

**Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, October 25, 2016**

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

Members Absents: Anthony Sturniolo

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

The Planning Board convened for a work session at 6:47 p.m. and discussed items on the agenda. No notes were taken at the meeting.

Chairman Cosentino called the Planning Board meeting to order at 7:42 p.m.

Chairman Cosentino led the Pledge of Allegiance.

Chairman Cosentino stated this is Tuesday, October 25, 2016. This is a Planning Board Work Session.

Mr. Hertz stated Mr. Chairman along the lines of what we were just talking about before we start I just want to mention that Hank Kensing passed away this week, on Monday. Hank gave a great amount to this Village for decades and I thought we should all remember him. He was a really tremendous man and a friend.

Chairman Cosentino stated that he served under Hank Kensing. He was a mentor. He was a judge. He was a Mayor for 16 years and he was a judge for maybe another 15 years. He will go down as an icon in this Village of Mount Kisco. The family was a great family. All of them served the Village.

Mr. Martabano stated brilliant, absolutely brilliant.

Chairman Cosentino stated like I said, I served under him. We're going to miss him.

Minutes

Chairman Cosentino stated we have the minutes of March 22nd and April 12th. Michelle on the minutes?

Michelle Lailer stated you do have a quorum for both sets.

Chairman Cosentino asked Whitney, can we do these together?

Whitney Singleton stated you can only have people vote who were at the meeting.

Chairman Cosentino stated we'll vote on the minutes of March 22nd and April 12th.

Mr. Vigliotti said I'll second that.

Chairman Cosentino stated who was here on March 22nd.

Michelle Lailer stated Mr. Bonforte, Mr. Bainlardi, yourself and Mr. Vigliotti.

Mr. Bainlardi stated same for the 12th.

Chairman Cosentino asked Mr. Vigliotti is your motion for the 22nd and the 12th?

Mr. Vigliotti said that is correct.

Chairman Cosentino said do we have a second.

Mr. Bonforte stated I'll second that.

Chairman Cosentino stated on the question. All in favor?

All aye.

Mr. Mareschi stated nay, he was absent.

Mr. Hertz stated Michelle, you need to update the 12th because I was apparently both absent and I voted.

Michelle Lailer stated oh, thank you.

Mr. Mareschi stated Michelle, mine too, I'm sorry.

Formal Application:

Chairman Cosentino stated under formal application we have Silverman Corp, 487 Main Street. Come up and identify yourselves for the record.

**1. 487 Silverman Corp – 487 Main Street (Former Myong)
PB2016-0337, 80.57-3-2 (SBL)
Amended Site Plan**

Rich Williams, Insite Engineering, Don Walsh, Development Strategies both on behalf of 487 Silverman Corp appeared before the Board.

Chairman Cosentino stated welcome gentlemen. We all know what it's about but for the public.

Jan Johannessen stated the space in question is the former Myong Restaurant. It has approval for 60 seats. The applicant is proposing to increase the seating capacity at 84 seats. Just for reference, this space has been historically used as a restaurant. The strip mall once included a Chinese restaurant with 93 seats and a barbecue restaurant with 89 seats and Myong had 60 seats. The property has a total of 45 parking spaces, although at one time it had 48 spaces and it had converted spaces to accessible handicap parking and they lost a total of 3 spaces at that time. When you look at the 84 seat restaurant coupled with the existing uses that are at the property and you apply the parking regulations, you come up with a total of 55 parking spaces. Again, the site has a total of 45. When the Board approved the Lacrosse Unlimited application, they approved the joint use of 7 parking spaces at that time. The applicant is requesting that the Board approve a total of 10 parking spaces to allow an 84 seat restaurant. This is a resolution for an Amended Site Plan approval granting an 84 seat restaurant in the former Myong Space. There are a couple of conditions dealing with replacement of a dumpster enclosure, supplemental landscaping along Main Street. If for any reason this space or any other space in the strip mall increases its intensity or changes its hours of operation in a manner that invalidates or conflicts with the joint use of parking spaces that is established in this resolution, that would be subject to Planning Board approval.

Mr. Hertz stated Jan, just to clarify, the joint use of those 10 spaces is because of dissimilar peak hours of operation.

Jan Johannessen stated yes.

Chairman Cosentino stated we have a draft resolution on this.

Mr. Walsh stated Mr. Chairman, for the record, we would be bound by the three conditions and we have no problem with those. The Silverman's bought this property three years ago. They have not appeared before this Board, nor submitted any information to this Board before. They are represented here tonight by Jill Silverman Greenspan, who is one of the owners of the property.

Chairman Cosentino stated welcome.

Mr. Walsh stated that they certainly understand the entire ramifications of this. This is the kind of business they're in. They know they have to come back to the Village if they change the type of use. We did calculate based on three retail spaces, which you are all familiar with, plus the possibility of the restaurant. And we do agree to the conditions. We are talking to landscape architects now about bringing in that plan. We know that's going to be done administratively. We have no problem with that.

Chairman Cosentino stated well put. He asked if there is anything else from staff on this. Anything from Planning Board members? Ok, we have a draft resolution here. Does somebody want to make a motion?

Mr. Bainlardi stated I make a motion that we adopt the Amended Site Plan Approval for 487 Silverman Corp, 487 Main Street, Section 80.57 Block 3 Lot 3, Application Number PB2016-0337.

Mr. Mareschi stated second Mr. Chairman.

Chairman Cosentino stated second by Mr. Mareschi. On the question? Will the Secretary poll the Board please?

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

Motion carried by a vote 6 to 0

Chairman Cosentino stated well done gentlemen. Bring in a tasty restaurant.

Mr. Walsh stated thank you.

**2. EK Construction – 35 & 39 Kisona Road (Former Whalen’s)
PB2016-0324, 80.48-5-1 & 11 (SBL)
Site Plan and Change of Use**

Chairman Cosentino stated this is a draft resolution dated October 25th. Identify yourself for the record please.

Charles Martabano, attorney for the applicant; Rich Williams, Insite Engineering, appeared before the Board.

Chairman Cosentino stated we have a draft resolution and we went over it. I think there was one thing that we have to solve. Jan, we just want another thumbprint for the....

Jan Johannessen stated this is on for an Amended Site Plan approval and a Change of Use Permit. The Site is a 1.2 acre site comprised of two parcels located on Columbus Avenue. This is the former home of Whalen’s Moving and Storage. The applicant, Elliot Krakow is proposing to convert the space to a hardware/indoor lumber yard, proposing a two-story addition to the existing building and a 2000 square foot attached one-story addition for material storage, along with associated parking, lighting, and landscaping improvements. The applicant has submitted a business plan, which is reflected in this resolution. They obtained a number of variances from the Zoning Board, which I believe were granted last week.

Mr. Martabano stated they were granted last week, yes.

Jan Johannessen stated those variances are identified in the resolution.

Mr. Martabano stated accurately.

Jan Johannessen stated that basically everything that we have spoken about over the last number of months in terms of the use of the property is reflected in here and the business plan is referenced as a condition. The one modification that we discussed during our work session is regarding the length of the trucks. Tractor trailers are referred to as an overall length with the smaller trucks referred to as a bed length, so I will make that modification in the resolution. This application was subject to SEQRA. The applicant submitted an EAF. The Board declared itself Lead Agency and issued a Neg Dec on September 27, 2016. The SEQR process is complete. Among the conditions are outside agency approvals from the DEP along with where you stand with the ARB.

Mr. Martabano stated the ARB is done.

Jan Johannessen stated and the DEC only because of SPEEDIES storm water permit. Those are conditions of approval.

Mr. Martabano stated of course.

Chairman Cosentino stated the only thing we have left is the driveway on the house. As long as the Village is protected that a driveway is going to go in, I don't know how you want to do it. But I think that the Board needs something legal that the driveway is going to be put in and completed. How you want to do it, I don't know. But whatever way you feel you should do it, I need the approval of the Village Attorney.

Mr. Martabano stated let me try to put a representation on the Board because in addition to representing the property owners involved in connection with this application, I also represent the owner of that property, who is a separate entity and not involved – Carrozza, through an LLC. I have been instructed by him to pursue the application to install the driveway. The driveway width only needs to be 10 feet and I have confirmed that with Peter. We've got about 11 feet on the side, so we can do that. We're going to do a gravel driveway and a gravel parking lot area. There was no parking area in the back of the property.

Chairman Cosentino asked can driveways be gravel.

Mr. Martabano stated yes. The back of the property has an old structure on it that they used to call the church, which I have no idea what that is but that's going to be removed. We're going to maximize the amount of a parking area that we can put in there. I'll pursue any application on behalf of that owner to have this driveway installed. We're going to meet with Peter and with Jan on our plan, which should be done by tomorrow. It's a separate thing. The property owner wants it, I think, more than the Board wants it. So we're going to pursue it and I'll represent that we'll pursue it. If we have to get a variance, we'll go for the variance for it if we don't have an adequate back up area. We will do everything we can to get the parking on that site. Yes sir?

Mr. Mareschi asked why gravel Charlie?

Mr. Martabano stated probably more for drainage, for DEC purpose, things of that nature. I think you're better off than having impervious surface. I think you're better off.

Chairman Cosentino stated I didn't know we can have gravel driveways.

Mr. Vigliotti asked is DEC requiring that it be gravel.

Mr. Martabano stated no I don't think so. I just think you would avoid DEC...

Anthony Oliveri stated DEP

Mr. Martabano stated I'm sorry DEP, I said DEC, I was wrong.

Mr. Vigliotti stated I always go back to if it's a residential neighborhood whether we would treat that house with a gravel driveway in any other neighborhood in Mount Kisco. I just kind of question gravel versus a macadam driveway like you see 99 percent of the driveways in residential areas. I just question that.

Mr. Martabano stated I think it's permissible and I think it's probably preferable in a lot of respects because of the DEP situation in that area. We'll pursue it. I'll talk to the property owner. But, I want to emphasize he wants it more than I think you all want it, and for obvious reasons. It doesn't have it. It never did have it. We're going to pursue it.

Mr. Hertz stated so I guess the question is how do we tie it in. How do we insure it happens because ultimately so while they were separate lots, Charlie, we believe that there was parking on one of those lots that the house was employing or it was employing street parking or other...

Mr. Martabano stated it was using on-street parking. There were a couple of vehicles over time that were stored there but not vehicles parked there. There was a garden. There was all that back there. I think the photo that Whitney is referring to would show that. We want to do this. Again, that property owner wants to do it as much as you want it done, maybe more. I think more.

Mr. Hertz stated so help us come up with a mechanism that ensures that that happens while not hamstringing this application. Could the applicant put up a bond?

Mr. Martabano asked which applicant?

Mr. Hertz stated this applicant because we are only dealing with this applicant here.

Mr. Martabano asked why would he put up a bond for someone else.

Mr. Hertz stated to ensure that the thing is happening.

Mr. Bonforte stated to the extent that he can. Part of this problem is you have two separate owners and you can't control what your neighbor does in the future.

Mr. Martabano stated this owner wants it done. I'm not misrepresenting the situation. He called me and asked why is this not done already.

Mr. Bonforte stated but the reason why you can't tie the applications together is because you don't completely control it.

Mr. Hertz stated but the reason that we're obligated to tie the applications together is because of a comment someone else made, which is you have the opportunity until it's built and approved to access the rear of the that property through an easement through this property.

Mr. Martabano stated we have the 10 feet. We have 11 feet on that side of the property, 11 feet. We did get the survey.

Mr. Williams stated so he can provide his parking regardless of whether or not he got an easement. The easement wouldn't be a reason for him to provide this.

Mr. Martabano stated which is why I checked with Peter about the width of the driveway being 10 feet, which his permissible.

Mr. Williams stated we could put up a bond but the only thing that would protect is if we walked away from the table.

Chairman Cosentino asked it's 10 feet with a 2 foot grass area or planting area?

Mr. Martabano stated I think the total width on that side is 11 and change but let me say, I know it's 11. I don't want to say it's 12 because I don't know that it is 12.

Mr. Mareschi stated that's a two family right?

Jan Johannessen asked if that property has a landscape buffer requirement on the side yard.

Mr. Martabano stated I don't know, I don't think so. You can check. If you get into those things, then I'd go for a variance for it. And this is all the more reason I'm telling you, I'll pursue everything. But this is all the more reason that you can't tie it to this application.

Mr. Bainlardi stated can you remind me, on Kiskon, are there curbs?

Mr. Martabano stated no, we took them off.

Mr. Bainlardi asked were there ever curbs.

Mr. Martabano stated were there curbs there, I don't believe so.

Mr. Bainlardi stated so if people wanted to park on that side right now, they could, couldn't they.

Mr. Martabano stated right now they are park here.

Jan Johannessen asked if on-street parking permissible there?

Mr. Martabano stated I don't know but they all park there. When I went there to show that house... Peter is parking permitted on Kiskon on this side, do you know?

Peter Miley stated I have no idea.

Mr. Martabano stated because they all park there. You guys know. They all park there so I presume it is.

Peter Miley stated you would have to ask a police officer.

Chairman Cosentino stated there shouldn't be parking on the hill going down Kiskon. If you're coming up, you have to wait until the other car gets down.

Mr. Vigliotti stated that's on Kiskon. He asked Charlie, you're representing both.

Mr. Martabano stated yes, I am.

Mr. Vigliotti asked if you could get a, I'm not sure how much a driveway would cost to install but let's say it's \$25,000. Can a bond be placed on the engineering of the driveway and the materials of the driveway to ensure that it will be built? Is that something we're looking for by that property owner?

Mr. Martabano stated the engineering Insite is going to donate for free, I'm giving it away.

Mr. Mareschi said you should get the gravel at Modern Paint next door.

Mr. Bainlardi asked how much time do you think it's going to be before you're in a position to get a building permit. Do you have some other permits to get?

Mr. Martabano stated if Jan is correct that I might need a buffer...

Mr. Bainlardi stated I'm talking about this.

Mr. Martabano stated we've already commissioned the building plans to be done.

Jan Johannessen stated you have DEP approval right.

Mr. Martabano stated DEP will be October 30th.

Mr. Williams stated they're due for technical comments on October 30th.

Mr. Martabano stated so we're close. He's trying to get this thing to get the interior demolition done, etc. He wants to get this place built because he's at Kisco Avenue now on an extension. So I think we'll have a building permit in November. Our original contract cutoff date was in August.

Mr. Miley stated November 30th.

Mr. Martabano stated I'll have the extra day since we're not having a Planning Board meeting, so you can move on that. I'm thinking November we'll have a building permit.

Mr. Miley asked when are you planning on submitting. He stated don't submit October 29th and expect November 1st.

Mr. Martabano stated we'll be submitting quickly.

Michelle Lailer stated you can't get a permit without your signed site plan.

Mr. Vigliotti asked so how are we moving forward on the driveway.

Mr. Martabano stated he can talk about putting up a cash bond and cover the materials or something like that but I don't want to tie these things up.

Mr. Bainlardi stated the reason I was asking was if we were to approve the resolution and the approval was not in place by a certain date then this applicant would have to post a cash bond at that point and at least it would put the decision in the applicant's lap at that point as to whether they want to post a bond or not or if they want to post the cash or not.

Mr. Martabano stated that you could talk about that at the CO phase. By then we will be done no matter what. So if it's not done at that time, we'll post a bond at that time. You can do that at the CO phase. I don't have a problem with that because I'll be done. Or, if I'm not done, it will be because somehow I can't get it approved. It wouldn't make any sense. I think everybody wants it approved. I think the ZBA if they said there's a buffer there but you know what, we'll waive the buffer so you get the driveway and I think everybody will do that. So, that's a possibility.

Anthony Oliveri stated that it could trigger a site plan. It's a two-family residence with adding a driveway, it may trigger site plan. You need a site plan for a two-family. Whether or not a building permit is triggered or not for a driveway, I don't know. If it changes the site plan of a two-family residence.

Mr. Martabano stated now you're making it more complicated. We're trying to get the driveway in.

Anthony Oliveri stated you're going to have a lot of lot coverage, development coverage.

Mr. Martabano stated we will, but it's a fairly deep lot in the back.

Anthony Oliveri stated so there's quite a few obstacles, I think.

Chairman Cosentino stated it's 50 by 150.

Mr. Martabano stated that's what it is exactly. So I think we've got the room in the back for a turn around.

Anthony Oliveri stated I'm not sure what the development coverage is but a gravel driveway is still...

Mr. Martabano stated the development coverage in the SC District is 70 percent so I think I'm ok. The turnaround might be an issue but then I could get a variance if need be.

Anthony Oliveri stated the whole site plan thing Peter would have to....

Mr. Martabano stated I think we talked about that we don't need a site plan for it.

Anthony Oliveri stated it further complicates the matter.

Mr. Hertz asked Mr. Bainlardi, John what was your suggestion?

Mr. Bainlardi stated my view on this is I did not interpret when Charlie offered what he offered that we were make it conditioned upon that happening. I took it that Charlie, on behalf of his client, whichever client it was, was going to undertake to try to advance it.

Mr. Martabano stated which I am.

Mr. Bainlardi stated it is not even clear to me that they were ever even parking on this

Chairman Cosentino stated there was no parking.

Mr. Bainlardi stated so I don't want to put unreasonable conditions on this application that causes them to have issues with financing, causes them to have issues to proceed and get this thing done. So if there was a dollar figure that we were saying well, listen, the penalty is going to be if you don't do it, your client has got to ante this up, maybe that's a conversation. I have no problem putting that to the CO because that's really a stick but if you ask me right now, I wouldn't even put the condition. I'd rely upon the fact that he's made the representation in good faith. But that's my opinion.

Mr. Martabano stated and I'm going to pursue it. The applicant wants to pursue it. It makes sense. He doesn't want to park in the street.

Mr. Bainlardi stated that's my opinion and being the cynical New Yorker that I am, it's not going to happen. But he's representing that he's going to intend to make it happen.

Mr. Hertz stated so Charlie when you say he doesn't want to park in the street, he's parked in the street for however long he's had the property.

Mr. Mareschi stated three years.

Mr. Martabano stated he's owned the property for a few months.

Mr. Mareschi stated the prior owner to that.

Mr. Martabano stated the prior did. This owner does not want to do it.

Mr. Vigliotti stated it makes the property more valuable when you have parking on site and that's what he's trying to accomplish.

Mr. Martabano stated and he's a landscape contractor, he's going to do a lot of the work himself. So he wants this and as I said, he called me and asked why isn't it done yet. That's why I said to Insite you have to get this done as soon as you get back, Insite being Scott. So we're going to get this done and that's all I can tell you. Unless there is some reason in the approval process you don't approve it, that's a different story. We're going to get it done. I'm representing it to you that the owner of the property wants it.

Chairman Cosentino stated how are we going to do this? I'm only one member. How are we going to do this?

Mr. Martabano stated I don't want to link it to this guy because John said it would be a problem with financing. I'll be glad to put things in writing on behalf of the owner of that property as to what he's going to do to pursue this subject only.

Chairman Cosentino stated I know the guy. I believe he'll do it.

Whitney Singleton asked who's the owner?

Mr. Martabano stated it's a Limited Liability Company owned by Pasquale and Frances Carrozza.

Mr. Hertz stated so I guess the question is on this site are we creating any issues for ourselves by approving this and not having secured parking on the other site.

Mr. Bainlardi stated I don't think so.

Mr. Hertz asked have we changed anything in a way that's negative towards that. And I think the answer is no. There is an existing problem/issue with those homes not having parking and not having driveway but that was an existing issue. I don't think the approval of this exacerbates that problem. Anyone?

Mr. Bainlardi stated I agree.

Mr. Hertz stated so I think by that standard us moving forward on this really, whether or not he does what he says he's going to do, the only issue there is some of the improvements into an area where that they were may or may not have been legally parking on prior. Can you just go over the non-curbed area, the area of greenery on the edge of Kiskonca? Is that just grass at that very edge?

Mr. Martbano stated not now.

Mr. Hertz stated in the plan.

Mr. Martabano stated yes it is grass.

Mr. Hertz stated and then there's a border hedge that's going in. I'm talking about Kiskonca.

Mr. Williams stated it's a non-curbed road. It'll be grass. Then we'll have planted hedge with ornamental trees.

Mr. Martabano stated the original plans, you remember, did have access out to Kiskonca, which the Board wanted to change. And we changed it.

Mr. Hertz stated right. And you're not adding curbing on Kiskonca to delineate between the grass and the street.

Mr. Martabano stated no.

Mr. Hertz stated so theoretically you could pull up on that and park.

Whitney Singleton stated no, there's a significant change in grade.

Mr. Martabano stated probably this area here but not so much down here (indicating) if I remember correctly.

Mr. Vigliotti stated there's a grade all the way through, three feet, four feet.

Mr. Hertz asked so it's not parkable? I don't know what you're going to do with changing.... So I guess my question is are you going to prevent or are you going to insure that there is no parking on your property.

Mr. Williams stated that our property line is the hedge row.

Mr. Martabano stated this is actually Village property here. So the Village could do it.

Mr. Bainlardi stated if parking is permitted on the roadway then they are parking on the roadway. Whether or not somebody's tire may go onto the grass or not.

Chairman Cosentino asked if this driveway going to be designed by your company?

Mr. Williams stated yes.

Chairman Cosentino stated because the grade is high and you're going to have to cut down, so you're either going to have put a wall on each side or something to hold it.

Mr. Williams stated we're going to take a look it. Is it a wall? Can we do it with grading?

Mr. Martabano stated I'm not sure about that Joe. I don't think that grade changes here.

Mr. Mareschi asked we're facing the house to the left, correct?

Mr. Martabano stated facing the house to the left.

Chairman Cosentino stated you have at least two or three feet.

Mr. Martabano stated I think that's over here. That's for them to take care of. They'll take care of it.

Anthony Oliveri stated they're putting a wall in behind the propane and then there's a two or three foot grade change to the property.

Chairman Cosentino stated you're talking about EK now.

Mr. Hertz stated you might have the opportunity to change the grade across both properties using a retaining wall.

Mr. Williams after reviewing their plan stating they do not have enough off-site topography for him to be able to answer the question right now. He said you do have a pretty good grade change along Kisona Road to go back to the previous question.

Mr. Martabano stated that's what Whitney said.

Mr. Williams stated is there a small one-foot shoulder or some small area, yeah but it's not anything like a three foot grass strip you could park on.

Mr. Martabano (reviewing their plan) stated here's our only retaining wall here and then there's landscaping all here on our plan, correct.

Mr. Williams stated yes.

Mr. Hertz stated so let me ask you this. Do you think it would be necessary to or would it be advantageous if there was significant grade change and you had to put a retaining wall and you didn't have room because you have 11 feet, etc., would it be functional to make some of that grade change happen in the buffer of the EK piece?

Mr. Williams stated we have some light shrubs that we can push around and it's a sloped area. To be honest, I haven't looked at in detail.

Mr. Hertz stated I guess my point is this is somewhat theoretical because we don't have the information, we don't have the topo, but should it be advantageous to help that grade by moving the retaining wall or grading across the EK buffer piece, I want to make sure that's something that could happen.

Mr. Martabano stated it's not affected by the landscaping right?

Mr. Williams stated no, and he represents both clients. I'm sure he could affect that easement.

Mr. Hertz stated I just want to make sure that our approval and the way you've drawn the plans allow that. Peter, that kind of small modification would be a field change?

Mr. Martabano stated we could do that as a field change.

Mr. Hertz stated so an approval or not doesn't affect that because it can be dealt with. So as long as we have it in the minutes that you've agreed to look across both properties and this applicant will make the necessary changes to facilitate that driveway going in if it proves advantageous.

Mr. Martabano stated I don't see why we wouldn't. It makes sense. We're not using the property for anything but buffering anyway. This area, we're just using it for buffering. So I'm good.

Mr. Hertz said ok.

Chairman Cosentino asked are we all set?

Mr. Martabano stated I think so.

Mr. Bonforte stated I'll make a motion, Mr. Chairman, if that's ok with you and everyone else is done with their comments.

Mr. Hertz stated and I will second that motion with the stipulation that what was said today is understood to be part of this resolution.

Mr. Vigliotti asked could you spell that out?

Mr. Bonforte stated I'll do that in the motion. So, I'd like to make the motion to accept the Amended Site Plan Approval/Change of Use Permit for EK Construction, 35 & 39 Kisona Road, Section 80.48 Block 5 Lots 1 and 11, application number PB2016-0324. The date is October 25, 2016 and we want to make special note of the work that needs to be done on the adjacent property concerning the installation of a driveway and given all the factors and discussion that's taken place tonight on this matter, and Mr. Martabano's representation that all parties involved are interested in looking toward a complimentary, satisfactory outcome of that situation with the driveway on the adjacent property. I'd like us to vote on the motion for EK Construction.

Chairman Cosentino stated do we have a second?

Mr. Mareschi stated aye.

Chairman Cosentino stated second by Mr. Mareschi. On the question.

Jan Johannessen asked if that is just a note.

Mr. Hertz stated I don't think the intention is to have that written out into the resolution. That's just going to be part of the minutes.

Mr. Bonforte stated we're relying on Mr. Martabano's representation on a verbal matter and your representation. It's not a legal representation.

Mr. Martabano stated I appreciate that. I agree.

Mr. Bainlardi stated and just further to the question I just want to state it's clear in my mind that there's no legal obligation once we adopt this resolution for the neighbor to actually do anything but we're relying on the representation and good faith that they are going to attempt to do it. I'm ok with that.

Mr. Bonforte stated so am I.

Mr. Martabano stated thank you all.

Chairman Cosentino stated Michelle.

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

Motion carried by a vote of 6 to 0

Mr. Martabano stated that you all very much.

**3. 461 Lexington Avenue, LLC (Polaner Selections)
PB2016-0329, 80.64-2-15 (SBL)
Site Plan and Change of Use**

Charles Martabano, attorney for the applicant appeared before the Board.

Jan Johannessen stated the Planning Board is lead agency and they issued a Negative Dec. The applicant went to the ZBA and got a side yard setback variance. The application requires a wetland permit, which is subject to a public hearing. I think the main objective tonight is to schedule a public hearing on the wetland.

Mr. Martabano stated exactly.

Mr. Hertz asked Jan doesn't the driveway now go over Village land?

Mr. Martabano states yes. Where we are on that is on September 20th, the Village Board voted to grant an easement subject to review by the Village Attorney, subject further to any further comments that the Conservation Advisory Council might have. Since that vote, we met again with the Conservation Advisory Council. They have no further recommendations or requests. The one that you did see is reflected on the plan here. They wanted us to change the design of the back of the property so as to preserve a quad trunk maple tree that is on Village property. This plan, for which we need the wetland permit, now shows the revisions that the Conservation Advisory Council wanted. So that's where we are.

Whitney Singleton stated can I just comment on that? I agree with most of what he said. I think there is disagreement among the Village Board as to what needs to be done on a going forward basis. There was discussion at the Board as to whether or not it was approved subject to the things that Charlie said or that the drafting of the document was approved. I believe there are certain members of the Village Board that wish to see it again and before it is finally approved.

Mr. Martabano stated that he got a copy of the minutes and the resolution and that is not what it said. One way or another, if it has to be shown to them again, it's fine. You have the easement agreement, so we are waiting for your comments. We'll proceed as that way. We'll take it up with the Village Manager or the Village Board as the case may be.

Jan Johannessen said either way, we can potentially have a resolution from the Planning Board with that as a condition, right?

Whitney Singleton said absolutely.

Mr. Hertz stated we need a public hearing on the wetlands, and pending the Village Board's resolution, we can approve or we can approve pending their resolution. Which way?

Jan Johannessen stated either way you want.

Mr. Hertz said ok. So Mr. Chairman, should we schedule this public hearing?

Chairman Cosentino stated yes, absolutely.

Michelle Lailer stated November 22nd.

Mr. Martabano asked what happened to November 8th?

Michelle Lailer stated it is Election Day. We're closed for the holiday.

Mr. Martabano said ok, thank you.

Jan Johannessen asked would the Board like a draft resolution then.

Chairman Cosentino stated yes.

Mr. Martabano stated he would get back to the Village Board meeting before that time. Again, thank you very much. Have a good night.

Conceptual Application:

**1. Gas 21 Realty – 192 N. Bedford Road (Mobil)
PB2016-0339, 69.58-4-2 (SBL)
Site Plan**

Chairman Cosentino called Gas 21 Realty. Would you come up and identify yourself for the record please.

Inderjit Singh, property owner; Sam Adaken; and Paul Berte, Petrucelli Engineering appeared before the Board.

Whitney Singleton stated Mr. Chairman, I do not represent this entity but I have represented the individuals that constitute this entity. I have done no work with regard to the acquisition lease or purchase of this gas station or any improvements and I have no economic, direct or indirect affiliation. But I did wish to disclose that I represented them on an individual basis and I have represented them for another corporation they have.

Chairman Cosentino stated not a problem. Before we start, those of you who have been on the Planning Board for many years as I have, I knew Rudy Petrucelli. He passed away this week. He was an honorable guy. He worked for the County for many years and we send our condolences to his family.

Mr. Berte stated thank you.

Chairman Cosentino stated why don't you give us a....

Mr. Berte stated my name is Paul Berte from Petrucelli Engineering. The applicant is Gas 192. On the existing site is a gas station with eight pumps, a small kiosk associated with the gas station and a 1932 square foot building that was formerly occupied by, leased by Enterprise.

Chairman Cosentino stated this would be the new building.

Mr. Berte stated the application we are presenting to you is to upgrade the existing station to put in new pumps. We're reducing from eight to six, partly to upgrade the system but to allow for the addition of a 500 square foot convenience store associated with the gas station. The intent is to still maintain the existing building as a use, preferably some retail or similar use as was done in the past. But in order to maintain competitive with other gas stations really everywhere. The owners are looking to construct a convenience store that's associated with the gas station. The rendering is computer generated and it is true to scale from where we have architectural elevations for the building. The shape of it is really defined by setbacks from the pump to an existing wall where there is a grade change from the front part of the lot to the rear part, where right now there exists approximately 15 parking spaces that were used by the Enterprise facility. Also, we're to minimize... we don't have any new impervious surfaces, therefore staying out of the DEP regulations for their permitting requirements. We are in receipt of the letters from Kellard's office and from Mr. Miley in the Building Department last week. I'm happy to go through the rest of the plans. We have developed the plans a little bit further along that you had. We've prepared a landscape plan. Our rendering does kind of represent what we were proposing along the strip between the sidewalk and the gas station. Our lighting will comply with the Code in Mount Kisco. We meet our setback requirements for our rear yard, our building setback requirements. We do not meet the 20 foot setback requirement for the gas station. We're trying to make it a little bit better than it is now. There is a canopy on this site as well. The property is in the CL Zone. I didn't mention that earlier. This facility operates as a special use so the canopy overhang is an existing non-conformity, we'd like to continue that use, just again, to be competitive.

Mr. Mareschi asked if they are changing the canopy or is it the same one.

Mr. Singh stated it would be the same one.

Jan Johannessen asked if they were replacing the canopy.

Mr. Singh stated no.

Jan Johannessen stated he thinks during the pre-application meeting it was identified that it would be removed and replaced.

Mr. Berte stated that the facility might get an upgrade, to be painted or make it dressed up new.

Jan Johannessen asked what about the fuel dispensers. Are they going to remain the same?

Mr. Berte stated that the fuel dispensers are going to be new. There's four 10,000 gallon underground gasoline tanks right now. Part of this project is to file the DEC permit to remove those and replace them with two 12,000 gallon underground tanks. So that's really the application. There is a question about the use of the building in the CL code and I don't know if Mr. Singleton has anything to offer on that determination.

Whitney Singleton asked on what.

Mr. Berte stated on the use of the construction of the retail facility associated with the gas in the CL Zone.

Whitney Singleton stated the Board discussed that earlier in the work session and there are obviously determinations by the Building Inspector and the memorandum by the Planner. I had suggested that they look at the file regarding the Mobil station at the intersection of Lexington and Main Street to see whether or not that has impact on this. There was some litigation. I was not around back then but I know Ralph was and some other members were.

Chairman Cosentino stated I was.

Whitney Singleton stated I can't remember the exact outcome but I thought it had to do with whether or not and this in conjecture on my part, whether or not a convenience store is part and parcel of operating a gas station. That is something we need to go back and look at.

Chairman Cosentino stated yes, we're going to look at that. Peter Miley is going to look at that.

Whitney Singleton stated it is not definitive but certainly it's something to be considered.

Chairman Cosentino stated we spoke about this earlier. I'm looking at it. What a difference to the streetscape. It really looks great. You did a beautiful job. But besides that, we talked about this earlier, and we know you have to go for a variance and we realize that your money isn't made on gas these days. That's why every gas station is putting in a convenience store to make up the difference. As we spoke about it earlier we know you need variances and we have no problems letting the Zoning Board of Appeals know that we are in favor of the project, which might help. But as I said, every gas station from Mobil down has a convenience store. Simone doesn't because he doesn't have the room, actually. He's a repair shop.

Mr. Berte stated that's his ancillary use to the gas.

Chairman Cosentino stated exactly. I realize now why your gas is so high. You have to make up the difference some place. I think I'll let the members talk for themselves but we will be sending a message to the Zoning Board of Appeals.

Mr. Bainlardi stated on that point, what we did discuss in some detail is one, this Board doesn't make determinations as to whether or not a use variance or any type of variance is either required nor do we vote on granting them. The opinion may be solicited from the ZBA and we'll respond at that point in time. I think the onus is on the applicant to do your homework, determine whether or not you are in agreement with any determinations and work that out with the Building Department, the Code Enforcement official who has the authority initially to determine whether or not a variance is required. We also discussed if you want to proceed with the application, we'll entertain it, but you do it at your own risk. If you prefer to go and try to secure variances, if that's ultimately what's determined is required, you're free to do that as well. But if you're so inclined to proceed with the application here before our Board, I think we're prepared to entertain it.

Mr. Berte stated ok.

Mr. Bonfort stated I'm just curious. Are you going to offer diesel. Do you offer it now?

Mr. Singh stated we offer it now.

Mr. Bonforte stated you're taking out four tanks and putting in just two.

Mr. Berte stated they'll be partitioned.

Mr. Bonforte stated so that's how you offer three grades of gas and diesel. Thank you.

Mr. Hertz stated your rendering looks very nice and I think it's a reasonable and good use for the site. I'm curious about the old Enterprise building. Is there any plan to upgrade the façade or do anything to spiff it up?

Mr. Singh stated we will.

Mr. Hertz asked if that would be part of this application.

Mr. Singh stated not yet.

Mr. Berte stated we are coming here for site plan approval, of course, if we are able to get variances approved for the whole site. So to your point, if the Board is looking at that building as part of this then I think the owners would make that decision to upgrade the façade also.

Mr. Hertz stated I think it makes sense to have one integrated look and get a bunch of things done. But I think what we're seeing is very attractive. I personally have no objection to having a convenience store on site. You're not breaking with tradition in the Town.

Chairman Cosentino stated it really looks nice. The rendering really looks nice.

Mr. Vigliotti stated I have a couple of questions. Does the rendering represent the materials that will be used?

Mr. Berte stated yes.

Mr. Vigliotti stated you have stone and then you have brick and then you have a gable roof. I like the look of the building. I just wanted to check to see whether or not those materials are going to be used or not.

Mr. Berte stated we have a couple of elevations that were used to generate the rendering. But yes, the materials are representative of what we're showing.

Mr. Vigliotti stated so what we're seeing here, those materials will be used as we see them.

Mr. Berte stated right and again, if part of this is to upgrade the existing building, we would match materials.

Mr. Vigliotti stated terrific. I like the look of the building. What I like even more about the building is it masks off the back parking area so it gives it a different look. I would be in favor of moving this forward. But as John has said, you have some work ahead of you beyond us.

Mr. Bainlardi stated could you remind us what is the current flow of traffic in and out of the two curb cuts. Are these restricted access.

Mr. Berte stated right now we are coming in from the south side. It's marked as a one way.

Mr. Bainlardi asked if left hand turns are permitted into there currently.

Mr. Singh stated no left hand turn.

Chairman Cosentino stated going out.

Mr. Singh stated out or in.

Anthony Oliveri stated there is a sign there that states No Left Turn.

Mr. Berte stated the flow of traffic comes from the northbound lane and leads to the northbound land.

Mr. Bainlardi asked and coming out the other way is that restricted driveway turning movement or not.

Mr. Berte stated yes, there is a no left turn there as well, so the movement would still maintain the northbound land.

Mr. Bainlardi stated on the sheet 3 of 3 there's two areas in those driveways that indicates there is some sort of easements. What are those easements?

Mr. Berte stated actually we found out that they were only leasing lines and that it is one parcel and they were never recorded easements. Initially when we first started the project, we thought they were two separate parcels where the old Enterprise building was on its own. But, they were never recorded. They were just leasing lines. So the property is represented as one parcel.

Jan Johannessen asked do you think there is any ability at all to increase the landscaping along the sidewalk there into the site or is that restricting you...

Mr. Berte stated we have a minimal bed right now that we're putting in along the sidewalk. Is that the area you're talking about – on the south side in front of the existing building?

Jan Johannessen stated no, along the sidewalk.

Anthony Oliveri stated along Route 117.

Jan Johannessen stated the landscaping in the right-of-way.

Mr. Berte said yes, we're tight on circulation here so if a car were to pass another vehicle that's parked at the pump, which is why we kept it at that narrow width.

Jan Johannessen asked so what's the distance between the curb and where a car would park.

Mr. Berte stated it's about 8 feet from the curb to the inside edge of the sidewalk and then the planting area is about 3-1/2 feet wide.

Jan Johannessen stated so the stippled area on your plan, which is the sidewalk – what's between the sidewalk and the curb on the street side.

Mr. Berte said right now I believe it's just dirt – soft scape, it's not paved.

Jan Johannessen stated so there's landscaping on both sides of the sidewalk.

Mr. Berte stated we didn't show anything in the right-of-way but there's grass there now. We'll continue that as is.

Anthony Oliveri stated that DOT usually wants a snow storage space left open.

Mr. Bainlardi stated there's a bus stop along there too.

Anthony Oliveri stated there's a hydrant there.

Mr. Vigliotti stated it looks pretty limited to what you can do there.

Jan Johannessen asked if there was any potential for sliding the sidewalk closer to 117 and increasing the buffer on the inside so you're not splitting the landscaping and you'd be getting more on the inside.

Anthony Oliveri stated at 156 North Bedford Road, I believe DOT made them put a space between the curb and the sidewalk.

Mr. Berte stated we'll certainly entertain that.

Anthony Oliveri stated because we had it that way originally and they moved it back. DOT will have something to say about that I believe.

Jan Johannessen stated but their landscaping right now is being proposed in the right-of-way. They might have a problem with that.

Mr. Vigliotti stated maybe they can meet with you on site to discuss that further.

Jan Johannessen stated to the extent you can improve the breadth of the landscaping would be beneficial.

Mr. Berte stated that would only further enhance the property.

Mr. Bainlardi stated in the back here where you have the retaining wall, that planting bed is elevated so that will help also, I think, depending on what you put there landscaping wise.

Mr. Berte stated there are some existing evergreens that we will as part of this maintain or improve and re-mulch the beds. The building will mask most of it but we do have an opportunity on the wing of that raised planted area to enhance the landscaping.

Jan Johannessen asked if there would be any difference in the signage, the free standing sign towards Knowlton. Is that sign being modified at all?

Mr. Singh said it will stay the same.

Jan Johannessen stated is that an internally illuminated price sign.

Mr. Singh stated yes it is.

Jan Johannessen asked what do you need from DEC for the actual gas part of it, the underground tanks.

Mr. Berte stated we'll need to, when we're excavating, we'll need to have an inspection on site, we'll need to observe the soils and we'll need to test it for contamination.

Jan Johannessen asked do you need any pre-approvals. Do you need any permitting?

Mr. Berte stated that would all be permitted separately. That whole procedure will be permitted separately so it will included a pre-investigation.

Jan Johannessen asked does that usually take place during construction or is that something that you will be working on simultaneously.

Mr. Berte stated we will be working on that simultaneously. That will definitely be the long lead time to start construction and we'll use a consultant to do that.

Chairman Cosentino stated so a couple of questions – when can they go before the ZBA to expedite this Whitney.

Whitney Singleton stated it's up to them.

Chairman Cosentino asked Michelle, when is the next ZBA meeting.

Michelle Lailer stated the next meeting deadline was actually today for the November 16th meeting, so the next deadline is going to be November 29th.

Chairman Cosentino stated you need to do two things, you need to make application because this is just a conceptual. You need to get on the ZBA agenda. Do we have a meeting before then?

Michelle Lailer stated your next meeting is going to be November 22nd.

Chairman Cosentino stated so they will be back here with a conceptual.

Michelle Lailer stated they won't make an agenda for the ZBA until the 20th of December.

Chairman Cosentino asked so they can get on the ZBA agenda

Michelle Lailer stated for December, yes.

Mr. Berte asked would the department consider a submission in the morning.

Peter Miley stated he has no problem with that.

Mr. Berte stated so that would put us on the November, what is the November meeting?

Michelle Lailer stated it is November 15th.

Chairman Cosentino stated if you can get that done.

Mr. Berte stated we'll drop them off in the morning.

Chairman Cosentino stated that we will not have another meeting before then so we need something written to the ZBA stating that this Board approves

Jan Johannessen asked positive recommendation.

Chairman Cosentino stated highly recommendation to the ZBA.

Mr. Hertz asked isn't there a question as to exactly what... while you've identified everything, it sounds to me like we've opened up some questions regarding the variances. So while they can put in an application, it sounds like it may get modified before it actually goes before you.

Peter Miley stated if they, Whitney correct me, if they post for all the variances that we identify and then remove one, it doesn't require that they repost, so they can continue.

Whitney Singleton stated exactly. For the Board's recollection or edification, I don't know who was on the Board back then, maybe Joe was. Maybe just Joe, and maybe Doug. This applicant has been issued this approval before for this site for a convenience store.

Chairman Cosentino stated say that again. He was approved?

Whitney Singleton stated yes, you don't remember the fried chicken store.

Chairman Cosentino stated yes, yes, yes.

Mr. Bainlardi stated if we could ask Jan what is the procedure environmentally here from a SEQR standpoint.

Jan Johannessen stated we have to determine if it's even subject to SEQR. I think it depends on the size of the convenience store. If it's under 4000 square feet, it may not be subject to SEQR.

Mr. Bainlardi stated but that would be a ZBA action, they would be the lead agency for purposes of making that determination.

Jan Johannessen stated he's not sure that the site plan is subject to SEQR because there is an exemption for commercial properties under 4000 square feet.

Mr. Bainlardi stated let's just assume for a moment that it is subject to SEQR.

Jan Johannessen stated then he would recommend that the Planning Board establish themselves as lead agency.

Mr. Bainlardi stated procedurally that's the first question, is this subject and if so, we want to be lead agency I think.

Chairman Cosentino stated of course.

Whitney Singleton stated it is absolutely subject to SEQR for the commercial variances

Jan Johannessen stated the variances, but what about the site plan.

Mr. Bainlardi stated for the variances, the ZBA would act as

Whitney Singleton stated they could do either uncoordinated review or coordinated review. So if you want to declare your intent to be lead agency...

Jan Johannessen stated but our component might not be subject to SEQR.

Whitney Singleton stated just make sure you have an environmental assessment form submitted to the ZBA.

Mr. Hertz stated that's a little premature because the ARB is going to here this before an application is even made to this Board. I mean ZBA. Because this is conceptual. We won't see a formal application until next meeting and they will have already been before the ZBA.

Mr. Bainlardi stated and as far as getting whatever our thoughts are, is it more appropriate for the ZBA to request and we respond to that or do you want to be proactive. I don't know what the process is usually.

Whitney Singleton stated it's probably sixty forty

Chairman Cosentino stated just on certain things they do and certain things they don't. This they probably wouldn't. I like it. I think they deserve it. I think they'll lower their price on gas.

Mr. Vigliotti asked if that would be part of the resolution (laughter)

Chairman Cosentino stated so that's why I think we should do it ourselves.

Whitney Singleton stated but if you're going to do that, your Board should resolve as a Board, not one person. I don't want the Board to take the Chairman's comments as being the mandate.

Chairman Cosentino stated no, we're doing it as a Board. We polled everybody. We're doing it as a Board that we like it and we're going to send it.

Mr. Bainlardi stated and just so we're clear on that. We're talking about we have no objection to the potential change of use that would be required here and that being a convenience store.

Mr. Vigliotti stated very simply put.

Mr. Bonforte stated agreed.

Chairman Cosentino stated thank you.

Mr. Berte asked if there was any benefit to declaring lead agency tonight.

Chairman Cosentino stated it's a conceptual.

Whitney Singleton stated that this Board is not going to be subject to SEQR.

Mr. Berte stated the Zoning Board will, ok.

Chairman Cosentino stated gentlemen, thank you. Good job.

Special Discussion:

November 8, 2016 Meeting Date Change – this item was discussed during the work session.

Correspondence:

Chairman Cosentino stated under correspondence we have the Mount Kisco Beautification Committee minutes and New York Metropolitan Transportation Council Transit-Human Services Plan.

Chairman Cosentino asked do we have a motion to adjourn?

Mr. Mareschi stated aye:

Mr. Hertz seconded the motion.

Chairman Cosentino asked all in favor?

The Board voted all ayes.

The meeting adjourned at 8:50 pm