present.

Mr. Solarik stated yes.

Chairman Cosentino stated want to come up and identify yourself for the record please.

Mr. Solarik stated absolutely.

Mr. Bonforte stated hello again.

Mr. Solarik stated good evening Viktor Solarik, VKS Architects representing Bare Burger. I'm glad to be here for a formal site plan review. The reason is to basically update a site plan that was approved last in 1983 and since then there were some changes that were done without the approval of the Planning Board or anybody else for that matter. So we're trying to bring it back into compliance, we're reducing the overall lot coverage to bring it back down to under 80% and the other major component is that we're proposing to provide an outdoor seating deck on the south side of the building which is would overlook Leonard Park and arguable enhance the experience and for that we also need a special permit use permit. So it's a combination special use permit and site plan approval application. We have gotten, we actually met with the Building Inspector and were able to iron out a lot of questions, we have gotten input from the Village Planner and also spoke with the Village Engineer so we tried to address as many of the questions ahead of time. There was a question about site lighting which came from Jan and we have actually updated the photometric plan so we now meet the standard.

Chairman Cosentino stated I apologize, I called one of turn, I should have called 154-162...

Mr. Solarik stated should I go back?

Chairman Cosentino stated no, you mind if we finish this?

Mr. Palmer stated absolutely, please proceed.

Mr. Solarik stated sorry.

Mr. Palmer stated no problem.

Chairman Cosentino stated thank you.

Mr. Solarik stated I think that the last memo that we got from the Building Inspector had no comments, Kellard Sessions questions were relating to the special use permit which obviously we need to go through, the lighting plan which is included here, thus provide information and the level of lighting that's required, I believe, by the Village Code.

Jan Johannessen stated is that a revised lighting plan?

Mr. Solarik stated that's a revised lighting plan...

Jan Johannessen stated from the one that I reviewed.

Mr. Solarik stated that is correct.

Jan Johannessen stated regarding the lighting plan, you're proposing to reuse some, all of the light poles.

Mr. Solarik stated correct.

Jan Johannessen stated have you taken a look at those light poles just to determine that they're sound...

Mr. Solarik stated we have...

Jan Johannessen stated the one that you can see from Main Street, I think you can see through.

Mr. Solarik stated well that's actually, that's on the front that right in front of the building, there's a bunch of them close right next to the building, they're all coming down. We're really just keeping the 6 [inaudible] lights and they seem to be in good shape, I will have another look just to make sure that we're not leaving something that's going to fall down next year.

Jan Johannessen stated they'll be painted to match the light fixture?

Mr. Solarik stated yes.

Jan Johannessen stated the hours of operation, do you have any issue with turning them off when there are not operating hours.

Mr. Solarik stated the only question is during winter season whether they come at 6 p.m., if its too late but you know...

Jan Johannessen stated it doesn't need, the timing isn't as important as just identifying during non-operating hours.

Mr. Solarik stated honestly I don't know, I would think that maybe in the middle of winter, 5 o'clock would be good to have them on but its not essentially.

Jan Johannessen stated sure. Just for the Board to know that all special use permits require public hearings, so this application will require a public hearing.

Mr. Solarik stated okay.

Jan Johannessen stated other than that we had some comments on the lighting plan which appear to have been addressed but we have to take a look at the plan revision.

Mr. Solarik stated absolutely.

Chairman Cosentino stated I have a couple question on the plan itself.

Mr. Solarik stated yes, sir.

Chairman Cosentino stated here, on the south side...

Mr. Solarik stated yup.

Chairman Cosentino stated I assume you're putting a concrete curb here.

Mr. Solarik stated that is correct.

Chairman Cosentino stated this will be all concrete, over here.

Mr. Solarik stated yes.

Chairman Cosentino stated and this is all concrete?

Mr. Solarik stated that is an existing curb up to here, from here to there it's a concrete curb, one major reason is that there's actually a slight drop of elevation from the pavement down to the grass area...

Chairman Cosentino stated so this is an existing concrete curb?

Mr. Solarik stated no, there's not concrete curb there now.

Chairman Cosentino stated you're putting that in though.

Mr. Solarik stated yes.

Chairman Cosentino stated and I see you have stops here.

Mr. Solarik stated they are there now.

Chairman Cosentino stated possibly you won't need them though, if you have the concrete curbing.

Mr. Solarik stated well possibly.

Chairman Cosentino stated its going to cut down on the length of the parking spaces.

Mr. Solarik stated right.

Chairman Cosentino stated you need 9 feet, right Mr. Miley.

Mr. Miley stated 9-6 on the width, 18-6 on the length.

Chairman Cosentino stated with the stops there, you're not going to have that.

Anthony Oliveri stated well the thing is the Code actually prohibits wheel stops and requires concrete curb...

Mr. Solarik stated Village Code?

Chairman Cosentino stated that's what I'm saying, you can't have them anyway. Take them out because you're going to have concrete curbing.

Anthony Oliveri stated yeah, it's actually in the [inaudible].

Mr. Solarik stated okay well what about the, that's fine, I'm okay with it...

Chairman Cosentino stated good, I'm glad.

Anthony Oliveri stated I think the thing to do is if you, I think the Board may prefer to see the concrete curb...

Mr. Vigliotti stated yeah.

Anthony Oliveri stated and as long as you have the overhang behind the curb, you don't need the wheel stops.

Chairman Cosentino stated no and you need concrete curbing, is there concrete curbing on...

Mr. Solarik stated no, there's not.

Chairman Cosentino stated you need concrete curbing there also.

Mr. Vigliotti stated and eliminate the wheel stops.

Chairman Cosentino stated and eliminate all the wheel stops.

Mr. Solarik stated so you want all the wheel stops gone and all new curbing all the way around. They're going to have a heart attack.

Chairman Cosentino stated as long as I don't have one.

Mr. Bonforte stated that's right.

Anthony Oliveri stated now that, the thing you also need to look at that we kind of spoke about, as long as you don't create any drainage issues by doing that. It looked like everything drains to that one [inaudible].

Mr. Solarik stated right, did you have a chance to look at it because I was actually out there today, I looked at it, everything does drain down too...

Chairman Cosentino stated I think it will look good also, aesthetically.

Mr. Solarik stated yeah, I mean...

Chairman Cosentino stated also, the tables in the front, I'm still...

Mr. Solarik stated you don't like it.

Chairman Cosentino stated you know you need that street look and the tables in the front really doesn't because they're close.

Mr. Solarik stated it's really a very small area.

Chairman Cosentino stated I know but tis close and you're taking all that green away. I have a question for Mr. Miley, being that it's a busy street and tables are, I don't know, I'm not, do you find that to be a possible problem with traffic and trucks and...

Mr. Solarik stated would this help you?

Mr. Miley stated is it a concern?

Mr. Bonforte stated I believe there's a safety concern as Mr. Cosentino.

Mr. Miley stated it's like any other outdoor seating throughout the Village. I think he's providing some fencing that should be in the form of bollards into the curbing, excuse me into the patio.

Mr. Solarik stated it's attached to the patio. You can't really jump over unless you [inaudible].

Chairman Cosentino stated that's even going to take the aesthetics even more away.

Mr. Solarik stated but you also have landscaping that's...

Chairman Cosentino stated I'm just one member, I don't like the tables in the front, I don't know about the other members, I just, you know, I like to see green, I like to see shrubs and I think the building deserves that look.

Mr. Miley stated Chairman, to address your concern as far as safety, it could be designed in a way that meets the Code for safety.

Mr. Bonforte stated that was my comment.

Mr. Miley stated absolutely, yeah.

Chairman Cosentino stated but then you're going to need bollards, you're going to need something even more that takes the aesthetics away from the front of the building.

Mr. Miley stated it wouldn't be, I don't want to speak on behalf of the applicant, it wouldn't be in the form of yellow bollards, you'd have to create aesthetically a post or something decorative.

Chairman Cosentino stated yeah, well then, you know...

Mr. Solarik stated I mean we had, actually last week we had a presentation to the ARB, we had designed the railings around the deck and the front area seating area, with the aesthetics in mind and its not a industrial, ugly looking railing, metal pipes welded together, its really a very elegant, nice thing.

Chairman Cosentino stated well I haven't seen it so I don't, if any other member wants to talk...

Mr. Miley stated Viktor, did you bring [inaudible] with you?

Mr. Solarik stated you know, I should have but I don't think I brought it.

Mr. Bonforte stated the last page includes the shrubbery...

Mr. Solarik stated I mean the railing kind of, it's...

Mr. Bonforte stated well the Viktor, so you can answer also in this respect, when I look at the dimensions, to me from that tightest point of the outdoor seating and where the fencing would be, or you know and landscaping. It looks like there's only 3 feet of curb space to the roadway and to me that just causes me concern so...

Chairman Cosentino stated and me...

Mr. Bonforte stated I'd like to state that.

Mr. Solarik stated I'm sorry, where is that?

Mr. Bonforte stated here I'll show, from this point right here and then when you look at this 9 foot 5 [inches] in the corner of this building to here, the 9 foot 5, if I just judge this right here, this space here, to me that's 3 feet with a roadway you know...

Mr. Solarik stated its not quite correct because 9 foot 5 is to the property line but the property line is not the curb line.

Mr. Bonforte stated the curb line is a little farther out, okay.

Mr. Solarik stated the existing sidewalk is 5 feet wide, no matter what, that's not being reduced.

Mr. Bonforte stated well I can't see 5 feet here but even at 5 foot, this table is probably a little more than 5 foot, I have a concern, that's, I'd have to see more detail and more plans or something.

Mr. Solarik stated I still think that with all due respect, it's part of the pedestrian zone, the sidewalk, the seating, the landscaping that's all part of the pedestrian zone where people are walking, jogging, eating. In New York City you have it on every corner, I think it's an enhancement of the front of the building because it actually announces its presence to the street and I think it will attract...

Chairman Cosentino stated I think if I saw it I mean I...

Mr. Vigliotti stated well I agree with you that it could be attractive, not necessarily here, so we're taking away the existing greenspace to provide a patio for seasonal dining so after the season what we have is a patio which is either, its not going to be macadam but it will be either patio block or will be concrete, so we've taken what appears to be now, kind of country look, town and country look to the front of the building and I am for outdoor dining, you have plenty of it, you really do, if this was all that you had, it would be another, probably another discussion but there's so much outdoor that you have 10 or 12 tables, you're abutting right to the sidewalk, according to what I see here with the patio block in order to get the square footage that you want, so you are literally right up against the 5 foot sidewalk. I don't think it's an enhance for the Village at large or that area of Town that abuts the parking, there's a lot of greenspace in and around the Village, I agree with you an enhancement for your facility but it's not enhancing the town and country experience. It might enhance the dining experience for those 4 people, because there's 2 tables with 4 chairs.

Mr. Solarik stated I hear you but at the end of the day, isn't it about the people in Town?

Mr. Vigliotti stated well at the end of the day I think the folks who have the outdoor dining at the south end will have a wonderful experience, those 10 or 12 tables, I just would like to see the greenspace, not only maintained but enhanced in this area.

Mr. Solarik stated well and I couldn't agree with you more about the greenspace, we certainly need more of it everywhere we can it and we're also taking away asphalt pavement and adding landscaping around the whole property.

Mr. Bainlardi stated Viktor, can you take us back and remind, do you have the existing plan that's existing?

Mr. Solarik stated it should be in the submission.

Mr. Bainlardi stated I want to see what's existing...

Mr. Solarik stated to be honest with you, well it's very simple actually, in terms of the overall change...

Anthony Oliveri stated the last of the drawing set is the existing site plan.

Mr. Bainlardi stated is that showing the existing condition? It's not on mine for some reason.

Jan Johannessen stated the second to last is the existing survey.

Mr. Bainlardi stated hold on a second. So currently this is all macadam?

Mr. Solarik stated no, no, he missed a few things, the surveyor missed these, this is the green area over here, the sidewalk is here, that's all concrete, this is concrete, in addition there's a ramp that goes down here and this is the green area.

Anthony Oliveri stated this is all green area right now.

Mr. Solarik stated only up to a corner of the building.

Anthony Oliveri stated alright, so one thing if I may, this is in the DEP Main Street area, so if you're going to pave this and put outside dining here. You're going to have to go to DEP for stormwater, SWPPP. Any conversation of pervious to impervious in the Main Street area is going to require that, that's DEP.

Mr. Solarik stated okay.

Anthony Oliveri stated and it may be something that you want to avoid, actually.

Mr. Bainlardi stated and that's true even if you substitute other impervious surface.

Anthony Oliveri stated if you, you could maybe use a pervious treatment that they might accept, whether that's going to work for the outdoor dining or not, I don't know.

Mr. Solarik stated is, can I ask, is the objection generally to the elimination of greenspace or to the outdoor seating in the front of the building.

Mr. Bainlardi stated that's what I wanted to get to, I wanted to go back to where were when you came in the last time...

Chairman Cosentino stated Ralph brought out one thing that I didn't even realize when I said I really didn't like it, is that you're going to have that outdoor seating for a few months and then the rest of the year you're just going to see a patio with nothing in front of it. And you're only talking about 2 seats...

Mr. Bainlardi stated again, just to go back so we're all on the same page from where this started, the initial conceptual application or the last time you were before us you had a larger area for, proposed...

Mr. Solarik stated correct, yes.

Mr. Bainlardi stated and one of the concerns that was raised was the proximity to the street, the concern about safety...

Mr. Solarik stated the loss of landscaping...

Mr. Bainlardi stated and the other was the loss of landscaping. So you've now come back, you've basically in response to those comments, you've come back and you've reduced roughly 40%, almost 50% of what you had proposed and in place of a patio, an area that you're going to have for seating, you're proposing a planting bed or is it a raised box?

Mr. Solarik stated no, no, no, planter.

Mr. Bainlardi stated planter in front to kind of create some separation between and move some of those seats...

Mr. Solarik stated we have the landscaping design already proposed.

Mr. Bainlardi stated after the last meeting, I went out, I don't know if other members did...

Chairman Cosentino stated I did.

Mr. Bainlardi stated I assume you did and I had some of the same concerns when I was would there because I like the idea of having seating. I like the idea of creating some vitality in the Village and when its done right, I don't think it's a detractor aesthetically, in fact a lot of times I think its an enhancement. Different enhancement, different aesthetic enhancement, different feeling than maybe the greenspace but no less valuable. The question here is can we get both done, I think is the balance, I think you've already taken a step in the right direction by making the space smaller, you've created this buffer in between the street with the plantings so you get these seats away. Mike, if you look at the site plan, it's the first plan, I think its 1 inch equals 10 feet...

Chairman Cosentino stated you had said something, there's a planer in front of the seats.

Mr. Bainlardi stated so what he's showing here, that's all planting in and around...

Chairman Cosentino stated I didn't see that.

Mr. Solarik stated there's planting really pretty heavy landscaping that's enclosing this whole area.

Mr. Bainlardi stated this is all landscaping, this all landscaping, the block is just that, your surface...

Chairman Cosentino stated I don't see how he's going to fit all that in there with the tables.

Mr. Solarik stated I'm going to say 16 feet...

Mr. Bonforte stated the length across the front?

Mr. Solarik stated yeah.

Mr. Bainlardi stated is there some sort of, on the front of the building now...

Mr. Solarik stated there is a, first of all there's a French door that goes out, that's already there, there was a large window we changed it to a door, it was presenting that business to the street. It opens up into some...

Chairman Cosentino stated how many feet do you have for the plantings? How many feet is there?

Mr. Solarik stated well it's a wedge, so at the widest point is about 7 feet and it goes to...

Chairman Cosentino stated no, no, just for the plantings alone, 7 feet?

Mr. Solarik stated yes.

Mr. Bonforte stated at the widest point, Joe.

Mr. Solarik stated then it goes down to a point.

Chairman Cosentino stated the widest point...

Mr. Solarik stated correct.

Chairman Cosentino stated the narrowest point is what?

Mr. Solarik stated it goes down right up to 0 and then on the side, you also have landscaping on the side.

Chairman Cosentino stated I didn't see that from you, so there is planting there.

Mr. Bainlardi stated right and then you're creating this bed in here.

Mr. Solarik stated correct.

Mr. Bonforte stated nice.

Mr. Bainlardi stated and this bed here on the corner, is that?

Chairman Cosentino stated I didn't see that.

Mr. Bonforte stated Viktor, one more question on the front, I think it's an up-lighting designation, is that thing there, that removal?

Mr. Solarik stated no, that's removed. Those are actually the huge uprights which are obnoxious but there are 3 goosenecks that light up the gable end where the signage goes, okay? Then there's an awning and underneath the awning they're just wall sconces, so just very discreet lighting underneath the awning.

Mr. Bonforte stated wait, there's an awning that you're installing? Which is a nice feature.

Mr. Solarik stated yes, again it's about presenting the business to the street.

Mr. Vigliotti stated I'm sorry, I missed that, where is the awning?

Mr. Solarik stated the awning is on the front of the building and basically there's one little awning which is kind of, you know, logo or something that this particular business has so they present the same idea everything they go, they have an awning, people sit out front, and it's a vibe that you know, presents itself to the street, to the Town.

Mr. Bonforte stated what's the depth of the awning from the space?

Mr. Solarik stated 6 feet.

Mr. Bonforte stated 6 and the depth of the seating here?

Mr. Solarik stated 6.

Anthony Oliveri stated from the corner of the seating to the face of the curb it scales to be about 7 ½ feet.

Mr. Miley stated yeah, I did the same thing, its needs 6 foot minimum for pass-ability.

Mr. Bainlardi stated yeah, you got you, that widens as you move to the south, it gets further and further away from the but also...

Mr. Solarik stated yeah there's one power pole or utility pole other than that...

Mr. Bonforte stated Jan...

Mr. Bainlardi stated and this is the main entrance.

Mr. Solarik stated this is the main entrance, yeah.

Mr. Bainlardi stated so these can be open in the summer...

Mr. Solarik stated correct and that's actually a double door with side lights so overall it's a 10 foot wide opening. Its nice glass, you can see inside, you can see what's going on...

Mr. Bainlardi stated and some people can be sitting inside while this is open and you create this little...

Mr. Solarik stated correct.

Mr. Miley stated Viktor, excuse me Chairman, the rendering you sent today, does it include the awning, the landscaping, everything.

Mr. Solarik stated that was for the ARB, yeah.

Mr. Miley stated yeah.

Mr. Solarik stated we had other things...

Mr. Miley stated I'll go print one out maybe, I don't have a problem doing that, I have a rendering that you sent.

Mr. Solarik stated thank you.

Mr. Bainlardi stated thank you.

Mr. Vigliotti stated question, will you be serving alcoholic beverages?

Mr. Solarik stated yes.

Mr. Vigliotti stated will folks be allowed to bring that alcohol out onto the patio in front?

Mr. Solarik stated I would expect on the patio.

Mr. Vigliotti stated right, would the patio at any point be used as an overflow for those folks at the bar? The concern I have is it Leonard Park, we have lots of kids who are up and down that sidewalk going to the park, coming back from playing soccer or baseball or softball. The side tables I think are going to be a little different meaning you're going to eat there and service will come out and it won't be that, I don't think you're going to have doors that are going to open, are you? The side tables?

Mr. Solarik stated there is a side exit door that enters to the deck.

Mr. Vigliotti stated right but its not same type of door that opens up.

Mr. Solarik stated no, its not.

Mr. Vigliotti stated how far is the bar from this patio area?

Mr. Bonforte stated I think its in the middle of the...

Mr. Solarik stated the bar is pretty much in the middle of the plan on the north side, the bar is here.

Mr. Bonforte stated point again Viktor, just point to the bar, please.

Mr. Solarik stated this is L-shaped bar.

Mr. Vigliotti stated and the patio area is here, this is the bar.

Mr. Solarik stated correct.

Mr. vigliotti stated no if folks and I'm very conservative, conservative for the folks that are going to use the park, the overflow that may take place of folks who can't get a seat and they decide I'll just stand out here and I'll have a drink or two until I can get in and this area becomes let's take the tables out on Saturday night because we have that overflow. I just have, I think downtown it's a different concept, and I think it's a wonderful concept downtown, I'm a little concerned about the children that use the park and this becoming and it can, we don't know, we hope that you're very successful and I think you will be but what that success may bring an overflow and I think you have very limited overflow for, wouldn't necessarily need if it just a restaurant but if you have a very active bar, I have a little bit, I do have a problem with it and I just leave it at that.

Chairman Cosentino stated I have to be honest with you, I didn't know about, I didn't look and I apologize for that about the 7 feet of shrubs in the front, so I mean, I did have a problem with it, I don't know if I have a problem with it now, I don't know.

Mr. Bonforte stated Anthony, could you for my benefit, could you go back to that measurement you quoted, I think it was...

Anthony Oliveri stated yeah, I'll show you.

Mr. Bonforte stated could you point out because I want to think, is my 3 feet, 4 feet wrong...

Chairman Cosentino stated yeah, 7 feet is a lot.

Anthony Oliveri stated so this, you know, let's do the landscaping. So in that corner, I scaled it to the curb line at 7.5 feet but again, because this is, right now this is greenspace right...

Mr. Bainlardi stated except for some entrance and sidewalk.

Anthony Oliveri stated well the entrance is here, right?

Mr. Solarik stated correct.

Anthony Oliveri stated so this is green, this spot right here that you're proposing flagstone, you're in the New York City DEP Main Street area, you have to go to the DEP for approval, I'm just letting you know.

Mr. Solarik stated right.

Anthony Oliveri stated I know you don't have an engineer on this job you'll have to get an engineer to do that, either that or you'd have to go them for some kind of pervious pavement treatment that they'd accept and then they wouldn't require a SWPPP.

Mr. Solarik stated right.

Chairman Cosentino stated and they're tough on that too.

Anthony Oliveri stated so, right, so that needs to be...

Mr. Bainlardi stated what about decking? Can we use decking?

Anthony Oliveri stated could be yeah, its still a pervious gravel underneath, they might accept that, you know. You'd at least have to go to them and find out if you need to get a SWPPP or not.

Mr. Solarik stated right, right.

Anthony Oliveri stated and I'm assuming, I don't think any other spot on the property you're changing from pervious to impervious.

Mr. Solarik stated that is correct.

Anthony Oliveri stated so you're okay otherwise, except for this.

Mr. Solarik stated as a matter of fact we're removing a piece of...

Anthony Oliveri stated they don't care if you go to green obviously.

Mr. Miley stated this might give a better understanding.

Mr. Bonforte stated thank you.

Mr. Miley stated no problem at all.

Mr. Solarik stated this was just a quick sketch to demonstrate...

Mr. Miley stated and that's the other alternate view.

Chairman Cosentino stated and this is in the front.

Mr. Bonforte stated that's the same, is it?

Mr. Solarik stated yeah, I think they're all, just maybe a couple different views.

Mr. Bonforte stated a different angle...

Mr. Solarik stated one is from the left, one is from the right.

Mr. Bainlardi stated but this doesn't show the landscaping?

Mr. Solarik stated this was just done for the benefit of the round awning above the main entrance.

Jan Johannessen stated Viktor, any issue with increasing the size of the ink berries that are proposed...

Mr. Solarik stated I'm sorry?

Jan Johannessen stated increasing the size of the ink berries proposed in front of that patio there, they're at 3 gallons now, if you made them 5 gallons, they might be 30-36 inches when you plant them. I don't know if the intent was to screen that patio or not, if the intent is to screen it they should...

Mr. Solarik stated I think the intent is to enhance the front, I don't know that you necessarily screen the whole thing, you know the barrier is 30 inches high...

Jan Johannessen stated the railing is 30 inches high?

Mr. Solarik stated yeah because it doesn't need to be a guard rail, it's just...

Jan Johannessen stated you want the hedge to be at the height of the railing, if that's the intent you should go up to the 5 gallon.

Mr. Solarik stated I don't necessarily find the railing entirely offensive...

Jan Johannessen stated I don't either but I don't know if the Board is concerned about the...

Mr. Solarik stated because its softened at the bottom by the landscaping so that together acts as a barrier...

Chairman Cosentino stated this doesn't show me what I wanted to see. I want to see the railing and where the shrubs are going to be in front of it.

Mr. Solarik stated I'll make it pretty for you.

Chairman Cosentino stated right now?

Mr. Solarik stated not right, I don't have my computer here.

Chairman Cosentino stated no, I'm just saying, here I see a railing, I see two different types of canopies, I don't know where this door is, is the bar behind that door?

Mr. Solarik stated its not immediately behind it, there's a seating area...

Chairman Cosentino stated yeah, the bar is immediately behind the door here.

Mr. Solarik stated its not immediately behind it.

Chairman Cosentino stated and here I see, I guess it's the street some place over here. I just think it doesn't do anything for me.

Mr. Vigliotti stated how do we move on this, Mr. Chair.

Chairman Cosentino stated I mean well John, what do you, do you think this is a good enough rendering to satisfy you.

Mr. Bainlardi stated no, I don't think we're acting tonight, right?

Chairman Cosentino stated no, I'm just saying, looking at it because I mean.

Mr. Bainlardi stated well I think its an improvement to what's there but I also don't think this demonstrates fully what's on the plan.

Mr. Bonforte stated agreed.

Chairman Cosentino stated that's what I'm trying to...

Mr. Bainlardi stated as far as the question about a small area with a couple of tables, I'm not overly concerned about people behaving poorly and I don't think it's of a scale that really concerns. People want to, if kids want to see adults acting poorly, they can do it in their home.

Chairman Cosentino stated I don't think that's the point, I think the point is aesthetics and if I saw something maybe, how high is the railing?

Mr. Solarik stated 30 inches.

Chairman Cosentino stated maybe something a little bit lower with, I understand there's going to be 7 feet of shrubs in the front of it, I don't see that there.

Mr. Solarik stated you can't see it because the rendering was not made for that purpose.

Chairman Cosentino stated well that's why I don't see it.

Mr. Solarik stated certainly I can provide more information and illustrate how its going to look in its completed form but...

Mr. Vigliotti stated why a railing system, why can't it, I've shared the concerns that I have,, the railing system gives it this and it is the look now, this industrial look, the one corner railing abuts the side yard. So if you're walking by the 5 foot sidewalk and you have a stroller or a carriage or a bicycle, you could touch the railing when it gets to that point. The railing is right up to the sidewalk as opposed to a softening of shrubs coming up to the patio area. Is the railing to keep folks in?

Mr. Solarik stated is there a need to enclose a sidewalk with a barrier because I think there is something in the Code...

Mr. Miley stated there's only a 6 foot barrier requirement in our Code.

Mr. Solarik stated right.

Mr. Miley stated as far as the State Code, I would have to, I don't want you...

Mr. Solarik stated I don't think it's the State Code, I think it's the Village Code.

Mr. Miley stated the Village Code, the barriers are made up of wood, you know, nylon rope, it's nothing for protection, it's just for aesthetics and to delineate the area but it's also a lower provision, 30 inches.

Mr. Solarik stated right. So, I think that maybe we can work on that and soften it up and really do it up so that you can see the whole thing and decide...

Chairman Cosentino stated and I know you can do it, you've done it.

Mr. Solarik stated I'll try, whether that's something you can get behind.

Chairman Cosentino stated okay.

Anthony Oliveri stated and at the same time look into the DEP...

Mr. Solarik stated I will definitely look into that because obviously that, yes exactly.

Anthony Oliveri stated the change makes it...

Chairman Cosentino stated Michelle, we'll put him for the next meeting, we should get all the information by next week so we can see it.

Mr. Solarik stated now, can you tell me when we can schedule the public hearing or is it not next time because obviously we need to go to the public hearing for...

Jan Johannessen stated you need a public hearing on a special use permit.

Mr. Bainlardi stated can we schedule the public hearing.

Chairman Cosentino stated schedule a public hearing on this Jan.

Jan Johannessen stated you're probably looking at the second meeting May, I would imagine for the notice of 15 days...

The Secretary stated May 24th.

Jan Johannessen stated May 24th.

Chairman Cosentino stated okay.

Mr. Bainlardi stated we have public notice requirements.

Mr. Solarik stated okay.

Chairman Cosentino stated excellent, thank you.

Mr. Solarik stated thank you, I really appreciate it. Peter, thank you.

Mr. Miley stated yeah, no problem.

Chairman Cosentino stated okay 154-162 East Main Street. And gentlemen, I apologize again.

Mr. Palmer stated not a problem.

Chairman Cosentino stated it was way up the top of the page.

**6. 154-162 East Main Street – 154 Main Street (Former Border's)
PB2015-0309, 80.25-2-9 (SBL)
Special Use Permit**

Mr. Taylor Palmer of Cuddy & Feder and Chris Raffaelli of Norman DiChiara Architects were present.

Mr. Palmer stated we appreciate it. Good evening Mr. Chairman, members of the Board, Taylor Palmer with Cuddy & Feder on behalf of the applicant Modell's Sporting Goods. I am joined by Chris Raffaelli of Norman DiChiara Architects who has copies of our plans. We are before the Board tonight for a supplemental submission, the Board previously approved our special use permit two tenant space, this evening we're before your Board to review a third retail tenant space and hopefully we can go through some of the interior changes which includes an additional demising wall and Modell's space will not be increased in any way. The additional tenant space reflect a reduction of the Modell's space and additional spaces for 2 additional tenants, there's proposed entrances on each of the tenant spaces on main Street, there's also a shared corridor in the rear that allows for elevator access to the upper floors for the new tenant spaces. And if the Board would see fit, we can certainly go through some of those changes just to provide a visual breakdown of what we're done.

Chairman Cosentino stated I guess you can show the Board the changes, we went over them though with our Planner, but if you want to go over them, go right ahead.

Mr. Palmer stated its at the Board's discretion...

Chairman Cosentino stated they're minor changes here.

Mr. Palmer stated yes, they're very minor changes.

Mr. Raffaelli stated so we have, we've reduced, on the Main Street elevation floor, we've reduced the size of Modell's to make room for a middle tenant here, given them access to the lower level moved the stock room from the front of Modell's to the back, given a common vestibule upstairs. Downstairs the parking lot size, main entry to a common vestibule, entry areas to both of the other tenants and the entry to the lower level of Modell's.

Chairman Cosentino stated and shade out two windows in the back.

Mr. Palmer stated correct.

Mr. Raffaelli stated that's it.

Chairman Cosentino stated okay gentlemen, Jan, you have anything else?

Jan Johannessen stated no, I raised a couple of comments to the applicant's attorney this past week, they dealt with the screening of the, the tinting of the windows on the back side of the building facing the Blackeby Lot on the second floor, those are going to be on the north side of the building, those are going to

be storage stockrooms, we've recommended that those windows be tinted so you can't see into the storage rooms.

Chairman Cosentino stated right.

Jan Johannessen stated I wanted to clarify that that was acceptable...

Mr. Palmer stated that is acceptable.

Jan Johannessen stated the other issue was the previously proposed light boxes that are on the front of the window display areas in front of the cash registers on the Main Street façade, there was some back and forth between myself, the applicant's attorney, and the ARB about the legality of the light boxes. So the resolution that we've prepared kind of punts that to the ARB, if the light boxes are going to be acceptable by the ARB, that's fine, if they're not, they're to be replaced with something that is acceptable to the ARB.

Chairman Cosentino stated alright...

Jan Johannessen stated we didn't want the applicant to be punted back and forth between the Planning Board and the ARB, so we kind of left it in their lap.

Chairman Cosentino stated okay, anything, Mr. Miley?

Mr. Miley stated no, we've been in touched, we worked out all the Building Department issues.

Chairman Cosentino stated we have a resolution here, does anybody want to...

Mr. Bainlardi stated sure.

Mr. Vigliotti stated one question before we move forward, do you have an anticipated grand opening date?

Mr. Palmer stated we understand from our clients that they anticipate opening for, at least for the tenant space for Modell's for Back to School, they don't have a specific date but its Back to School.

Mr. Vigliotti stated oh Back to School, we're talking late August, early September.

Mr. Palmer stated I can't say the specific but Back to School is the intent.

Mr. Vigliotti stated okay.

Chairman Cosentino stated well understand that this Board does not want to hold you up.

Mr. Palmer stated we can't say more than enough, the Building Inspector has been more than accommodating and your Planning Board Planner has certainly been, has really helped through the process. So we can appreciate the consultants and Board's attention.

Chairman Cosentino stated thank you so much, that we like to hear. Okay, we have a resolution here, does anybody want to...

Mr. Bainlardi stated sure, I'll make a motion that we approve the special use permit for 154-162 East Main Street former Boarder's, Planning Board 2015-0309, 80.25-2-9.

Chairman Cosentino stated motion made by Mr. Bainlardi, do I have a second?

Mr. Bonforte stated I'll second that.

Chairman Cosentino stated seconded by Mr. Bonforte, on the question. Will the Secretary poll the Board, please?

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 4 to 0.

Mr. Palmer stated thank you and if I may make one comment...

Chairman Cosentino stated go right ahead.

Mr. Palmer stated its one comment from, it's in the whereas clauses for the second tenant space, the lower level indicates that it's 1,184 and from our application form it's actually 467 square feet, that's all.

Jan Johannessen stated is that page 2?

Mr. Palmer stated page 2, second whereas clause, subsection B, should be 467 square feet for the lower level.

Jan Johannessen stated change 1184 to?

Mr. Palmer stated 467.

Jan Johannessen stated I see that, yeah, typo.

Mr. Palmer stated really appreciate all of your help.

Chairman Cosentino stated alright, under conceptual, Bagnato.

**7. Bagnato – 205/215 Lexington Avenue
PB2016-0328, 80.32-4-6 (SBL)
Site Plan**

Mr. Anthony Crecco, the property owner, was present.

Mr. Crecco stated hello.

Chairman Cosentino stated would you identify yourself for the record please?

Mr. Crecco stated Anthony Crecco, president of 205 Lexington Avenue Corp. Bagnato. So you read my letter but I just want to give you a little history of why I'm here, we took the property over in 2008, there's two buildings on the property. There's a front building with 4 apartments and 2 retail spaces on the lower ground level, in the back there's a single-family house 3 bedrooms, 2 car garage. Somewhere in October 2014, there was a fire in the house, filed an application with the then Building Inspector to rebuild the house, he denied it, he said it was nonconforming, 50% rule, I won't get into the details, spent a year with the Zoning Board and legal fees, got nowhere. Finally, I got rid of my attorney, I came to the March meeting myself, with my wife and 3 year old and they gave us a preliminary resolution or approval to rebuild the house. They told me that the property had tremendous violations, the I need to come to the Planning Board, that's why I'm here but I have no violations that were given to me, I have nothing that was issued so I want to resolve whatever needs to be resolved and so this is the site plan that I submitted. In the 12 months that I was dealing with the Planning Board, coming up with values...

Chairman Cosentino stated not the Planning Board.

Mr. Crecco stated I mean the Zoning Board, I'm sorry. I spent numerous hours researching the files and all the information that I've discovered is very conflicting, so it's very confusing to me to come with some base of what's required. I read the Building Inspector's letter of April 22nd and it looks like we're down to some parking issues, some variances for the area for the garage and the deck and the change of use. So, I think I understand the parking and the variance but I'm a little confused with the change of use, I don't know what that involves, I'm not really sure why I need that so you know I'm willing to comply with whatever needs to. It's been an extreme hardship because I'm losing over \$3,000 a month in rent, my business is renting apartments, so I rely on this for a living and so time is of essence for me but the Zoning Board request I come here, so I'm here.

Chairman Cosentino stated okay, in saying that, we have memos from Mr. Miley, I just want to get to one page here, just bear with me. Okay, we had a memo from Mr. Miley, our Building Inspector and I don't think this Board, I mean we only got this on Friday and I don't think this Board has enough time to digest what's in here and what we want to do, unless you can add something, Mr. Miley?

Mr. Miley stated I mean I can answer a lot of questions for you, I did an extensive analysis, and it's a unique property...

Chairman Cosentino stated I know you did and we appreciate that.

Mr. Miley stated and Mr. Crecco purchased this property in what, 2008?

Mr. Crecco stated 2008, yeah.

Mr. Miley stated 2008, and so he's been left with this potpourri of items that needs to be remedied, although if you look at the history of the property, I tried to give you chronological, date specific order, what was present at certain periods of time, what's there today and tried to explain specifically with regard to change of use, the change of use is very simple, it's just one retail use to another retail use. The last approved or last known use, I can't even say approved because I'm not 100% certain, was a church and antique store at some point, so now we went to a full retail use which changes the parking requirement and that's what triggered the change of use. The structure that was also on the property which is a garage that connects essentially to the rear property and the property fronting Lexington [Avenue], is a structure that was constructed without a permit, again, prior to Mr. Crecco's time of ownership, however it's there, it wasn't approved at whatever point in time and with that being said, it would require a variance because of the close proximity to the street line. In addition, you really have to look at this memo...

Chairman Cosentino stated yeah, I read it twice.

Mr. Miley stated it specifies a certain number of spaces, at some point in time and I tried to get a date, there was no parking requirement for any use and as the time went on and the increase in occupancy around the entire Village, the need for parking was placed in our Zoning Code. At that time, we can establish at the very least there was at least two apartments and the transition in time based on the tax records, show that they're present in '66, however between 1954, I believe and 1966 we have no record of that change. There may have been a change without a permit, we don't have a record of it but today the property there includes a 4 unit dwelling, retail use below and a one-family ranch at the rear of the property. So, he's going to get some parking credit because those uses existed, a number of those uses existing prior to the Zoning Code establishment in 1954. Again, this is something that the Planning Board have to agree to, what level, what lever of parking credit can you afford Mr. Crecco because of these preexisting uses that were there prior to the adoption of the Zoning Code.

Chairman Cosentino stated well in 1954, how many apartments were there, 2?

Mr. Miley stated from what I could assess, it was constructed as a two-family and roomer and a one family over the garage, approval. There were some commercial tenants that include that church and dental lab, prior it had no parking requirement until 1954, I believe...

Mr. Bonforte stated '58.

Mr. Crecco stated '61, we went through it.

Mr. Miley stated then it was one parking spot for 8 seats, we don't have the number of seats in the church, we have no idea how many seats existed at the time...

Chairman Cosentino stated I remember the dental lab.

Mr. Miley stated yeah, so those uses have changed now to retail use so establishing a credit is very, very difficult, although Mr. Crecco is afforded some credit, the level of credit I tried to dictate as close as possible because in 1966 you had a, hold on one second, I have to look at the record, they had a Planning approval for 3 spaces in 1965 was granted to the formal applicant, however it didn't elaborate what those parking spaces were for, only to alleviate some of the parking that was needed, the tenants were a commercial and residential at the time however there was some ambiguity built into what was approved, it didn't specify tenant for the apartments or tenants for the retail space, it just specified tenants, so one could assume that it was to offset the need for parking because you have retail use establishment and 4 units there that now requires a much more strict parking requirement. So, I mean you really need to absorb all of this and see where you want to take this.

Chairman Cosentino stated a lot of homework on this.

Mr. Miley stated it takes a lot of homework.

Chairman Cosentino stated what we'll do is, as far as I can see right now and what I've read, it's a conceptual...

Mr. Miley stated it is.

Chairman Cosentino stated we can't make an judgment now because its too confusing for us, until a lot of this is straightened out with the Building Department.

Mr. Miley stated well there's nothing I can do for him today, there's nothing I can do for Mr. Crecco...

Chairman Cosentino stated no, he's going to have to come back.

Mr. Miley stated we've worked a lot already trying to get him to the point where we're at, just to understand the history of the property. He has a pending approval from the Zoning Board to construct the rear of the property to bring it back, that was an approved building structure, including the addition, so he's, now this Board will have to act in order to essentially commence that action by Zoning Board to allow him to construct the rear property, so the property doesn't have any approval with respect to site plan, other than '65 that was approved...

Mr. Bonforte stated 3 spaces.

Mr. Miley stated not specific to what exactly...

Chairman Cosentino stated yeah well there's nothing we can do tonight on this.

Mr. Bonforte stated can I just summarize, so I have a better understanding, Peter of your memo.

Mr. Miley stated sure.

Mr. Bonforte stated it looks like under current Code there's 18 spaces required...

Mr. Miley stated correct.

Mr. Bonforte stated from the best of your analysis so far.

Mr. Miley stated that we can determine specific 18 is required. If he was to construct that same use today, that's what is required.

Mr. Bonforte stated 18, right so that's clear. You're only providing 5 per the analysis, there's a credit of 3 from 1965, so we're looking at 15 versus 5, looks like a differential of 10 spaces.

Mr. Miley stated 9 spaces.

Mr. Bonforte stated I don't know how to add or subject...

Mr. Crecco stated 9.

Mr. Bonforte stated but that's basically what we have to figure out, right?

Mr. Crecco stated right.

Mr. Bonforte stated so we'll rest of it, I mean we read it one, we met earlier tonight, we read it once we'll have to do it again.

Mr. Crecco stated I think its important to keep in mind that you researched the files, and I have too...

Mr. Miley stated yeah.

Mr. Crecco stated the more I research them, the more confusing it gets because nothing is consistent, so I don't know who's going to come up with the base of...

Mr. Miley stated right.

Mr. Crecco stated you know, I found a building permit application in 1965 that asked how many apartments are in the property and the applicant said 4, they approved the parking in '65, my understanding as a layman, is 'hey, they approved it, why do I have to change it now', I'm not saying I don't want to, I'm just saying that's my understanding. And then I found the timeline that specifies what happened, I don't have a date on one of them, I need to pull it, its Planning Board application 96-11, is that the year. Then I think Peter, you said in your letter that the typewriter store was in '85 but one of the tax cards shows that

they were there in '69 and I have sign approvals in '73 and '85 for the typewriter store. So I can't make any sense of it.

Mr. Bainlardi stated can we go factually, when the last change of use took place.

Mr. Miley stated I can only assess in '96 there was an antique store and today there's a full retail use.

Mr. Bainlardi stated and what is the full retail...?

Mr. Miley stated but the antique store never had a permit, so if you refer all the way back to the original approvals...

Chairman Cosentino stated that was Apple Antiques.

Mr. Miley stated pre-Code, it would be the church.

Mr. Bainlardi stated when you're saying it didn't have a permit, what do you mean?

Mr. Miley stated they never went to Planning or obtained a building permit to change the use, let's saying from a church to this antique store.

Mr. Bainlardi stated I'm not sure we had a change of use provision in '96.

Mr. Miley stated no but it required a permit.

Mr. Bainlardi stated a building permit?

Mr. Miley stated and a C.O., correct.

Mr. Bainlardi stated so you're already subject to whether or not it was a permitted use...

Mr. Miley stated correct.

Mr. Bainlardi stated and if you made any changes. The change of use would not, I don't believe a change of use would have been required in '96, I don't think...

Mr. Miley stated we're talking about tonight the change of use permit.

Mr. Bainlardi stated right, so that's the reason for my question because I think a change of use permit would only be necessary if a change of use occurred after the change of use law...

Mr. Miley stated provision, correct.

Mr. Bainlardi stated so really then what we're talking about then is can we establish did he have a preexisting nonconforming use and does he need to be here at all?

Chairman Cosentino stated there was a change of use after that.

Mr. Miley stated well certainly, however, the retail use that's currently in place does not have a permit either.

Chairman Cosentino stated and that's a change of use.

Mr. Miley stated so you have to understand all the uses that are here and Mr. Crecco purchased this property in that manner, those uses have been placed without any approval to date.

Mr. Bainlardi stated again, what approval, it depends upon when the use was necessary. I mean when the use took place. So if it was prior to the time in which we had this change of use permit provision in place where you had to come to the Planning Board...

Mr. Miley stated right.

Mr. Bainlardi stated then it simply would have been you go to the Building Department, you submit a building permit application, I want to put this use into place and does it comply with the Zoning or not?

Mr. Miley stated correct.

Mr. Bainlardi stated and if, but we don't know if that happened or not, we don't have record.

Mr. Miley stated we know it didn't happen. Let's take it all that way to today and back, let's just say the church was there until yesterday and they applied for a permit, that would be a change of use so since we have no, even a building permit, okay, never obtained a building permit for the current use, at some point in time there was a change of use...

Mr. Bainlardi stated yes.

Mr. Miley stated okay and it would have to be according to today's standards because we don't have a permit for the current use. Essentially he's starting from scratch with respect to retail space.

Mr. Bainlardi stated you've been unable to locate anything.

Mr. Crecco stated I requested to look at the old Codes and Michelle, and I don't know if I got all of them or not but I was only able to find '79 or '82.

Mr. Miley stated we have all the old Codes.

Mr. Crecco stated I only was, I only saw some of them, I could not find change of use...

Mr. Miley stated and that's where we came up with the parking requirement.

Mr. Crecco stated I believe it was adopted, I think in the 2000's...

Mr. Bainlardi stated I'm familiar with it.

Mr. Crecco stated I'm looking at it like a typewriter store, an antique store, and what's there now, that's all retail, so I don't understand the change of use, that's my confusion.

Mr. Bainlardi stated I think what Peter's saying is that his office has no record of a building permit for the existing use...

Mr. Miley stated correct.

Mr. Crecco stated okay but that's different than a change of use permit, right because...

Mr. Miley stated you also have the intensification of the apartment is a change of use.

Chairman Cosentino stated the typewriter store was not sales, it was repairs, there were no sales there,

Mr. Bainlardi stated right but again what it all comes down to is when did the most recent change of use actually take place?

Mr. Miley stated I can assess '96 where there was a requirement for a change of use.

Mr. Bainlardi stated right, in '96.

Mr. Miley stated yes, that's the last known change that I could establish based on our records.

Mr. Bainlardi stated there was a change of use...

Mr. Miley stated the change of use provision has been there a lot longer than yes.

Mr. Crecco stated in '96 was an antique store which is retail.

Chairman Cosentino stated Apple Antiques.

Mr. Miley stated correct, it was bulk household items to now retail use selling smaller items, it's a standard, it's a calculation difference of 1 per 150 as 1 to 300.

Chairman Cosentino stated that should have been a change of use.

Mr. Miley stated the change of use is also classified as the intensification of use as well, its not just the change, if it's a retail to retail, you have retail provisions, you have bulk retail which is a calculation of 1

per 300, and then you have retail like a Dollar Store, I'm just going to use that, that would require 1 per 150, so that's an intensification use which would trigger a change of use permit.

Mr. Bainlardi stated in '96 there was a change of use permit required to go to the Planning Board?

Mr. Miley stated you had to get Planning approval. They have Planning approval in '65, there was a requirement to go to Planning in '65, hence the reason why they went to Planning, however we can't specifically say what that parking requirement was for because it says tenants. So again, that's a judgement call that the Planning Board is going to have to make, how to apply that original Planning approval. I can only give you the information that's in the files and that's everything that's on that paper is in the file.

Mr. Crecco stated which is very inconsistent, so that's the big issue, I'm sure its going to be for you, there's no consistency.

Chairman Cosentino stated well we certainly can't make a judgement on this.

Mr. Bainlardi stated I guess the question that I have is, Peter do you believe that you would be determining the facts and then we would be acting based upon the facts that you've determined?

Mr. Miley stated I'm just basically what's reiterating what's in the file in my notes. Everything that's in my notes, came from the file, obtained, and there's not change, there's change in interpretation, I didn't interpret anything other than what was in the file, none other than everything that's in this file, verbatim, even the quotes. And you'll see it, when you look at my memo, those quotes are not my, that's not my language, its specific to what's on, whether it be a permit, whether it be the Tax Assessor's card and the existing Codes, so that verbatim right out of the book or out of our files.

Mr. Vigliotti stated you've done a lot of work on this.

Chairman Cosentino stated he did.

Mr. Miley stated its difficult, it's unique.

Mr. Crecco stated you know, I just want to point out one other thing...

Mr. Miley stated sure.

Mr. Crecco stated like for example, the house in the back was built in '58, it was extended in 1970, the '54 Tax Assessor card states two-family and a roomer over a one-family garage. The house wasn't built in '58, so there's a lot of discrepancy, then it goes on to say in '57 three-family in house over garage, the house did not existing in '57, so I can't make heads or tails out of this whole thing.

Mr. Miley stated that's what's in the Tax Assessor's records.

Mr. Crecco stated right, so that's all we have and I've...

Mr. Miley stated and its even specific to rent, I even put the rents down just to establish that they were present at the time.

Mr. Crecco stated you know, I had two title searches on the property, its in my package, no Building Department violations, Austin Cassidy's letter from 2001 that states that he reviewed the file and its in compliance, so I don't know where to go.

Mr. Vigliotti stated so the single-family house in the back is a single-family house.

Mr. Crecco stated yeah, it's a...

Mr. Vigliotti stated one apartment...

Mr. Crecco stated no, three bedrooms, living room, dining room, no, family room, dining room, kitchen, basement and two car garage.

Chairman Cosentino stated was there a permit to build that?

Mr. Miley stated yes.

Mr. Crecco stated yeah, there was permit and an extension.

Mr. Miley stated there's no issues whatsoever with the rear structure...

Mr. Bonforte stated well the deck...

Mr. Miley stated the deck would have to be removed.

Mr. Bonforte stated the deck is one issue.

Mr. Vigliotti stated there's a garage...

Mr. Crecco stated the garage is underneath the house.

Chairman Cosentino stated what about the basement?

Mr. Vigliotti stated oh okay, the garage is underneath it.

Mr. Crecco stated but between both buildings there's a small garage that was put there...

Mr. Vigliotti stated and how is that being used?

Chairman Cosentino stated its being rented out for mattresses.

Mr. Crecco stated no, it's part of the...

Chairman Cosentino stated its being rented out for mattresses.

Mr. Crecco stated no, the guy in the store uses it and he does put mattresses there and his other inventory...

Chairman Cosentino stated he sells them.

Mr. Crecco stated yeah, he sells them, he's allowed to sell them, right?

Chairman Cosentino stated I didn't say he wasn't.

Mr. Crecco stated oh okay.

Chairman Cosentino stated I'm just saying he sells mattresses, I'm just trying to...

Mr. Crecco stated right but he no longer has them there because he opened a store in Brewster, so he took them up there.

Mr. Bonforte stated but its not for parking, that's what kind of...

Chairman Cosentino stated no, it's just storage.

Mr. Crecco stated its not for parking, there's a utility pole right there, there's the electric meters in there, its basically storage.

Mr. Bonforte stated okay.

Mr. Crecco stated so you know, I can't make heads or tails so that's why my letter said I'm confused, I didn't know why the Zoning Board wanted, well I do know but I don't...

Jan Johannessen stated so regardless of the change of use, wouldn't we still need site plan approval? Haven't certain things appeared on the site since 1965...

Mr. Crecco stated well...

Jan Johannessen stated doesn't the ZBA want the Planning Board to issue a site plan, so regardless of whether it's a change of use or site plan, we're going to have to, the Board is going to have the same comments and the same concerns.

Mr. Crecco stated yeah, let me just add to that, so in December I came here to the Zoning Board with my attorney and I don't think we actually came to the meeting but the Town Attorney took us into the back room and he said hey, this property is in violation, you got this, that, and the other thing and if you remove

this garage, its not supposed to be there, this deck was built too big, bring it back to the way it was, this parking is supposed to be 3 spaces, bring that back to the way it was and we'll let you rebuilt the house. Okay, so I agreed to it, then when they said you got to go to the Planning Board, I'm like well I have to do all this work anyway, so I might as well get it approved, so to your point. Because I had agreed to take these down, they were going to let me rebuilt the house but now they said well, so I'm requesting...

Chairman Cosentino stated is it a fact that he's going to need more parking?

Mr. Miley stated based on the analysis of the current use, yes, there's a deficiency in parking.

Chairman Cosentino stated where are going to put the parking?

Mr. Crecco stated I can't, no where.

Chairman Cosentino stated so if you need parking...

Jan Johannessen stated a variance, you need a variance...

Mr. Crecco stated I need a variance.

Jan Johannessen stated but you're going to need that variance regardless of if you require a change of use permit or a site plan. So I don't know if we should get bogged down in this change of use permit because it doesn't really, its not going to change anything really.

Mr. Bainlardi stated there's utility in trying to get yourself to a place where you have an approved site plan that you've now established.

Mr. Crecco stated absolutely.

Mr. Bainlardi stated so there's because going forward then...

Mr. Crecco stated of course.

Mr. Bainlardi stated really its just a question of, in my mind, can we establish the facts as to when something illegal, if something illegal took place, whether or not that was doing something in a building without the benefit of permit, whether there was a change of use permit or not. If we can't factually change that, determine that because we don't have the information because the Town, the Village doesn't have appropriate records, then I think we take a different line with how we deal with you with that because at that point we can't establish what took place when, we have to come to some resolution as to how we go forward. However, if two years ago or three years ago a tenant went in and we can clearly establish that and they did so without the benefit of coming in for a change of use permit, that's a different ball of wax. So I think what has to happen here is we need to establish first what the facts are and we all need to agree on what the facts are.

Chairman Cosentino stated John, unfortunately, I want to end this now...

Mr. Bainlardi stated I'm not saying we can do it tonight...

Chairman Cosentino stated and I'm going to tell you why, the Village Attorney's not here, okay, there are a lot of legal questions here, I'm going to put you on another agenda and we have to confer with the Village Attorney because he had to leave in an emergency, I'm sorry I apologize for that and let's go over this because we all just got this Friday. You know, so, this is all new to us too, so we need to do our homework and look into this a lot further to help you out and without the Village Attorney being here right now, its very difficult to us to even look into it deeper and Peter you've been a big help tonight...

Mr. Miley stated just trying to give you [inaudible], Chairman.

Chairman Cosentino stated and so we need to do that, so Michelle, what I would like to do is put him on another agenda, I don't know what agenda yet for the simple reason, I don't know what the Village Attorney did on this...

The Secretary stated okay.

Chairman Cosentino stated okay but I will put you on another agenda, so we can finalize this and do what we have to do to help you out.

Mr. Crecco stated okay, so getting on the next agenda, does this need to go to a public hearing or does...?

Chairman Cosentino stated I don't know that's the, he's not here, I don't know at this point I don't know.

Mr. Crecco stated I mean I believe he said it at the Zoning Board meeting that and I don't want to speak his words, you can listen to the minutes, I think he said that it should be pretty streamline.

Mr. Miley stated yeah, if it requires a change of use, it doesn't require a public hearing, so we'll have to determine and I'll revisit again Anthony as much as I possibly can to help you along.

Mr. Crecco stated and again the issue, there's not concrete facts.

Chairman Cosentino stated no but we want to get to that, we want to help you out as much as we can and everybody, I mean we're all trying to see what we can do here tonight but there's nothing we can do.

Mr. Crecco stated because if you go back to that '65 approval according to what I found, two retail and two commercial and 4 apartments existing at that point, so that may be a starting point, I don't know.

Chairman Cosentino stated okay, you'll hear from Michelle then, thank you for coming.

Mr. Crecco stated thank you.

Chairman Cosentino stated sorry, we couldn't help you out a little more.

Mr. Crecco stated it's like building the Empire State Building.

Chairman Cosentino stated might have been easier to do that.

Mr. Crecco stated it would have been a lot easier.

Chairman Cosentino stated okay.

Mr. Crecco stated thank you.

Chairman Cosentino stated thank you very much.

Jan Johannessen stated Chairman?

Chairman Cosentino stated yes?

Jan Johannessen stated would you recommend that before this item is placed on the next agenda, perhaps we have a staff meeting?

Chairman Cosentino stated yes, absolutely.

Mr. Crecco stated thank you.

Chairman Cosentino stated okay, the last one is...

The Secretary stated bye Anthony.

Special Discussion:

Reber/Suburban Floors – 221 (227) Lexington Avenue

Chairman Cosentino stated Reber, Suburban Floors. I had to look for that John.

Mr. Reber stated he's my neighbor.

Mr. Bonforte stated oh right.

Chairman Cosentino stated I remember that place when I was a kid.

Mr. Reber stated oh, I do too, every tenant that you were talking about I knew everyone. It was a Jehovah's Witness, that was the church, a dental lab...

Chairman Cosentino stated Mrs. Bagnato lived downstairs.

Mr. Bonforte stated Charlie Dickson...

Chairman Cosentino stated I remember Churchill lived up there for the longest time.

Mr. Reber stated he made forms for dentures or something like that.

Chairman Cosentino stated yeah, Manny...

Mr. Reber stated there were two guys.

Chairman Cosentino stated Manny and his partner, I used to deliver the teeth.

Mr. Miley stated you have any dated pictures?

Chairman Cosentino stated I used to deliver the teeth for them to different dentists. They made the teeth, and I delivered them 16, 17 years old. I used to deliver the typewriters at the same time.

Mr. Reber stated the typewriter guy, shows you how old we are...

Chairman Cosentino stated yeah, I didn't want to say that. Okay, what are we doing here? We went to look at it.

Mr. Reber stated okay.

Mr. Bonforte stated I was going to say John, I think he might be in these pictures but he's not, you can have this actually...

Chairman Cosentino stated I'm in that picture.

Mr. Bonforte stated something we found, someone found...

Mrs. Carpentieri stated oh, was that on Facebook?

Mr. Bonforte stated yes.

Mrs. Carpentieri stated I saw that.

Chairman Cosentino stated I'm the one that's smiling.

Mr. Reber stated I better pick the good looking one or I'm in trouble.

Mr. Bonforte stated just people you know.

Chairman Cosentino stated I'm here, right here. That's a lot of years...

Mr. Reber stated where is that? Elementary school?

Chairman Cosentino stated Boys and Girls Club. Well it was the Boys Club at the time.

Mr. Reber stated that's right.

Mr. Vigliotti stated of Mount Kisco.

Chairman Cosentino stated yup, not Northern Westchester. Gentlemen, what are we doing here?

Mr. Bonforte stated I'd like to ask a question, maybe that's a good way to start. Has the entranceway been graded because I came back after the last appearance you made before the Planning Board, after that night I went back during the day a couple times. As you drive in, I just want to confirm this, the grade goes from street level down?

Mr. Reber stated yes, that's exactly right.

Mr. Bonforte stated and then one of the foreman or building foreman, construction manager showed me a point over there by the building which was a lot level but when you take that all the way out to the parking

spaces, if I'm right, if I'm correct in what I recall, he said as you get to these two and four spaces that are under consideration, not two, they've already been, the extra two, the last two, it kind of rises up to the curb level...

Mr. Reber stated well that hasn't been excavated yet.

Mr. Bonforte stated right but that is the plan, right, it's going to rise a bit.

Mr. Reber stated as far as I know, it should be fairly level.

Chairman Cosentino stated could they lower? Could they be lower? I went up there too and I spoke to, I forget his name...

Mr. Reber stated the spaces could be lower.

Chairman Cosentino stated no, in other words, the thing with the visual, I'm looking, okay, if the parking spaces were lower, you'd get that visual, he was explaining something to me, the guy there...

Mr. Reber stated we're a good three feet or something below...

Mrs. Carpentieri stated was it Justin or Sordin?

Chairman Cosentino stated I don't know...

Mrs. Carpentieri stated you're not sure.

Chairman Cosentino stated he was nice guy, whoever he was.

Mrs. Carpentieri stated yeah, they all are actually wonderful.

Chairman Cosentino stated he'll have to talk to you about, they can lower them a little bit, you get that visual.

Mrs. Carpentieri stated we can't lower them, they're actually...

Mr. Reber stated I'd have to talk to the engineer.

Chairman Cosentino stated because he found the same thing I found, I didn't know you noticed that too...

Mr. Reber stated but if you lower it...

Mr. Vigliotti stated well you have the underground stormwater system that could be...

Mr. Reber stated you want to lower the whole parking lot?

Chairman Cosentino stated no, just those four, the four there, if they can be lowered and you get that visual, there shouldn't be a problem, do you know what I'm talking about the visual?

Mr. Bainlardi stated those last two spaces have not been fully excavated, yet.

Mr. Reber stated no.

Inaudible - Overlapping conversation.

Mr. Reber stated if they were the same grade as what is there...

Jan Johannessen stated [inaudible] higher, that would meet grade again.

Mrs. Carpentieri stated well that two and neither have the two that you approved last time, either. So right now is what's on there is the seven spots.

Anthony Oliveri stated do we have the plan here? Does anyone have the plan?

Chairman Cosentino stated I'm saying for the four car, if you got four cars, could those four cars in that spot, it seemed like the guys said they could be lowered a little bit so you get the visual, he saw the same things I did.

Mr. Vigliotti stated that would be an engineering question with the installer.

Anthony Oliveri stated if I have the grading plan, I could tell you.

Mr. Reber stated well I mean if it lowered too much then we won't get the water runoff.

Mr. Vigliotti stated no, no, you're right.

Mr. Bonforte stated understood and that was not a question so much as what is that height because as you're coming in off the street we were looking over at a point at the corner of the building which was, I want to say 2 to 3 feet lower which would be the final grade, so now as you come across here, just how much were those last two spaces going to be lowered?

Chairman Cosentino stated can you lower it?

Mr. Bonforte stated you know, in the existing plan, that's all, if there is a, on the plans...

Mr. Reber stated as far as I know its just going to be general grade right into the slope...

Mrs. Carpentieri stated well here's the thing too, we're only, we got approved for the two and I'm assuming everybody agreed on one on each side...

Chairman Cosentino stated the two.

Mr. Vigliotti stated yes.

Mrs. Carpentieri stated which I do too, so I guess what we're here for now is really just that one.

Mr. Reber stated yeah, we have been discussing this, we'd like to compromise too and if we could get one more space on the Lexington Avenue side of the parking lot...

Mrs. Carpentieri stated closer to the store.

Mr. Bonforte stated that's also in more towards the building...

Chairman Cosentino stated that's a lower spot.

Mr. Bonforte stated than the other one.

Chairman Cosentino stated that's the lower grade.

Mrs. Carpentieri stated we want to make sure but we think but I'm not the best...

Chairman Cosentino stated it is the lower grade because the guy showed me.

Mrs. Carpentieri stated because there's the swale and there's landscaping issues.

Mr. Reber stated it has to be cut in and that changes the pitch of the driveway.

Chairman Cosentino stated that grade was the lower grade to the Lexington Avenue side and that's what I think you've seen also.

Mr. Reber stated what I wanted to do also, I've been out of the nursery business for a while but I've done some homework in the past week and what I can do for the visual that you were concerned with is to keep to the lower plantings up on the street side, so you don't have a hemlock standing up, you have something two feet, maybe three feet high, first of all I think it would be better planning as far as going in and out of parking lot when you can see cars coming because if you have tall trees, you know you have a problem the, so lower planting by an entrance I think is always better.

Mr. Vigliotti stated you know I just thought it was ungraded and it's still bring constructed, the parking area, that they're going to raise, whatever is there now...

Mrs. Carpentieri stated it is going to eventually go up a little bit.

Mr. Vigliotti stated it's a construction grade and then they're going to add.

Mr. Reber stated well they've had the heavy item four in the parking lot but that's not completed, they only did some...

Mr. Vigliotti stated so how, from where the parking lot is now, how much?

Mr. Miley stated it has to be 7 inches.

Mr. Reber stated about 6 inches.

Mrs. Carpentieri stated what did you say?

Mr. Miley stated I said about 7 inches.

Mr. Reber stated 6, 7 inches it will be coming up. So that's the finished coat, 6-7 inches but that still brings us below the Smith Avenue street line, I'm going to say by three feet.

Chairman Cosentino stated well I can only go by what the guy said and it wasn't much of a, it was low.

Mr. Vigliotti stated John...

Mr. Reber stated so I'd like to just do the one, if that helps.

Mr. Vigliotti stated has the business plan pretty much stayed the same, the location the showroom, the business office, the one apartment, all of that. Nothing has really changed?

Mr. Reber stated nothing at all.

Mr. Vigliotti stated the entrance to the showroom...

Mr. Reber stated its where it is on the plan.

Mr. Vigliotti stated its off the lot in front.

Mr. Miley stated its on Smith Street.

Mr. Reber stated facing Smith, you come in off of Smith. So the building hasn't changed just parking...

Chairman Cosentino stated you know I went for two, at this point Ralph, I know I wouldn't go more than two but I would go for three.

Mr. Vigliotti stated I'm not going to argue the point at this point. I will go along with the Board because there's only four of us here...

Chairman Cosentino stated one vote against, you're dead.

Mr. Vigliotti stated I don't want to be the one vote against because I'm trying to create greenspace for the neighborhood or the street...

Mr. Reber stated trying to create some greenspace but you don't.

Mr. Vigliotti stated I don't want to be that vote and that's what happens when you only have 4 members which creates the quorum and there's a lot of be said when you have your fill 7 members and you look around and say well the majority has spoken and I'm not in that majority...

Chairman Cosentino stated you're 100% right.

Mr. Vigliotti stated but when you become the deciding vote this is, it is, I have to sleep at night too you know. I still firmly believe and I will support my colleagues here only because you need to move forward and there's only 4 of here and its, and I say this on the record, it's not healthy for developers and they're staff to come before a Board that is just 4 members, it doesn't represent that majority. While there's a quorum, there's a three other members that have opinions one way or the other.

Mr. Reber stated I didn't know there was meeting until yesterday.

Mrs. Carpentieri stated two days ago and I certainly didn't know there was meeting for...

Chairman Cosentino stated well Michelle put you on to help you out here because she knew you had work to get done.

Mrs. Carpentieri stated which was nice, thank you, exactly, we're not complaining on that front but we also didn't know.

Mr. Reber stated so if the plantings can be lower in the front and maybe even on the side where the house, the blue house, I call it the blue house, the right hand side of the driveway going in, keep those plantings a little bit lower so your site, your visual site will be more open, that's what you had asked.

Anthony Oliveri stated Mr. Chairman, Jan brought up the drawing on his laptop and it looks like the grading in the parking lot is about two feet lower than the roadway.

Chairman Cosentino stated yeah so that makes a big difference.

Anthony Oliveri stated so I don't know where it is right now, if it was higher or...

Chairman Cosentino stated I was up there and the guys showed me this is going to be lower.

Mr. Vigliotti stated actually, if you create a hedge, like a two hedge around the west side parking, you will see two feet of hedge and maybe just a little bit of rooftops of the cars, if you created a long...

Mr. Reber stated I was thinking of some la copias...

Chairman Cosentino stated you go along with three?

Mr. Bainlardi stated I'm fine with three.

Chairman Cosentino stated let's amend the resolution...

Mr. Vigliotti stated and just for the record...

Mr. Reber stated and I'll come back with some landscaping details.

Mr. Vigliotti stated just for the record, I didn't realize that the parking on Smith Avenue went all the way up to your property line so if there is an overflow, there is parking out on Smith Avenue, it might be just in front of your residence.

Mrs. Carpentieri stated yeah, there's three spots.

Mr. Reber stated on the other side of the street.

Mr. Vigliotti stated on the south side, from Smith all the way to Main to 117.

Mr. Reber stated but we're trying to keep for their customers, people that don't walk across the street they can park outside.

Chairman Cosentino stated so Jan, what do we do, just amend the vote from last.

Jan Johannessen stated you reauthorize the land banking to allow three of the four land banking spaces to be installed.

Chairman Cosentino stated so we need a vote on that, right?

Mr. Bainlardi stated which is the third space?

Mr. Reber stated and just land bank one.

Jan Johannessen stated you had to designate that space.

Mrs. Carpentieri stated I don't have it but it's the one...

Chairman Cosentino stated how do we?

Mr. Vigliotti stated it's the east side.

Mr. Reber stated it's the east side of the driveway, yeah.

Jan Johannessen stated two on the west side of the driveway.

Mr. vigliotti stated this is lower plantings or even it ends up being a hedge at some point, you will not see these cars.

Mr. Bonforte stated I actually e-mailed you.

Chairman Cosentino stated I made some copies and gave them to my kids.

Inaudible - Overlapping conversation

Chairman Cosentino stated every Sunday I'm with them all, 14. Jan, what are we going to do here?

Jan Johannessen stated I think its similar to what occurred at the last meeting where you'll, in the minutes...

Chairman Cosentino stated we need a vote on it then.

Mr. Bainlardi stated yeah, we need to make a motion.

Chairman Cosentino stated okay, John, do you want to make the motion?

Jan Johannessen stated just for clarity purposes, its going, the applicant is proposing two parking spaces on the west side of the driveway...

Chairman Cosentino stated right and he's going to bank one. Okay, let's make the motion.

Jan Johannessen stated and the land banked space will be on the east side.

Mr. Bainlardi stated okay, so make a motion on the Reber/Suburban Floors 227 Lexington Avenue application to allow for the construction of an additional parking space previously to be land banked on the west side which will result in one land banked space on the east side of the parking lot closest to Smith Street.

Chairman Cosentino stated very good, do we have a second?

Mr. Reber stated I hope that's right. I didn't follow all of that.

Mr. Bonforte stated I'll second the motion, absolutely.

Chairman Cosentino stated on the question. Will the Secretary poll the Board, please?

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 4 to 0.

Chairman Cosentino stated there you go.

Mr. Reber stated thank you, so the planting...

Jan Johannessen stated I can address that. There is an approved landscaping plan, the resolution did allow for modifications to be approved by staff. So if you have any revisiions to the landscaping plan whether they're different locations or species type, you should present a revised landscaping plan to staff to authorize that.

Mrs. Carpentieri stated what does that mean?

Mr. Vigliotti stated we were talking about some type of planting that will camouflage the car on the west side.

Anthony Oliveri stated it means we can work it out.

Mr. Vigliotti stated they'll work that out.

Chairman Cosentino stated you know what to do.

Mrs. Carpentieri stated thank you.

Mr. Bonforte stated exactly.

Mr. Vigliotti stated you're in that business.

Mr. Bainlardi stated that's really the hard corner.

Jan Johannessen stated maybe something taller on the west side.

Chairman Cosentino stated couple rows of trees.

Mr. Reber stated you want to pick them?

Mr. Vigliotti stated as long as its not a fence.

Mr. Bianlardi stated heading north and to your left.

Chairman Cosentino stated okay, we don't have anything else here Michelle.

The Secretary stated no sir.

Chairman Cosentino stated do we have a motion to close?

Mr. Vigliotti stated close.

Chairman Cosentino stated motion by Mr. Vigliotti to close, I was going to Grunthal, I'm sorry, Bonforte.

Chairman Cosentino asked for all in favor. The motion carried by a vote of 4 to 0.

The meeting adjourned at 9:30 p.m.