

**Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, December 13, 2016**

Members Present: Chairman Doug Hertz
Ralph Vigliotti
Enrico Mareschi
Michael Bonforte
John Bainlardi
William Polese
Frank Viteritti (Alternate)
John Hochstein (Alternate)

Members Absents: Anthony Sturniolo

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

The Planning Board convened for a work session at 6:45 p.m. Items of discussion are as follows:

- Rules and procedures of the Planning Board
- Work Sessions
- Meeting Attendance
- Open Meetings Law
- Alternates and voting
- Requiring Training
- Application procedures
- Planning Board coordination with Zoning Board of Appeals and Architectural Review Board
- New Board Room presentation equipment
- The Village Planner will introduce most applications during meeting
- Polaner Selections – Discussion of wetlands public hearing, land banking of parking spaces, low customer traffic, temporary grading, fencing, status relating to SEQRA, porous pavement, all outstanding comments incorporated into the draft resolution, question concerning saving trees, and sewage flows.
- Sherpa – 68 Woodland Street – Discussion of turnaround causing more negative impacts than positive solutions, approval for existing conditions.

Chairman Hertz called the meeting to order at 7:44 p.m.

Chairman Hertz stated this is a regular session of the Planning Board for December 13, 2016. We are called to order. The first, before we get to the formal agenda, I'd like to read a statement. Michelle, here is a copy for you and this will go out for press, we won't do that tonight. First, I would like to thank Joe Cosentino for his many years of service to this Village and this Board. Joe has volunteered for decades on the Board and we all owe him a debt of gratitude for his time and contributions. I would also like to thank my new members who are embarking on this journey with us and sitting members for all they have contributed of their time and expertise and will continue to. Next, I'd like to thank the Village Board, the Village Manager, and the Task Force for addressing issues that have held this Board back over the years, many of their suggestions have already been implemented in the last year and we have seen the improvements in process and workflow that have resulted. We now have a full Board with two alternates, so the quorum issues should be behind us behind as well. There are a few new processes which will be put in place shortly which will also help with this Board's effectiveness. I have asked that all applications be available in digital form to help not only with record keeping, but to make the process easier to follow and track and to make presentations more open and transparent. We expect in the next short while to have digital projection in this room and better sound amplification which will allow better communication, understand, and openness between the applicants, the Board and the public. I have also asked that the Building Inspector to provide a brief report at each meeting of matters that have in the past come before the Planning Board but are now being handled administratively, as well as items such as Change of Use that are as-of-right. This will help Board members keep abreast of any changes in Town that we may not be privy to otherwise and this information may end up informing future decisions. I have asked the Conservation Advisory Council to meet with us and formalize a procedure for giving input on applications with sensitive environmental issues so that we and the applicants can receive their advice at the appropriate stage. I also intend to reach out to the Zoning Board of Appeals and the Architectural Review Board to discuss the timely sharing of information and to establish better methods of intra-board communication. Most importantly, this Board has the backing of the Village Board and Village Staff to function in a manner that we all believe is the most effective – namely that our staff professionals, planning, engineering, Building Department, and legal, be given the time and resources to work with applicants early and

throughout the Planning process, so that the applications can be moved through the process properly, issues and challenges flagged and addressed by the property people in a timely fashion and applications which do not face issues move forward with all due speed. In other words, to paraphrase Albert Einstein, and really with my apologies, I want things to be as simple as possible but not simpler, that's one of the best lines I've ever heard. This will allow Planning Board members to act effectively and appropriately; namely to be the representatives of the community, unbiased by politics and outside factors; and weigh all the information after its been processed, worked on, deemed, completed, and vetted by our professional staff. I hope that this message will resonate with those who have businesses in Town and those who may be considering a business in Mount Kisco. I hope that those who have criticized actions of this Board, will now become its advocate and that this new transparency will better inform the public. Thank you. Alright, first matter, to the minutes. Michelle, we have A through G minutes, we are going to remove for the moment the April 26th minutes and the June 28th minutes. We have a quorum for May 24th, June 14th, July 12th, September 27th and October 25th. So if I might I'd like to have a motion to approve the 5 sets of minutes I just mentioned and I'll just take a full vote of the Board, we won't individually. Do I have a motion to that effect?

Board member Bainlardi stated sure, I'll make the motion to adopt the minutes of, just help here, May 24th...

Chairman Hertz stated yeah, it's not A and it's not D, A and D of the minutes which are April 26th and June 28th are left out of this motion.

Board Member Bainlardi stated I make that motion we adopt those meeting minutes, not so excluded.

Chairman Hertz stated do I have a second?

Board Member Vigliotti stated I'll second.

Chairman Hertz stated Michelle.

UPON ROLL CALL VOTE:

Board Member Bainlardi	-	Aye
Board Member Vigliotti	-	Aye
Board Member Mareschi	-	Aye
Board Member Bonforte	-	Aye
Chairman Hertz	-	Aye

The motion carried by a vote of 5 to 0.

Chairman Hertz stated so on the minutes for April 26, 2016 and the minutes for June 28, 2016, on the first we will never have a quorum because there were 4 members present, one of whom is no longer on this Board. For the June 28th minutes, where's the flag, we had 4 members and Vice Chair Sturniolo is not here and is likely not to be here for an extended period of time. I've asked the Village Attorney whether or not it would be appropriate for this Board, in light of the fact that one we will never have a quorum based on the members who were here at that time and one may not have a quorum for a very long time, to determine whether it would be appropriate for us as a Board to approve those minutes.

Whitney Singleton stated I'll get you an answer.

Chairman Hertz stated so we will put those two matters of approval, those two sets of minutes off until the next time or later this evening until we get an answer from the Village Attorney. At this point I'd like to open the public hearing for 461 Lexington Avenue, Polaner Selections, if there's anyone who would like to speak on that matter, we should have a sign-up sheet in the front. I see only a few people, mostly the applicants, so would the applicant come forward and we'll do it at the table until we have digital projection and we can do it in a better way.

- 1. 461 Lexington Avenue , LLC (Polaner Selections)
PB2016-0329, 80.64-2-15 (SBL)
Site Plan and Wetlands Permit**

Mr. Scott Blakely of Insite Engineering; Ms. Tina Fischer, property owner, were present.

Mr. Blakely stated good evening, Scott Blakely with Insite Engineering and I'm here with Tina Fischer, she's the applicant for Polaner. Jan gave a great presentation on the project for the Board, I'll quickly take

you through for some of the Board members who aren't familiar with it. It's a half acre lot, located at 461 Lexington Avenue, the Radio Circle intersection is located right here. This is a site plan showing the existing conditions prior to demo, there was an existing two-story residence located in the front of the property, the repair garage was located to the rear, and there was an existing gravel access drive that bisected the property. Our property is this L-shape, the Village owned property that surrounds it is here and through here, as Jan mentioned both buildings were demolished, there was an environmental cleanup done, so the site is clean and ready for us to start the application. The proposal is to construct a two-story, almost 4,000 square foot building on two floors. There is a basement that is going to be utilized for storage, so the total square footage in the building is about 5,500 square feet. Parking required is 18 spaces, we're proposing to build 15 which are shown in grey, and we're going to land bank 3 spaces, which are shown here. All of the stormwater design and other features and coverage and everything has taken into account those 3 spaces, the applicant only needs 15 spaces, they operate their office out of this building, there is no warehousing, there's no client contact coming to the building, maximum number of people that they could possibly have on the site is 15, a lot of the employees don't even come to the site, they work from their cars, from the phone, and from home. As part the application process, the applicant wanted to save one of the large trees here, we were before your Board when we had the building shifted to the north approximately 25 feet, in order to save this tree, we modified the plan, came back to your Board, what this did require was to get a side yard variance here. We have a 10 foot setback where 30 feet is required. And there is a nuance in your Code that talks about the 3 foot requirement necessary adjacent to a residential zone. The Village owned piece is in the PD zone.

Mr. Miley stated PRD.

Whitney Singleton stated no, PD.

Mr. Miley stated correct

Mr. Blakely stated it's in the PD zone, it's Preservation District, you can't build a residential structure on it but based on your Code, its considered a residential zone, so that's why that 30 foot setback was required. By moving the house, we've also pushed the driveway to the south which required us to construct, which will require us to construct this portion of the driveway on Village property. We've been working closely with the Village Board, the project attorney has been working with the Town Attorney, there's an agreement that's been reviewed and I believe is in its final form, close to its final form.

Whitney Singleton stated yes, its close.

Mr. Blakely stated so that just requires a cross easement and what the applicant was proposing was to utilize this portion of Village property and provide the Village access across the drive to access the trail in the back. The only access that the Village has on Lexington Avenue is further down by where the culvert is, so this provides them an access to the south to get back to the trail if they have to go in for maintenance purposes or whatever. We are proposing part of our development within a wetland buffer, the Town regulated wetland is back here, 100 foot buffer here, we have a corner of our parking lot in that buffer and we have some of our stormwater provisions located in the buffer and also we're proposing mitigation for that intrusion. If you look at the other plan, the existing plan, a portion of that garage corner was located in the buffer and the area behind this had been, there area behind this and this Village portion of this property was utilized by the previous land owner, so Tina wants to get in and clean that up. There's also been a proposal to get in and replace the existing fence that's located between the subject property and Martino's with a decorative wood fence, we're also proposing some plantings on the Village property, so native shade trees. Stormwater, as Jan mentioned, we're proposing a porous asphalt, we've submitted to the DEP, we have a complete application, we're waiting for formal technical comments, they're due by the 22nd of this month. Just one other issue that I know was talked about was the sewage flows, we believe there's a reduction in sewage flows from an office building, whether its 3,900 square feet or you go by employees, 15 employees, we believe there's going to be a reduction and we'll double check those flows from the residential structure to the office building.

Chairman Hertz stated how do you make that determination?

Mr. Blakely stated we'll go to the state standards. I believe an office building is either 1/10 of a gallon per square foot or is 12 or 15 gallons per employee...

Anthony Oliveri stated either one.

Mr. Blakely stated so there's a couple different ways to do that, it roughly comes out to about 200 gallons per day and you know you've got to, I don't know how many bedrooms were in the residence, that's based on bedroom count, so we'll have to double check that but we can supply that information to Anthony and to the Board for consideration.

Board Member Vigliotti stated I have a question as some point.

Chairman Hertz stated Scott, are you...?

Mr. Blakely stated the other thing is we've been working closely with the CAC and the Village Board on the project, the CAC made some recommendations, there was a large quad Maple in this back corner that we were proposing to remove, they had some concerns, we went and looked at it, we did modify our stormwater to move that little level spreader from this location to over here so we can save that tree.

Chairman Hertz stated okay, Board members?

Board Member Vigliotti stated question on the fence, is the fence going to be, I'm not concerned about the fence or height, is it coming down to the sidewalk or is x number of feet from the sidewalk? My concern is sight lines for cars to come out of the site and for cars in the adjacent parking lot, which would be Mardino's, to be able to pull down and be able to have some visual of Lexington Avenue there.

Ms. Fischer stated we'll do exactly what is there now.

Mr. Blakely stated right now it does come down almost to the sidewalk.

Board Member Vigliotti stated okay, so it's going to mock what's there now, I think what's there now sort of work, so it's not going to come beyond that.

Ms. Fischer stated no, no.

Board Member Vigliotti stated okay, fine that was my only question.

Ms. Fischer stated it will do exactly what it does now.

Chairman Hertz stated is it 6 feet at that point or does it drop to 4, once it passes the...

Mr. Blakely stated that I don't know for sure, I didn't think it dropped...

Board Member Bonforte stated I saw the same, I took a look.

Mr. Blakely stated I didn't think it dropped down to 4.

Chairman Hertz stated Peter, I'll ask you but...

Mr. Miley stated there is a Code requirement but I'm not sure what's there presently.

Chairman Hertz stated there is a Code requirement, once it passes the front line of the house, I think it becomes...

Mr. Miley stated the front yard.

Mr. Blakely stated the front yard, okay.

Chairman Hertz stated I think so, I think it has to technically drop to 4.

Mr. Blakely stated well we can check with Peter and whatever the Code requirement, we'll meet that.

Board Member Vigliotti stated yeah, my only concern was sight lines, to be able to get in and out, to get out actually.

Mr. Blakely stated and the curb cut is in the same general location, our ability, once we shifted the building over, we had the ability to mimic that curb cut and try to keep it as far away from this intersection as possible.

Jan Johannessen stated Scott, just so you're aware, I don't know the extent of actual work within the County right of way but we've had a number of projects in the Village that required no work within the County right of way but because they were located on the County road, it required approvals from the County.

Mr. Blakely stated yeah.

Jan Johannessen stated we included that in the resolution but be aware.

Mr. Blakely stated and we're assuming that we're going to need a highway work permit from the County and we haven't started that process yet, its in the same location, we wanted to make sure we were tied down with that driveway location based on discussions with the Village Board and make sure that that easement was going to be something that the Village wanted.

Chairman Hertz stated Whitney, where does this stand, is this ripe for us at this point with regard to the work that has happen before, between the Village Board and the applicant.

Whitney Singleton stated yes.

Chairman Hertz stated it is, you don't foresee that anything...

Whitney Singleton stated the Village Board has authorized the entry, the granting of a cross easement, reciprocal easement between the property owner and the Village, the terms of that have been set forth and negotiated and the language has been back and forth and its now at a point where it's ready for execution.

Chairman Hertz stated okay.

Whitney Singleton stated that's, as far as I'm concerned, that's part completed.

Chairman Hertz stated okay.

Whitney Singleton stated and they also had a variance from the Zoning Board of Appeals for those aspects of that application which requires a variances.

Chairman Hertz stated and then Jan and Anthony, in terms of specifically this is a wetlands public hearing. In terms wetlands mitigation and its impact on wetlands, can you, either of summarize your opinions with regards to this.

Jan Johannessen stated I will. From my perspective, I think that the finished product is going to be a net environmental gain in terms of what's happening in the buffer, you had a dilapidated residence, you had an auto service station, you had leaking underground storage tanks, it has all been removed, it's been remediated...

Board Member Mareschi stated asbestos?

Jan Johannessen stated the entire buffer area, or most of what can be planted, is being planted with native vegetation, the invasive species are being removed, stormwater is being managed, I think it's a plus from an environmental standpoint.

Chairman Hertz stated okay.

Anthony Oliveri stated and the use of the porous pavement and the rain garden providing water quality, filtering the water that enters the wetland, I think it's all positive.

Chairman Hertz stated so we're net gain on anything having to do with wetlands...

Anthony Oliveri stated yes.

Chairman Hertz stated any of the environmental impacts.

Anthony Oliveri stated exactly, definitely [inaudible – spoken over].

Chairman Hertz stated can someone synopsize for us what the CAC's involvement was and what, I just want to know...

Jan Johannessen stated I sat in on the meetings with the applicant and the CAC, they're I think they are fairly happy with the application as proposed. There was definitely some desire to get access through the property to the trail and there was some concern about removal of a couple of trees, including the quad maple that the applicant was willing to redesign and save. I don't know if I missed anything but...

Mr. Rhodes stated that's perfect.

Chairman Hertz stated is there anything you would like to add?

Mr. Rhodes stated no, just that it was really a pleasure to work with them, they were very interactive, very cooperative and the plan that came to us was already a really good plan, we just asked them to tweak it a little bit and they were more than happy to do that.

Chairman Hertz stated would you just for the record, please state your name.

Mr. Rhodes stated John Rhodes from the CAC.

Chairman Hertz stated thank you John. Michelle, you have that?

The Secretary stated yes I do, thank you.

Chairman Hertz stated is there anyone else from the public who would like to be heard on this matter.

Board Member Bonforte stated I have a couple questions Chairman.

Chairman Hertz stated yes.

Board Member Bonforte stated no one else from the public is here. I have a couple questions, the fence that adjoins the restaurant next door, part of the conditions for the site plan approval are to remove the fence, now you mentioned proposing a replacement, so that has to meet Code, is that part of the site plan approval, you already have selected or, you know there's certain requirements for fences, right?

Mr. Blakely stated yes.

Board Member Bonforte stated besides where it ends up near the...

Mr. Miley stated its 6 ½ feet up until the front yard, then its 4 feet.

Board Member Bonforte stated and then I'm just curious because there's two fences there, I suppose both them are coming down, this mentions a chain link fence and then there's that, whatever that is.

Ms. Fischer stated dilapidated wooden fence that's falling apart.

Board Member Bonforte stated lack of color, something, yeah, not in good repair. Okay, so that's taken care of...

Ms. Fischer stated we'll meet Code, we'll do whatever we need to.

Board Member Bonforte stated no, I'm just curious.

Mr. Blakely stated it sounds like we have a 20 foot front yard requirement, so it sounds like the first 20 feet will be 4 feet in height and then from that point back we'll probably have a 6 foot fence.

Ms. Fischer stated I just want it to look nice and be within Code.

Chairman Hertz stated so this sits on Mardino's property, your property and Village property, is that accurate.

Ms. Fischer stated yes.

Mr. Blakely stated Mardino's, I'm sorry, Mardino's from this point to here, our property from here to here and Village property from here to here.

Chairman Hertz stated okay, so obviously there has to be an agreement as to what it is, with all the...

Ms. Fischer stated I've discussed this with Mardino's, I think he's game.

Chairman Hertz stated do you have a, have you chosen, is this a cedar fence, is this an anything...

Ms. Fischer stated no.

Chairman Hertz stated okay.

Board Member Bonforte stated and that's, excuse me, Chairman, that's why I asked because it says a six foot high fence and I'm not sure what's there and it came up earlier in the meeting.

Ms. Fischer stated I think it actually is a 6 foot fence.

Board Member Bonforte stated so its essentially going to be the same.

Chairman Hertz stated except for the front section.

Mr. Blakely stated its going to look a lot nicer.

Board Member Bonforte stated and I just have one other question, I'll be brief. When you pointed to the land banked spaces, I actually recall that 2 were going to be where you pointed and the third is where, Scott?

Mr. Blakely stated (referring to plan) there's two here and then there's one here.

Board Member Bonforte stated okay, alright.

Mr. Blakely stated previously with the land banked spaces, we had the building over and we had land banked spaces on either side of the driveway.

Board Member Bonforte stated thanks for pointing that out.

Chairman Hertz stated anything else from Board Members?

Board Member Bainlardi stated I have some comments. Some of us on the Board have been involved with this since the inception and some of us are seeing it for the first time but I just wanted to point out from my perspective that this is the type of application, the way it's been process and ultimately what it is, is I think what the Board and the Town as a whole want to encourage going forward. The uses and existing business in Town is successful by all measures, wants to stay and has decided to invest here in the Village, I think that the process of the interaction between this Board, the applicant, the Village working together has resulted in what I think is going to be a very good product.

Chairman Hertz stated thank you. Any other input from Board Members? If there's not additional comments from the public, I would make a motion that we close this public hearing because we have had input from the CAC prior this and the project has developed accordingly and because we've had no, we've heard nothing from the public in the ensuing time, I see no compelling reason...

The Secretary stated you do have one letter of support.

Chairman Hertz stated I'm sorry, absolutely correct, I apologize we have a letter, we do have a letter of support from by Mr. Pieragostini, dated November 11th, sorry that was in our packet and I intended to read that. Thank you Michelle for pointing that out. So we have one person who was noticed and who has and I'll read the letter. "I have received a public notice since I live nearby the premises above, and hereby would like to go on record that my wife Catherine and I agree with and support the approval of the Applicant's request before the Board in all respects. Very truly yours, Anthony Pieragostini. So we have one public letter in support, we have no comments to the negative, we have had input from the Conservation Advisory Council so with that, I suggest we close the public hearing, would any members of the Board feel it necessary to leave it open for written comment for any length of time? Anyone?"

Board Member Mareschi stated no Chairman.

Chairman Hertz stated do I need a motion Whitney, to close the public hearing.

Board Member Bonforte stated I make the motion to close the public hearing, Chairman.

Board Member Mareschi stated I'll second it, Chairman.

Chairman Hertz stated on the question, anyone? Michelle?

UPON ROLL CALL VOTE:

Board Member Bonforte	-	Aye
Board Member Mareschi	-	Aye
Board Member Bainlardi	-	Aye

Board Member Vigliotti - **Aye**
Board Member Polese - **Aye**
Board Member Hochstein - **Aye**
Chairman Hertz - **Aye**

The motion carried by a vote of 7 to 0.

Chairman Hertz stated so let us get to the matter at hand, then. We have a draft resolution before us. Scott and Tina, you've read this, do you have comments on this?

Mr. Blakely stated we've reviewed it, our project attorney has reviewed it, Tina's reviewed it, I believe that there were a couple of minor tweaks that were provided...

Jan Johannessen stated Charlie had a couple of recommendations which were substantive and we talked today and agreed that they weren't necessary to incorporate.

Chairman Hertz stated I have one comment that is just very, very minor, page 8, item 32, this is just a dumb one, it just talked about lighting levels, all interior and exterior shall be turned off during non-operating hours with the exception of exterior security lighting which luminance levels shall be reduced by 30% during non-operating hours, I'd like that just to be amended to say no less than 30% because if you can achieve more than that, then it still safe levels, I think that's a safe, you should be required to 30% and only 30%. Anthony is there a specific or Jan...?

Anthony Oliveri stated yeah.

Chairman Hertz stated is 30% because of safety illumination concerns in the parking lot in off hours?

Jan Johannessen stated what's that, I'm sorry.

Anthony Oliveri stated on the illumination.

Chairman Hertz stated the specific choice of 30%.

Jan Johannessen stated it's been a Planning Board standard, that's all.

Chairman Hertz stated but I think no less than 30%...

Jan Johannessen stated I completely agree.

Chairman Hertz stated okay, very good. The question has been brought up regarding sewer and inflows, specifically...

Anthony Oliveri stated the simple fix for that is in the wording of the whereas on page 3, 4th whereas from the bottom, you could just change that to 'whereas regarding sewage flows as addressed in the County's October 7, 2016 correspondence, the Village Engineer will determine if there is significant increase to sewage flows, that would require mitigation in this regard.' In which case Scott's office will give us their calculations, if there's any significant increase we could determine how that could be mitigated and that could be dealt with at the time of, prior to construction, prior to C.O.

Chairman Hertz stated okay, any comments anyone, Board Members? That seems reasonable, are you comfortable with that language?

Mr. Blakely stated yes, we're comfortable with it.

Ms. Fischer stated yes.

Chairman Hertz stated okay, Jan or Anthony, any other questions, have you, are you comfortable, I know that there was a question we regards to the updating of plans and having all of your issues addressed.

Anthony Oliveri stated Jan reminded me, we did discuss that, I'm fine with looking at the plans prior to signing to make sure those last few remaining comments are addressed, that's fine. They were minor.

Chairman Hertz stated okay, Board Members, any questions regarding anything in this site plan approval or this draft site plan approval document? Anything from staff?

Mr. Miley stated nothing here.

Chairman Hertz stated anything from the applicant?

Mr. Blakely stated no.

Chairman Hertz stated in that case, would someone make a motion to approve this site plan?

Board Member Mareschi stated I make a motion Chairman. I make a motion for the resolution for the site plan approval, change of use and wetland permits for Polaner Selections 461 Lexington avenue, LLC, Section 80.64 block 2 lot 15 and the application number is PB2016-0329 December 13, 2016.

Chairman Hertz stated that is a mouthful, thank you. Is there a second?

Board Member Vigliotti stated I'll second that.

Chairman Hertz stated seconded by Mr. Vigliotti, questions from the Board? In that case, Madam Secretary will you poll the Board?

UPON ROLL CALL VOTE:

Board Member Mareschi	-	Aye
Board Member Vigliotti	-	Aye
Board Member Bainlardi	-	Aye
Board Member Polese	-	Aye
Board Member Bonforte	-	Aye
Board Member Hochstein	-	Aye
Chairman Hertz	-	Aye

The motion carried by a vote of 7 to 0.

Board Member Mareschi stated congratulations.

Ms. Fischer stated thank you.

Chairman Hertz stated I commend you for a very nice application and good luck with the project.

Ms. Fischer stated thank you.

Mr. Blakely stated thank you.

Board Member Mareschi stated thanks Scott.

Chairman Hertz stated I hope it's been a positive experience.

Mr. Blakely stated it has, we look forward to working with the new Board too.

Chairman Hertz stated thank you very much. Alright, the next item is a formal application, 68 Woodland Street. Normally, I'd ask Jan to introduce this but I'll ask the Building Inspector, Mr. Miley to introduce this matter. Is the applicant here?

Mr. Miley stated yes, he is.

**2. 68 Woodland Street
PB2016-0330, 80.49-1-11 (SBL)
Site Plan**

Mr. Tim Dunphy, architect, attorney and applicant was present.

Chairman Hertz stated hi, would just introduce yourself for the record.

Mr. Dunphy stated Tim Dunphy, I'm the attorney and architect for the applicant, I am the applicant for the owner.

Chairman Hertz stated thank you very much.

Mr. Miley stated as discussed earlier at the work session, 68 Woodland is here for a formal site plan presentation, potentially approval. This applicant is a 2-family homeowner that was essentially caught working without a permit, doing some alternations on the second floor apartment at that time, there was an inspection conducted that revealed the dwelling unit was used as a 3-family. The applicant came in and made provisions for correction, however our Code requires that 2-family and above requires site plan approval so the applicant, the application and at the same time, myself and Jan vetted this application numerous times with respect to how to make the parking area better for the turnaround that's indicated in our Code, however it's been determined by myself, Jan and the Village Engineer that it's probably in the Village's best interest to leave it as it remains as it exists as a nonconforming garage and driveway and that any addition to the rear yard would further require the applicant to seek an area variance and essentially doesn't really work the way it's designed. So we recommend that the parking area be eliminated as designed and keep the nonconforming driveway. In addition, it may invite additional parking there as well.

Chairman Hertz stated so the applicant is here to formalize the site plan? Is that accurate or to formalize a revised site plan?

Mr. Miley stated well he did revise his initial application based on our comments with respect to the parking, however after looking at the design and what it entails and the additional requirements with regard to an area variance, elimination open space we felt that during this meeting we could essentially omit that area as designed, revert back to the original application that didn't include the turnaround and gravel area.

Chairman Hertz stated okay, thank you.

Board Member Bonforte stated can you address the Code please, Peter? It's a 2-family dwelling...

Mr. Miley stated correct.

Board Member Bonforte stated and there needs to be how many parking, et cetera?

Mr. Miley stated 4 parking spaces but today's Code requires that it has a turnaround area or a hammerhead as we traditionally call it in the industry. It also has a 2 parking spot garage, which would allow 2 tandem spots in front of the garage. It still would require that you back out but this is a nonconforming condition that predates our Code requirement of having a turnaround.

Jan Johannessen stated so the parking is provided, it's just the fact that they can't turnaround on the property.

Mr. Miley stated correct.

Jan Johannessen stated it's consistent with the majority of the houses on that street.

Chairman Hertz stated do you have anything to add to this?

Mr. Dunphy stated all of my arguments have been made. Just to point out that there are no exterior changes at all to the site.

Chairman Hertz stated okay. In terms of the density of use, this is now, this apartment is down on the Landlord Registry.

Mr. Miley stated correct.

Chairman Hertz stated so there's...

Mr. Miley stated there will be annual inspections.

Chairman Hertz stated we do have the ability to monitor this and make sure that it does remain a 2-family.

Mr. Miley stated correct, the applicant is also in court and my understanding is he will be signing a stipulation, correct me if I'm wrong, it will require that he have a more frequent inspection period possibly once every 6 months for 2 years, in addition to landlord Registry that's required once a year.

Chairman Hertz stated okay, so I guess fellow Board members and staff, the question before us is we have the opportunity to gain the use of a turnaround in the rear which will help one set of circumstances but exacerbate another specifically they'll be more development coverage, there's the possibility that turnaround will be used for parking and not for turnaround so it won't actually function as a turnaround, perhaps encourage additional parking on the site beyond what's currently used and also we'll eliminate

greenspace, so we have the conflicting goals of trying to make the turnaround the access, the car access conforming versus trying to mitigate or keep as low as possible the amount of development coverage so I would invite comments from and we've had comment from, if not, we've had written comment from both Anthony, Jan and the Building Inspector that their preference in this matter would be to not build the turnaround as that's looked at as the greater evil in this case.

Mr. Miley stated in addition Chairman, if I may, he'll also require an area variance for the being over development coverage, which is no guarantee.

Chairman Hertz stated okay. Is there anything from staff first, have I synopsized your...

Jan Johannessen stated I mean the other factor is that it's a fairly small backyard to begin with, I think you would lose considerable utility of the yard by constructing the parking area. To be honest, I don't think it's going to function well to begin with so I would strongly encourage that the driveway remain as is.

Anthony Oliveri stated I would agree with that, it might eliminate backing out for one or two cars but if there are cars parked there, then the cars in the garage are going to back out anyway, so I don't think it's really accomplishing what it was thought it might be ding. So it doesn't make sense to me.

Chairman Hertz stated okay, thank you. Board members, comments?

Whitney Singleton stated Chair?

Chairman Hertz stated yes, sorry.

Whitney Singleton stated if you're trying to mitigate against unintended consequences with insufficient parking or access to the property, you may want to consider upon ultimately approval that you have conditions of approval which would prohibit the increasing in number of bedrooms, expansions to the building, utilization of attic or basement for living space, of those nature because if you're, if the problem is the driveway and the parking and the access, you're only got to exacerbate that with further build out of the property or re-characterizing uses within the building. Theoretically, I would say nothing, I don't know how many bedrooms are currently in the two units or three units...

Chairman Hertz stated hopefully two units.

Whitney Singleton stated what's that?

Chairman Hertz stated hopefully two units.

Whitney Singleton stated so what's to prevent that from becoming 20 bedrooms and having the associated parking demand.

Board Member Bainlardi stated well wouldn't the application for creating additional bedrooms be something that would have to come to the Planning Board, which it would have to come to the Building Department which would then necessitate because it's a two-family, if there's a change, I guess let me answer my own question. If there was an expansion proposed of a nonconforming structure and use, then the applicant would have to come back before this Board for site plan approval for that. You're just questioning whether or not there's a reconfiguration of space inside.

Whitney Singleton stated right.

Mr. Miley stated can I add to that also, the space as you see it on the plans today is reconfigured, when we did our inspection, areas designated now as studies were bedrooms, areas designated as foyer were kitchens, this is as proposed and this meets the Code.

Board Member Bainlardi stated can I just ask for one point of clarification, just so I'm clear. The reason for the exploration of the turnaround with the hammerhead was because the current condition is nonconforming under the current code.

Mr. Miley stated correct.

Board Member Bainlardi stated impetus was not that you wanted the turnaround.

Mr. Dunphy stated no.

Board Member Bainlardi stated okay because in my opinion if you were here before us because you wanted

the turnaround, I would view the application differently but from my own point of view, my opinion on this is leave well enough alone.

Mr. Miley stated there was an attempt to improve the application, it just didn't work.

Chairman Hertz stated any questions from this Board?

Board Member Bonforte stated well I'd like to make a statement then regarding the comment so far from the Board. It's a single file driveway, there's 4 cars that will be allowed to park, correct? And we are just making note of the fact that it's the backing out into the street that is problematic and I don't know if there's any other, if there's remediation that we could apply to that situation because that's what we're heading towards, right, we're saying look, let's leave well enough alone. And that's going to remain a condition of the property, right?

Chairman Hertz stated that does seem to be a recommendation of staff.

Board Member Bonforte stated okay, so was it discussed, I mean I read the 3 letters from staff, were there any suggestions, I just don't recall offhand to remediate the driveways, the backing out situation?

Mr. Miley stated we did discuss it.

Jan Johannessen stated the remediation would be developing that turnaround area.

Board Member Bonforte stated well other than that.

Jan Johannessen stated other than telling him to back into the driveway, which is not enforceable, I don't see any other solution.

Board Member Bonforte stated I did drive by the property recently, so just to refresh my memo, I'm sorry, it's Tim, right.

Mr. Dunphy stated yeah.

Board Member Bonforte stated when you back out is there a good sightline, as you get to the side walk area, when you're backing out.

Mr. Dunphy stated its level, the front yard is I believe 21 1/2 feet, there is a low stone wall but it doesn't interfere with visibility at all.

Board Member Bonforte stated so on this side of the property, of the driveway I know there's some sort of shrubbery or...

Mr. Dunphy stated this side, I have to tell you, I don't recall.

Mr. Miley stated I can pull it up Mike.

Board Member Bonforte stated there's a hedge, I don't recall either, I'm just curious if we would consider that to be detrimental to the...

Jan Johannessen stated if there is a significant hedge there that could be removed, the visibility would be improved backing out without that obstruction.

Board Member Bonforte stated maybe cutting back from the driveway so we'll see what Peter...

Mr. Miley stated I'm going to pull up the site right now, so you can get a look at it.

Chairman Hertz stated see, once we have digital projection up there, it will be so much better, we'll all be able to view this.

Board Member Bonforte stated or your comments will be sufficient Peter.

Mr. Miley stated yeah, there's just a few shrubs, I mean it looks pretty...

Board Member Bonforte stated and its not very high, right?

Mr. Miley stated not at all.

Board Member Bonforte stated I just don't remember.

Mr. Miley stated it looks like 3 foot hedges in the front and to the left backing out of the driveway very low hedges.

Chairman Hertz stated so to synopsise, if I might. Staffs' recommendation that the hammerhead that's proposed creates more problems than it solves. And you have a uniform agreement amongst the Building Inspector, Planner and Village Engineer, if that's the case. So, at this point the question is do Board members have any other suggestions how to do this and if we're going to move towards formalizing the site plan here, do we wish to consider the suggestions that the Village Attorney made for future restrictions on development based on this preexisting nonconforming issue. Anyone, thoughts?

Board Member Bainlardi stated my question then would be for Peter, in that respect.

Mr. Miley stated sure.

Board Member Bainlardi stated if the applicant were so inclined to want to add a bedroom that would necessitate a building permit application, correct?

Mr. Miley stated yes, it would, its alteration of the space, correct.

Board Member Bainlardi stated so my opinion is it's not something that we need as this Board to condition...

Chairman Hertz stated but would that come before...?

Mr. Miley stated if it increases intensity, yes. However, the space now is designed in accordance with the State Code.

Whitney Singleton stated so if he added a bedroom it wouldn't need to come back to the Planning Board.

Mr. Miley stated it would be an increase in intensity, absolutely.

Whitney Singleton stated why would it need to come back to the Planning Board?

Mr. Miley stated if its an increase in intensity, it needs...

Whitney Singleton stated but it wouldn't be because the parking requirement for 2 families is 2 spaces per unit, regardless of the number of bedrooms.

Mr. Miley stated that's accurate.

Mr. Dunphy stated but any change...

Mr. Miley stated any footprint change anything of that nature...

Mr. Dunphy stated well even any, as the Code stands now, you can't issue a building permit...

Mr. Miley stated until you have approval.

Mr. Dunphy stated until I would get site plan approval.

Mr. Miley stated correct.

Chairman Hertz stated well once, I guess the question is once there is site plan approval, the addition of a bedroom would not require, would require a building permit but would not trigger coming back to this Board, is that accurate?

Mr. Miley stated correct.

Board Member Bainlardi stated under the Code, what requires 2 or 4 parking spaces, the fact that's a two-family, without regard to the number of bedrooms.

Mr. Miley stated the dwelling units, correct.

Jan Johannessen stated correct.

Board Member Bainlardi stated so I wouldn't feel comfortable conditioning the Planning Board approval of the site plan on something that is otherwise addressed by the Code.

Chairman Hertz stated thoughts? Alright, I would therefore, it seems like we're, what I'd like to do is ask that we, for the next meeting, draft an approval for the site plan, are we going to want, are we going to ask the applicant to go back redraw...?

Jan Johannessen stated yes.

Chairman Hertz stated based on input here in.

Jan Johannessen stated correct, basically, you probably have this plan prepared already...

Mr. Dunphy stated it's not going to take much to change.

Jan Johannessen stated it will show 2 parking spaces in the garage and 2 parking spaces in front of the garage.

Chairman Hertz stated and you'll have to redo your zoning table, obviously.

Mr. Dunphy stated right. Now, I would request that you waive the requirement for a public hearing on this since there is nothing being changed on the outside and this has existed as it is according to some of the Town's records...

Whitney Singleton stated there's no public hearing requirement for this application.

Mr. Dunphy stated okay.

Chairman Hertz stated I don't see any, I would concur, I don't see any...

Mr. Dunphy stated and it is deemed as a preexisting building, so there wouldn't be any need for variances for anything...

Board Member Bonforte stated well the nonconforming, I'll read it in the letter, sorry Chairman, if you'd like to state it...

Chairman Hertz stated yeah, nope.

Board Member Bonforte stated I'll read, the nonconforming status has been in effect since 1917, regarding the sorry, preexisting nonconforming status, it's been in effect since 1917, as a two-family residence or dwelling. So that you have.

Mr. Dunphy stated okay.

Chairman Hertz stated so believe that's true, so if you would just redraw your site plan and redo the zoning table, so that we have something for the record, you'll be removing that hammerhead.

Mr. Dunphy stated right.

Chairman Hertz stated and can we draft a resolution of approval for this site and I would suggest that Board Members consider the matter that Mr. Singleton brought up, that Mr. Bainlardi has spoken against whether or not you would consider that there'd be a need for any further restrictions on development, other than as written in the Code. Since no one wants to, since I think we need some time to think about that and no one's made any additional comments, I'll ask the approval be drafted without that but certainly at the next meeting we can bring that up if anyone feels differently.

Jan Johannessen stated is the next meeting the second meeting in December?

Chairman Hertz stated that's a great question.

The Secretary stated I actually didn't receive a single submission for the 27th, the deadline was the 6th. So its really up to you, otherwise you can put it to January 10th, which is going to be your first meeting.

Chairman Hertz stated so you have nothing.

The Secretary stated I received nothing.

Chairman Hertz stated gentlemen, this has never happened before, you get a Christmas break. So the next scheduled meeting, Michelle, would be...?

The Secretary stated when you approve your schedule will be January 10, 2017.

Chairman Hertz stated and then, I know its in here somewhere, but the date that Mr. Dunphy needs to submit that site plan by is...?

The Secretary stated would be December 20, 2016.

Chairman Hertz stated thank you. Alright, anything else from Board Members on this matter? Thank you, thank you Mr. Dunphy.

Mr. Dunphy stated thank you.

Chairman Hertz stated let's get into our special discussion items.

Special Discussion:

- **2017 Meeting Schedule**

Chairman Hertz stated so the meeting schedule, let me find it.

Board Member Bonforte stated here, use mine.

Chairman Hertz stated right now it's just the missing page.

Board Member Bonforte stated its about, I think it's the other way, go the other direction.

The Secretary stated its right after the 11 by 17 plans for 68 Woodland Street, it's the next page.

Board Member Bonforte stated he's got it.

Chairman Hertz stated there it is, thank you, it's sticky. So this meeting schedule is the second and fourth Tuesday of every month with the exception of...

The Secretary stated you don't have any exceptions of the calendar you are all Tuesday.

Chairman Hertz stated well we do in July and August, we are second Tuesday's only.

The Secretary stated yes.

Chairman Hertz stated so does anyone, has any caught any issues with this as we've had in the past, like a national holiday or Election Day or one of those silly things, if not, **I'd like to move that we approve this schedule for meeting dates.**

Board Member Bainlardi stated second the motion.

Chairman Hertz stated are there any questions on that. Can I just...

Chairman Hertz asked for all in favor. The motion carried by a vote of 7 to 0.

Chairman Hertz stated that's our schedule, the next is the memorandum from DEP.

- **Memorandum from DEP Regarding BDM Properties (74 S. Moger), dated November 21, 2016**

Chairman Hertz stated Jan, can you summarize the issues here?

Jan Johannessen stated I haven't gone through the memo in detail but I could tell you where we stand with the project and the process...

Chairman Hertz stated yup.

Jan Johannessen stated this is the Tommie Copper site on South Moger and Britton, it's been approved by the Planning Board, the resolution has been adopted, it actually timed out and expired and they reapplied and got it reapproved. So it's a valid approval, one of the conditions was that they obtained DEP approval, it has taken a very long time for the applicant to submit to the DEP, like a year and they just recently received comments from the DEP on their application. So their engineer is going to have to address these comments. The condition reads that they are to obtain DEP approval, if the comments significantly change the project in anyway, the Village Engineer and the Building Inspector have the discretion as to whether it should come back to the Planning Board, if those changes are significant enough that you need to see it again; we'll have to go through these comments and see how the applicant is going to respond to them and how it will affect the site plan.

Chairman Hertz stated has the applicant given any reason for taking a year to get their application complete before the DEP? Have they communicated that to us as all?

Whitney Singleton stated they...

Board Member Bonforte stated sorry, I was going to say what I recall from a meeting that we had with the applicant, maybe 3 months ago and they basically just claimed they were negligent in taking care of their business.

Chairman Hertz stated fantastic.

Board Member Bonforte stated in this regard.

Chairman Hertz stated so while I don't want to penalize...

Board Member Bonforte stated was that a fair assessment, Whitney?

Whitney Singleton stated yeah but it's been significantly longer than a year. This thing has been kicking around for a long time, they did construction without approvals and they don't really have any impious to come into compliance because they're already parking on the site.

Chairman Hertz stated so at what point, so we've gone through a Planning process with them, we've given them an approval...

Whitney Singleton stated more than one.

Chairman Hertz stated more than one approval, an approval and an extension.

The Secretary stated a re-approval.

Chairman Hertz stated re-approval, they're not completing their work, what is, how do we move them off the dime here?

Whitney Singleton stated it's not your job to move them off the dime, is the easy answer. It's Code Enforcement.

Chairman Hertz stated okay, so at what point are they in violation of their site plan.

The Secretary stated they don't have a signed site plan to date.

Mr. Miley stated they're parking where they shouldn't be parking, is what was indicated. So that is Code Enforcement, so I will take that as a registered complaint.

Chairman Hertz stated yeah, so...

Whitney Singleton stated Doug...

Chairman Hertz stated yes?

Whitney Singleton stated let me just qualify what I said because maybe it came out a little wrong. When I say it's not your issue, it's Code Enforcement, it's frequently been a pet peeve of this Board to see approvals that they've granted not implemented, not implemented properly, half implemented and so its frequently been something that your Board has tried to rectify and quite frankly it's really not up to you, you're an approving Board, you're not an enforcement agency. So it really comes down to it hitting an

applicant, whether it's this or somebody else with site plan violations and hitting them in the wallet in Justice Court.

Chairman Hertz stated I guess the question is without a site plan, how do they get a site plan violation.

Jan Johannessen stated because they're operating without a site plan.

Chairman Hertz stated alright, I'll leave that to Building Department and Code Enforcement and...

Board Member Bainlardi stated I'd like to add one comment.

Chairman Hertz stated please.

Board Member Bainlardi stated they clearly have been behind the curve in pursuing with what they need to pursue and I'm qualifying that by having dealt with the DEP and knowing how difficult it is to deal with the DEP and we've all be there. But it came into this Board the last time explaining that they need an extension, we gave it to them and now they've made some progress, right, they actually have a letter of completeness from the DEP and my experience, you don't get a letter of completeness from the DEP until you have from the DEP's view, everything in and an approval-able project. So, they are making progress here, I think we should nevertheless keep their feet to the fire with whatever tools we have and the next time they come before this Board we'll then have an opportunity, when they're asking for yet another extension to respond accordingly but I'm encouraged by the fact that they actually have a letter from the DEP at this point that indicates that the application is complete, but we should otherwise continue to push.

Chairman Hertz stated alright, thank you, let's move on to Mount Kisco Supply's request for a 6 month extension.

- **Mount Kisco Supply Request for 6 Month Extension, dated November 22, 2016**

Jan Johannessen stated Chairman, this project was approved by the Planning Board by resolution June 28, 2016, that resolution required that work commence within 6 months of the date of the resolution, bringing us into the end of December. The applicant has satisfied the majority of the conditions, however, the plans and the plat have not been signed because of the fact that, I guess the applicant has to pay the full year of taxes before the plat is signed. Whitney, is that not true...?

Whitney Singleton stated in order to file the plat with Westchester County you have to have a certification from the municipality that all taxes are paid, not in advance but that all taxes are current and apparently they're not current.

Jan Johannessen stated they're not current, he's waiting until I think January to pay his last tax payment. So he's asking basically for an extension so that he can get his ducks in a row, get the plat signed and commence construction, so he's asking for a 6 month extension to satisfy the conditions of approval to get the plans signed. Know that the changes that were required resulting from Board comments, staff comments have all be addressed, the plans are in final form, we're just waiting on the applicant to file the plat. The plat can't get filed until the taxes are paid.

Chairman Hertz stated and that's going to happen shortly?

Jan Johannessen stated he indicated January.

Chairman Hertz stated so is this a reasonable request from Staff's perspective?

Jan Johannessen stated I believe so. The alternative is to let the application expired.

Chairman Hertz stated yes, I'm well aware.

Board Member Bainlardi stated and this is the property where they've already taken down the building?

Jan Johannessen stated the Board gave them authorization to demo.

Chairman Hertz stated so they've done significant work towards the goal.

Board Member Mareschi stated its all cleaned up.

Chairman Hertz stated okay, while I hate to grant extensions, there doesn't seem any compelling reason why we shouldn't, they've made movement towards satisfying all the and staff recommends it so what does this require from us, is this a motion for an extension, Whitney?

Whitney Singleton stated yup.

Chairman Hertz stated so would someone on this Board make a motion to extend Mount Kisco Supply's approval for 6 months.

Board Member Bonforte stated I'll go ahead. I'd like to make the motion to approve this letter dated November 22, requesting that they final subdivision plat approval, site plan approval, wetlands permit approval, and change of use permit approval, for 369 Lexington Avenue, also called Mount Kisco Supply, section 80.48 block 4 lots 13, 16, 17, application PB2015-0300 per the letter request they be extended, I apologize for my pause here...

Chairman Hertz stated for 6 months.

Board Member Bonforte stated for 6 months from, will it be the date of this letter Whitney, or should we?

Whitney Singleton stated that's a point of clarification, it would either 6 months from June 28, 2016 which would be a full 6 month extension or 6 months from the date of the request or tonight's meeting. I think you're probably best off the longest period would be June 28, 2016.

Board Member Bonforte stated so I'd like to, say that again, June 28, 2016...

Whitney Singleton stated excuse me, extended from the deadline that's already in the existing resolution because that would be the longest period of time for applicant.

Chairman Hertz stated yes, 6 months from when this resolution would have expired.

Whitney Singleton stated correct.

Board Member Bonforte stated so I'd like to include in the motion that we extend the aforementioned resolution by 6 months from the date of the original approval.

Board Member Mareschi stated I'll second that Chairman.

Whitney Singleton stated from the original expiration.

Chairman Hertz stated from the original expiration yes. Seconded by Mr. Mareschi. On the question. Secretary, please poll the Board.

UPON ROLL CALL VOTE:

Board Member Bonforte	-	Aye
Board Member Mareschi	-	Aye
Board Member Bainlardi	-	Aye
Board Member Vigliotti	-	Aye
Board Member Polese	-	Aye
Board Member Hochstein	-	Aye
Chairman Hertz	-	Aye

The motion carried by a vote of 7 to 0.

Chairman Hertz stated okay, the next matter, Memorandum from the CAC to Village Board regarding Win Development. John, would you like to just characterize that letter?

- **Memorandum from CAC to Village Board Regarding WIN Development, dated December 4, 2016**

Mr. Rhodes stated yes, basically, after several meetings with Win, they modified their plans considerably to address our concerns and that was in order to take the next step which was to get approval from the Town Board, to use Town land in a certain manner. There are other issues that you guys have to consider obviously. And they had satisfied basically 95% of our concerns with these modifications, there were a couple of minor questions that still remain that they said they were going to work on. I think a few, some of their plantings were non-native, there was also what we called unnecessary removal of a couple of trees,

though they had cut back their tree removal considerably on Town property and they said they were going to consult with the Watershed Forester to see if those trees could be preserved too. So it was important but relatively minor things, considering the major modifications they made in the plan. I guess when you guys start to consider it in detail, if you need some more feedback, we'll be glad to do it.

Chairman Hertz stated I appreciate that and just for this Board, for new Board Members, this application is for the site plan was formerly Eduardo's which is now Terra Rustica Due, there's a proposal for a architectural significant office building to use this very unusually shaped lot to make an interconnection into Shopper's Park to go across the stream that goes behind there, there's some interesting challenges, the CAC was concerned about development, you know on Village, so there's some development on Village land, there's interconnections, there are a lot of moving parts here and questions of some environmental impacts on how the stream will function, how the site will drain, we're obviously very, very close to what is a functioning wetland and how that works, so I'm glad the CAC has worked with the applicant and they've moved that forward and we expect to see them back in some form and you'll full plans or revised plans when they get here

Whitney Singleton stated and Chairman, if I'm not mistaken, and the audience will correct me if I'm wrong, there were specific requests by the Village Board or the CAC, I can't remember which, to give some consideration as to the necessity and nature of the walking, the pedestrian path, whether it was necessary, is that...?

Mr. Rhodes stated there were a number of concerns, I think the only one in terms of that that wasn't addressed was the necessity on the separate walkway and that been part of actually, had been suggested by some of the Village staff, [inaudible] concern on the part of the Board that that, there was one Board Member and some other people whether that was necessary, whether that was going to be an advantage or a disadvantage and that I think that was Peter's, basically from a purely technical environmental point of view because they would be using permeable surface plus introducing some fairly deep drainage there and correct me if I'm wrong that the problem is the drainage there is quite poor as it is that any effect on drainage would be a positive effect, but it would break up the greenspace there and I think that was Peter's point.

Trustee Grunthal stated yeah and I just want it brought to the attention of the Planning Board so that you would consider that path and look at it very intensely.

Board Member Vigliotti stated Peter, I understand where you're coming from and the Village Board, I think an aspect that we have to consider while we're considering saving some of the greenspace by removing the sidewalk, is a safety aspect, if that's to become a shortcut from Shopper's Park to that south end of Moger Avenue, it behooves us to take a closer look at whether folks are going to use that driveway as their short cut, as opposed to anything else and is that a safe way to get out of Shopper's Park, could you get to Shopper's Park, going across the property using the driveway, so in one hand we're creating this driveway which works well for the property but it could become an attractive nuisance as a short cut, so I wouldn't recommend that we do a site visit in our eye's mind see what's at stake and if it means...

Chairman Hertz stated and I think we really should just wait at this point for the applicant to come back to show us what they really intend because there's, a lot this has shifted, so I think this is great feedback and great input but we need them to show us what they actually intend, what all this feedback is actually, what the product is going to look like.

Jan Johannessen stated I think we're at a point where you couldn't move the project any further until we understood where the Village Board stood on certain things...

Chairman Hertz stated right.

Jan Johannessen stated I think that's now occurred, so I would expect that you'd get a new submission soon.

Chairman Hertz stated okay, so there seems to be at least some consensus with the applicant and the Village Board about the use of Village land and all those, is that...

Trustee Grunthal stated Whitney made a comment, basically the request was granted to Win Development, the question of that pathway was raised among other things and all that was raised, I personally having rased it, take Ralph's point and I look to collective wisdom for you to debate that, and come up with whatever you come up with, taking into account John's comment as well, about the nature of that path.

Chairman Hertz stated so this is one of those application that both has the opportunity to be very, very interesting but also challenging because you have conflicting, like most application, you have conflicting

desires to you know, make sure that traffic access and egress works well, make sure that we're balancing the environmental concerns, the pedestrian concerns, good you know, we're creating good circulation you know in the Village we're doing all those kind of fun things but it's a very exciting application. Alright, correspondence, we can all read that on our own, if there are no other items that the Board Members have, I suggest we close this Board meeting. Do I have a motion to that effect, excellent! Thank you all very much.

Chairman Hertz asked for all in favor. The motion carried by a vote of 7 to 0.

The meeting adjourned at 8:55 p.m.