

**Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, January 10, 2017**

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

Members Absents: Frank Viteritti (Alternate)

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 7:05 p.m. The following items were discussed:

1. Chairman Hertz made a statement regarding the passing of Vice Chairman Anthony Sturniolo
2. Votes required for pending Planning Board minutes
3. Chairman Hertz will determine which alternate will vote each separate action
4. 68 Woodland Street – discussion regarding the 2-family on a substandard lot
 - a. The applicant did not submit revised plans to address the zoning analysis and removal of gravel parking area.
 - b. Discussion of floor plans office and study depiction; may require revision
5. 461 Lexington Avenue – Discussion of revised architectural plans and a recommendation to the Architectural Review Board. Discussion to continue during regular session.

Chairman Hertz called the meeting to order at 7:50 p.m.

Chairman Hertz stated this is the Tuesday, January 10th meeting of the Planning Board, regular session, welcome and I'm very excited that this is our first televised Board session, so welcome everyone. Before we start I'd like to just take a moment to remember Tony Sturniolo who was a long time member of this Board, longer than I think anyone sitting has so 20 plus years on the Board, he was a great guy, very dedicated Board Member and he served this Village well and I'm going to miss him. Tony, we miss you and there's a seat here for you. Okay, to the next items, first the minutes. We have two sets of minutes, August 9th and December 13th that we can vote on directly. So I'll take a motion to approve the minutes of August 9th and December 13th, will someone make that motion?

Board Member Bonforte stated yes, Chairman, I'd like to make the motion to accept the minutes of August 9, 2016. Should we do one at a time?

Chairman Hertz stated let's, okay, we'll do them one at a time.

Board Member Bonforte stated should do one at a time.

Chairman Hertz stated so the August 9th meeting, Michelle if you can just poll the Board, four of the members who were present.

The Secretary stated okay, you just need a second on the motion.

Mr. Mareschi stated I'll second it.

UPON ROLL CALL VOTE:

Board Member Bonforte	-	aye
Board Member Mareschi	-	aye
Board Member Bainlardi	-	aye
Chairman Hertz	-	aye

The motion carried by a vote of 4 to 0.

Chairman Hertz stated okay, so that passes so those were...

The Secretary stated that was August 9th.

Chairman Hertz stated we also had former vice Chair Sturniolo and former Chair Cosentino as that meeting. Oka, December 13th, this is an easy one.

Board Member Bonforte stated Chairman, I'd like to make the motion to adopt the minutes of December 13, 2016. Do we have a second?

Board Member Vigliotti seconded the motion.

UPON ROLL CALL VOTE:

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

The motion carried by a vote of 7 to 0.

Chairman Hertz stated okay, on April 26, 2016, we have three members present and letter from the former Chair, in the affirmative and let me just verify that.

The Secretary stated yes, sir.

Chairman Hertz stated can we make a motion on that set of minutes...

Board Member Bonforte stated Chairman, before we make the motion, Michelle was there an amendment to one of these sets of minutes, I thought I saw an e-mail in that regard.

The Secretary stated Chairman Hertz had sent two changes to minutes, it was the December 13th set, they are done on the master copy but I did not make additional copies.

Board Member Bonforte stated we adopted that change...

The Secretary stated you adopted that change.

Chairman Hertz stated we adopted that with the changes that have been submitted to the Secretary.

Board Member Bonforte stated okay, so I'd like to make the motion Chairman to adopt the minutes for June 28, 2016. Do we have a second?

Mr. Mareschi stated I'll second that Chairman.

Chairman Hertz stated no, it's the April, I'm looking at the April 26th minutes and that would have members who can vote on that, Mr. Bonforte, Mr. Bainlardi and Mr. Vigliotti. So if you make the motion on April 26th.

Board Member Bonforte stated so Chairman, I'd like to make the motion to adopt the minute from April 26, 2016.

Board Member Bainlardi stated I'll second that.

UPON ROLL CALL VOTE:

Board Member Bonforte	-	aye
Board Member Bainlardi	-	aye
Board Member Vigliotti	-	aye

The motion carried by a vote of 3 to 0.

Chairman Hertz stated and former Chair Cosentino has voted by his letter in the affirmative. And then the June 28th minutes have only three members who still are on the Board. There were four members present, Vice Chair Sturniolo has since passed away, so I'm going to take a vote of the full Board with the three

members present, knowing that we can never get a quorum on this, so this will be a sense of the Board that we expect that those minutes with that caveat represent the true actions taken there. Will someone make that motion for June 28th?

Board Member Bonforte stated yes chairman, I'd like to make the motion to adopt the minutes of June 28, 2016.

Board Member Bainlardi seconded the motion.

Chairman Hertz stated alright, Michelle.

The Secretary stated you want all seven members?

Chairman Hertz stated we're going to have a full seven member vote on this.

UPON ROLL CALL VOTE:

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

The motion carried by vote of 7 to 0.

Chairman Hertz stated so and that's made with the knowledge that the fourth member that was there that night, is no longer with us. Alright, on to the next item, formal application 68 Woodland Street, Site Plan draft resolution. Would the applicant please approach?

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

Mr. Tim Dunphy, representative for the applicant, was present.

Mr. Dunphy stated over here tonight or...?

Chairman Hertz stated that's a great question, are we set up for audio at the podium?

Mr. Galindo stated you can use the microphone.

Chairman Hertz stated very good, over there, thank you.

Mr. Dunphy stated my name is Tim Dunphy, I'm the attorney and architect on this application. I guess I'm here to answer any questions you have regarding the draft resolution that I received that I thought was a codification of what we went over last meeting.

Chairman Hertz stated so just to reiterate, the only issue open that was up for discussion at the last meeting was a question that had been discussed whether any additional restrictions needs to be put on the site. Because of the fact that there have been a series of violations on the site because we're now restoring that two-family, bringing that to two bedrooms per dwelling unit because of the fact that we cannot accommodate, it doesn't seem that the accommodations that were suggested for additional parking or changes in parking were going to be beneficial or that on net, the negatives associated with adding the turnaround...

Mr. Dunphy stated right.

Chairman Hertz stated the negatives outweighed the positives in that regard, so what we have is a preexisting nonconforming use and the question became, or the question was asked whether any restrictions, the concern is that in the future that could return to additional bedrooms. I know this matter from what we understand from the Building Inspector, this matter is still in court with regards to the exact outcome of that proceedings...

Mr. Miley stated correct.

Mr. Dunphy stated if I could just give you an update on that.

Chairman Hertz stated yes.

Mr. Dunphy stated in September and then in October, in September I discussed and in October I met with David Squirrel and we worked out a settlement and he was to send me a draft of that plea. It's quite a while ago and I still haven't had it, so any influence that anyone here has to compel him to do so would be greatly appreciated.

Mr. Miley stated I will follow up.

Mr. Dunphy stated thank you.

Chairman Hertz stated okay, so you've had your settlement agreement, and hopefully that will get signed and settled and whatnot, so what we've understood was there were, you were going to have inspections every 6 months for the next 2 years, is that more or less? Is that what the discussions were?

Mr. Dunphy stated it's something that was had discussed.

Mr. Miley stated I didn't see a copy of the draft stipulation, that's standard boiler plate language that we like to put in, again the appellant has to agree to that as well.

Mr. Dunphy stated sure.

Chairman Hertz stated okay, so we'll just go back. So the only discussion point here was a question of whether the Board wanted to have any additional restrictions on the future development of the site that would not otherwise be covered by the Code. So I'll throw that open to Board Members as to if anyone has a feeling on way or the other.

Board Member Bonforte stated I'll state my opinion, as a Board Member. We wanted to insert language in some manner or another to hope, to preempt any future misuse of the floor plan as currently contemplated, that's not the proper word but as currently presented and will be approved in the site plan, once you meet all the conditions, so we haven't codified that language yet but we're working in that direction.

Mr. Dunphy stated you don't think that's belt, suspenders and staples? I mean what we have here is a Code, we have a site plan, or we will have a site plan that shows the bedrooms, that refers to a floor plan, and that any changes in that would require coming back here. So any language in there wouldn't have any additional effect it would just put off his approval, his application for a building permit which he had rejected a year ago and costs more legal fees, I don't see how that and as far as monetary punishment, I think he's paid enough legal fees and the fine that was levied was substantial, so I don't understand.

Chairman Hertz stated I don't think that's what's being contemplated.

Mr. Dunphy stated what I don't understand is what purpose that would serve that isn't served by an approved site plan, by a Certificate of Occupancy that will be issued by floor plans that will be on file with the Building Inspector, 6 months of inspections. If there's language in there that says okay, he's limited to 2 bedrooms in the actual resolution, in order to catch him, in order to have that come here, there would have to be an inspection. In other words, if he's going to put, I heard the term 48 bedrooms put in, if he's going to put 48 bedrooms in behind someone's back, what's to preclude him from doing that whether you tell him it's against the multiple dwelling law, against the state code, against the town code, against the zoning. He already has multiple levels of restriction on him, so I understand why you feel it necessary to put another layer that's just going to hold up the approval and that isn't going to serve any purpose.

Chairman Hertz stated well it doesn't necessarily have to hold up the approval.

Mr. Dunphy stated okay.

Chairman Hertz stated so I think the purpose as discussed at the last meeting is that of clarification. We want to make sure that approvals that the Board gives are absolutely clear and crisp and indisputable from you know, in their definition. So any time that we can add some clarification to a document, I think it helps everyone.

Mr. Dunphy stated I'm sorry but I disagree, only because as an attorney when there are laws in place, I was taught in law school to keep things as simple as possible and if there's a law that says such that covers something or precludes something or restricts something, then to have something down below that does the

same thing, it only makes it complicated and it has, it opens the door for different interpretations at different levels and I think that's, please forgive me but I'm just telling you what my law professors would say, that's sloppy draftsmanship.

Board Member Bonforte stated and just realize I'm one member of the Board stating my view and again, you understand that view, I've stated that.

Mr. Dunphy stated very good.

Chairman Hertz stated does anyone else have...?

Board Member Vigliotti stated just following it up with Mr. Bonforte, I guess we were looking to add to the 6th whereas on page 2, whereas to submit a floor plan, referred above identifies the scope of interior work, interior layout and number of bedrooms in parentheses 2 bedrooms per dwelling unit, there was quick conversation in adding some language just to that where was, as simple as currently configured and maybe another sentence and that may be it, I kind of turn to Whitney for that and our planners, that's where the discussion was...

Jan Johannessen stated there was some discussion in the work session that a whereas clause could be expanded to identify that the other rooms, as identified on the floor plan as its currently configured, do not meet the definition of a bedroom as determined by the Building Inspector.

Mr. Dunphy stated that's acceptable, that's fine.

Board Member Vigliotti stated okay.

Mr. Dunphy stated I really, whatever you want to put in there is not, you guys know what you're doing more than I do but I just don't want it to, to have to come back in two weeks again.

Board Member Vigliotti stated absolutely.

Chairman Hertz stated no and we understand that statement and we hear you and we're not trying to delay things further, which is why we wanted this drafted and ready, but we had said at the last meeting that this would be an area of discussion.

Mr. Dunphy stated okay.

Chairman Hertz stated so I want to be able to move approvals like this forward as quickly as possible but again not so quickly that we miss the things that we feel are important.

Board Member Bainlardi stated Chair?

Chairman Hertz stated yes.

Board Member Bainlardi stated I'll state my position, if the language that just articulated by Ralph and expanded by Jan, is the extent that what we're adding to the resolution then I have no objection.

Chairman Hertz stated okay, so what we're proposing, I think is to add language to the 6th whereas on page 2, to identify the fact that the other spaces that are delineated in the submitted floor plan would not comply as bedrooms based on the Building Inspector's interpretation of the New York State Code. Is that accurate? So, Jan, if you can make those changes to that whereas, any other Board Member have any questions on the resolution? Jan, would you just walk through the resolution from top to bottom so that everyone is clear about this.

Jan Johannessen stated sure, it's a site plan approval resolution, the property is located at 68 Woodland Street, Village of Mount Kisco. The property consists of just over 5,900 square feet of land, in the RT-6 zoning district, it's developed with a 2-family, I'm sorry with a 2-story, frame residence, asphalt driveway, detached garage. It is owned by, I'm going to mispronounce this, Chirring and Phurba Sherba. The applicant has made application for site plan approval to restore an unlawful 3-family dwelling back to a 2-family dwelling, has received violations by the Building Inspector for work performed to the residence without the benefit of a building permit. There was some discussion and deliberation by the Planning Board as to off street parking requirements. The Code requires 2 off street parking spaces per dwelling unit, the current configuration is that 2 vehicles are parked in the detached garage and 2 vehicles are parked in front of the garage. The applicant attempted to comply with the Village's off street parking requirements by showing an alternative which provided the gravel parking lot in the rear of the residence, during their deliberation, the Planning Board agreed that that was not in the best interest of the owner or the Village as a

whole and that was to be removed. It's a Type II action under SEQRA. The resolution makes reference to the existing conditions survey which was updated, the floors provided by the architect, the bedroom layout. Memorandums issued by my office, the Village Engineer, and the Building Inspector and there's a number of conditions that need to be resolved or satisfied prior to the signature of the site plan by the Chairman, including the removal of that parking area, revised zoning calculations and certain notes and tables to be added to the plan.

Chairman Hertz stated okay, so we're going to wait for a new plan, not wait for this resolution but...

Mr. Dunphy stated it will be signed after...

Chairman Hertz stated and Tim, you understand what's required on the...

Mr. Dunphy stated also, I'm sorry...

Chairman Hertz stated no, no, not at all. We are waiting for a revised site plan from you that has the new tabulations that basically memorializes the no build condition.

Mr. Dunphy stated right and that's, I'll submit 4 check copies, I'll look at it with you guys. The only thing I'm concerned about is the legal issue is that a condition of the site plan approval, or is that a condition of the building permit?

Mr. Miley stated no, it's a condition of, in order to get the building permit you have to satisfy the conditions but you're talking about the legal court issue...

Mr. Dunphy stated yeah.

Mr. Miley stated with respect to being able to obtain a building permit, no, they're separate. You can get a building permit as long as you satisfy all the requirements based on Board approval.

Mr. Dunphy stated okay, very good.

Mr. Miley stated actually your building permit.

Chairman Hertz stated well hopefully you'll...

Mr. Miley stated excuse me, I'm sorry Mr. Chairman...

Chairman Hertz stated no, hopefully that will..

Mr. Miley stated the building permit satisfies the violations, that's going to be part of the stipulation.

Chairman Hertz stated and hopefully we'll get you that settlement or the Village will get you that settlement.

Mr. Miley stated I'll call him tomorrow.

Mr. Dunphy stated thanks.

Chairman Hertz stated okay and...

Mr. Dunphy stated I apologize, also in there I am referred to as Tim Dunphy, AIA, I believe I am not with the American Institute of Architect. I'm a registered architect, so RA should be there, the AIA gets kind of...

Board Member Bonforte stated bottom of page 2, last sentence.

Board Member Polese stated the middle of the page as well.

Chairman Hertz stated alright, thank you.

Mr. Dunphy stated okay.

Chairman Hertz stated we'll make those notes. Any other discussion from members of the Board? Any questions? Alright, with that being said with the changes suggested, do I have a motion to approve this site plan resolution?

Board Member Mareschi stated yes, Chairman.

Chairman Hertz stated I have a motion from Mr. Mareschi, is there a second?

Board Member Bonforte stated I'll second that.

Chairman Hertz stated great, a second from Mr. Bonforte. On the question, any Board Members on the resolution. Michelle, would you poll the Board.

UPON ROLL CALL VOTE:

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

The motion carried by vote of 7 to 0.

Chairman Hertz stated the motion passes.

Mr. Dunphy stated very good, thank you.

Chairman Hertz stated thank you and good luck. Alright, that concludes the formal applications, we're on to special discussion.

Special Discussion:

461 Lexington Avenue

Chairman Hertz stated the first of which is a memorandum regarding Polaner Selections, basically the memorandum delineates the fact that they had high ground water at the site and have made some significant changes to their design but really not their site plan. So the question before us and we were delivered just before the meeting some architectural set of plans as well as a calculation of the comparisons between the previous submission which was approved in their current submission with regard to some of the uses in parking. Jan, would you, have you had a chance to go through this, so you can summarize this for us or would that...

Jan Johannessen stated I don't have a copy of the approved architectural elevations, what I can say is that the building footprint has not changed, the parking calculation remains the same. The major change to the building is that instead of a flat roof, it's a gable roof, the Building Inspector, I won't speak for him but we determined that it met the building height requirements. However there are some architectural details that differ between the two proposals.

Chairman Hertz stated okay, Peter, do you have anything to add?

Mr. Miley stated yeah, I think, me and Jan discussed during our meeting, there are a couple significant, I don't know if they're significant, there were a couple of changes to the interior lay out and our concern was should they return to the Board to make that presentation. Or is this adequate enough where they can move forward with us illustrating the changes to this Board? Again, we didn't have a full opportunity because we just received these plans yesterday at 5 pm, so I did a quick review and we noted some of the changes which would include and if you do want to go through them, then I can take you through them.

Chairman Hertz stated on their, you know on the memo from them it includes eliminate the basement, provide a slab on grade, that's a change...

Mr. Miley stated right.

Chairman Hertz stated eliminate that flat roof, provide a gabled roof with attic floor, that's a significant change, eliminate the 2-story atrium space, obviously they don't have that flat roof to provide that natural light...

Mr. Miley stated mechanical storage.

Chairman Hertz stated they need that second floor storage or attic storage and relocate storage of mechanical space originally proposed in the basement to the new attic floor and redesigned second floor.

Mr. Miley stated correct.

Chairman Hertz stated so from a site plan perspective, it doesn't change much, it doesn't change how the building is being used, from what I can tell. Board Members?

Board Member Bainlardi stated based upon what we've seen here, and what you just articulated, I see no reason or basis for having them have to come back and make any additional presentations to this Board. I believe they have to go back to the ARB...

Mr. Miley stated correct.

Board Member Bainlardi who really has the purview over all things architectural, so, I'm inclined to take the position they don't need to come back.

Chairman Hertz stated anyone...

Mr. Vigliotti stated I just had a couple of thoughts, I'm really thrilled to see the gabled roof, and for whatever reasons and we know the reasons why they're going with the gabled roof, I think it's more in line with architecture on the east side of Lexington Avenue. It is interesting, if we look at the front rendering of the building, versus, I think page 4, the rear rendering of the building, the rear rendering looks more residential and less commercial than the new front. So, I guess a question or a recommendation to the ARB is working with the owner of the property and their architect to, at this juncture, now that we've gone from a flat roof which gave it a commercial feel to a gable roof which gives it more of a residential feel, how can we enhance the building without going too far, maybe an adjustment of windows, adding some design to the front of the gable roof, those would be my recommendations. But I'm really happy to see the gable roof and I understand that's because of the water table, not being able to store their equipment below grade and now being able to store their equipment in the roof area there. So those would be my comments, they've done a job preserving the land and working with the Village and I think they're going to be a nice welcome business owner to Town.

Chairman Hertz stated would anyone else like to comment on this? So, why don't we poll the Board, I think the question really is do we feel the need to bring them back to reopen site plan or bring them back before the Board because these changes are substantive or can these be handled administratively by the Building Department. So, let's just take an informal sense on who here feels that these are substantive enough that you would like to see the applicant back before us? Anyone?

Board Member Vigliotti stated Doug, I don't see a need to have the applicant back but I think the ARB now and the applicant have some work to do and it's kind of in their court, so to speak and hopefully some positive changes can come out, maybe with a recommendation from our Board.

Chairman Hertz stated so what I think I would like to do is draft a letter to the ARB basically stating that you know given the significant changes there, we'd like them to take a good look at this and see if they can enhance the front façade, I think it's the front façade more than anything else that we're concerned about but to bring some detailing back that we have some concerns about the façade as presented and we look to the ARB to make that as good as it can be but I don't think it sounds like there's no interest from the Board to bring them back and reopen the site plan. So Michelle, can we get a memo to that effect.

The Secretary stated I will draft a memo and I will copy you, Peter, and Jan, so everybody can weigh in on it.

The Hearth Discussion

Chairman Hertz stated okay, to the next, we have DEP memo also on Polaner, which does not require much actions from us. The last item memorandum from the DEP on The Hearth. This is a very detailed memorandum and I don't know if Anthony or Jan, if you've had a chance to dig into this at all.

Anthony Oliveri stated I went through it a little bit, Mr. Chairman.

Chairman Hertz stated could you give us your sense of what's going on in this memo.

Anthony Oliveri stated sure, essentially this memo is addressing the issue of technical equivalency which The Hearth's engineers have applied for with DEP. Essentially the bio retention basins are being proposed

in areas of steeper slopes than the design manual recommends and that's the issue they're trying to overcome without getting a variance. A variance through the DEP is going to be a much harder road, so they're trying to demonstrate this technical equivalency. They seem to identify that there are 2 remaining issues, what they call the constructability factor due to limited work area and the number of discharge locations for retaining wall footing drains. So it seems like they're trying to get through those 2 issues, and they have meetings, well they noted here that there were meetings scheduled with The Hearth's engineers, which seems maybe has passed already, I'm not sure what the outcome was, so it looks like we're down to those two issues. The rest of the numbered technical comments, to me seem like they're all just requesting additional detail or making suggestions recommendations to be incorporated into the plans, so those don't see so difficult to overcome, so I can probably find out where they stand on those two other issues in the meantime and maybe report back to the Board.

Chairman Hertz stated and its, is it your understanding that if they cannot get, if they can't demonstrate those equivalencies and get through this, what are their options?

Anthony Oliveri stated well then they have to ask for a variance, which is anyone's guess if they would granted that I think they'd be, historically they don't like to you know, grant variances, so that's why they're trying to demonstrate this.

Chairman Hertz stated this is really up to the Hearth's engineers at this point to overcome this hurdle.

Anthony Oliveri stated yes.

Chairman Hertz stated so assuming they can get by this, we may expect to see them back here. Very good. That's the last item on the agenda, does any Board Member have anything they'd like to bring up?

Board Member Bainlardi stated with respect to the site plans that are, or the latest site plans that were submitted to this Board. I believe that they were prepared by, was it Langan?

Chairman Hertz stated you're talking about The Hearth's site plans.

Board Member Bainlardi stated but my understanding, my inquiry was that we don't currently have those plans in a digital format.

The Secretary stated no, they're probably about 50 pages a piece, they're extraordinarily large.

Board Member Bainlardi stated can we request from Langan that they provide them now.

The Secretary stated going forward, we will be requesting that.

Board Member Bainlardi stated right, I mean I don't think there's be any reason why Langan would have an issue...

Jan Johannessen stated I have them digitally, I can circulate them.

Chairman Hertz stated can I suggest, I know there was also a question last time about work product with regards to the architectural plans. We were actually asked for a period of time not to review because they were the work product of the architectural firm that was in dispute, was that...?

Jan Johannessen stated that's correct.

Whitney Singleton stated that was not Chuck Utschig's firm, it was the architects.

Chairman hertz stated so I'm going to suggest that if and when The Hearth project comes back before this Planning Board, that because we have so many new members because this project has been an on again off again project for 11 years, that we have a special meeting scheduled where we can get everyone up to speed. And at that point Michelle, what we'll probably ask for is to review all the plans in a digital format and hopefully by that time the digital projection will be here as well, so that we'll really have a chance to dig deeply into this, ask questions and get fully familiar with it. Jan, if you have those plans digitally, if you can provide them to John that would be great, I think there's no need to ask this Board in the interim, to get familiar or to do that work because its quite a lot work until we have assurance that the application is coming back.

Board Member Bainlardi stated I was just interested in my own time.

Chairman Hertz stated absolutely, Jan, if you have them, and I know also we've had a discussion with the Building Department and with the Village Manager about the implementation of digital submissions, I think that's going to get moved forward fairly quickly, so hopefully in the next short while. Michelle, just refresh us about next meetings.

The Secretary stated your next meeting is going to be January 24th, the meeting after that will be February 14th and then February 28th.

Chairman Hertz stated great and do we have at this point, do we have items that are...

The Secretary stated you have one item on your agenda for the 24th.

Chairman Hertz stated one item only, okay. And are we expecting anything else in the interim?

The Secretary stated no, the deadline has passed. Your next deadline is actually the 24th.

Chairman Hertz stated okay, very good. Thank you very much.

Board Member Mareschi stated thank you.

Chairman Hertz stated yes, I'm sorry, did you have something Whitney?

Whitney Singleton stated this is not specific to an application, understanding the fact that it came in tonight. I'm a little, I'd just like to know what the policy is going forward, when I set of plans comes in today and your Board votes on it tonight, that sends up a bunch of red flags in my mind. I don't disagree that their design is better or work or anything else, I'm just saying whenever you're asked to act on the spot, it's not uncommon at all to make massive mistakes. The last time we made this mistake with this particular applicant, it resulted in a 10,800 square foot basement being proposed when the Planning Board thought there was no basement at all, which was rented out for storage to the County and to various other people...

Board Member Bainlardi stated which application are you talking about?

Whitney Singleton stated the last time Charlie came in with an application, alright. I just, if there's a deadline, there should be a deadline unless the Chairman waives that and modifies it. I'll just give you one example, what's to prevent them from utilizing, truly utilizable space on the third floor other than the fact that they only have one means on ingress and egress, well they have an elevator, well I can't tell if whether its an elevator or just mechanical space. What does this do to the roofline with the elevator? These are things, I don't know that your Board is necessarily going to know by something coming in on January 10th and voted on, on January 10th. I'm not saying its going to result in anything bad, I'm just saying that it is, it lends itself to mistakes.

Chairman Hertz stated I hear you, thank you for that Whitney. I'm not concerned about this application, again I think this is one of the applications that's been kind of a model application, I'm not pleased with the changes at the last minutes...

Whitney Singleton stated so is the Board now authorizing that the resolution that was previously approved and signed off on, is that now going to be modified to reflect these plans.

Chairman Hertz stated it is.

Jan Johannessen stated I'm not sure that it has to, the site plan is unchanged.

Whitney Singleton stated it doesn't reference by last revised date?

Jan Johannessen stated these are architectural [plans] and not part of the site plan.

Whitney Singleton stated these are not referenced in the approval.

Jan Johannessen stated they may have been referenced in a whereas clause but they're not a part of the site plan.

Board Member Bonforte stated well you still make a valid point regardless of, you know, I appreciate your input, we all do and thank you.

Jan Johannessen stated just to clarify, these plans weren't submitted to the Planning Board. They were provided to my office and to Peter's and we're just bringing them up at the work session to give the Board

a heads up, it was not on the agenda, it was means of discussion to see if you wanted to see this again. I don't think we modified any resolutions or amended anything here tonight other than to say that it doesn't need to come back.

Board Member Bonforte stated well technically speaking thought we're drafting a memo to the Architectural Review Board, correct Chairman? And that's really the next step for this applicant.

Jan Johannessen stated it was brought up during the work session just as a point of information, this came across our desk, do you want to see it, do you want to not see it. It wasn't on the agenda, it was just information.

Board Member Vigliotti stated so can we put this on the agenda the next time they're before us...

Whitney Singleton stated they're not coming back.

Board Member Vigliotti stated for continued review.

Whitney Singleton stated no, the point is that they're not coming back, the Board decided that they did want to see them.

Board Member Vigliotti stated your point is so well taken.

Whitney Singleton stated I'm just saying this is when mistakes are made and this is why Tony used to get his panties in a bunch when things weren't submitted in a timely fashion.

Board Member Bonforte stated Whitney, can you correct me and maybe everyone here, did we approve something tonight this particular applicant? Nothing tonight, correct?

Whitney Singleton stated there was a change in what they're building and the question was that Jan and Peter presented, was whether or not that change was significant enough to warrant coming back to your Board for modification to the site plan. And your Board said no, so that's making a determination.

Board Member Bainlardi stated I guess the first question I would have is, is that determination in the first instance to be made by Peter as the Building Inspector...

Whitney Singleton stated yes.

Board Member Bainlardi stated right so, if Peter reviews this and determines that nothing is changing the site plan and Peter without having to ask this Board one way or another could make his determination that it doesn't require that it comes back to this Board, correct.

Whitney Singleton stated I mean I would have to look at the resolution for that, I don't have the resolution with me.

Jan Johannessen stated the whole point was...

Chairman Hertz stated I think this falls in that gray area, right between is it a significant change and should we reopen the site plan and it's not a significant change. And I think that was really the discussion tonight and the sense of the Board without having studied it deeply, based on the information that they provided with regards to their parking counts and equivalencies with regards to the changes that we saw on the physical drawings although we haven't had time to study these, that these were not significant changes. The changes were largely of an architectural nature, it didn't change the circulation on the site, didn't change the parking counts, didn't change the business nature of the way the site will be used, so that it should be both administratively by Building Department to make sure that it does comply in all its aspects and there's nothing that does violate the site plan and it should go back to Architectural Review to get their approvals and whatever they're going to give, that was the sense that we came up. If anyone feels that that is inaccurate and would like to reopen that discussion, I'm happy to do so but I'm comfortable with what we did. But Whitney I think your point is very, very well taken that in general if this had been a submission to the Planning Board and not really a submission to the Building Department, that Peter just wanted to get a sense of the Board so as not, because it does fall in that, kind of that gray space.

Mr. Miley stated Chairman, it's also about transparency, we don't want you driving down Lexington Avenue and say wait a second, we approved a square building and today it's rectangular. And that's happened before as Whitney referenced about the basement space. It's about transparency, whether you did anything or not, it was determined that no significant changes warrant a change to the actual site plan, however the interior dimensions did change and we wanted to make sure that the Board is aware of that,

what they approved changed on the interior side and the exterior appearance. So I don't know if it required any Board action, I just wanted to make sure that you did have this information.

Chairman Hertz stated appreciate that. Very well, any other thoughts or comments, members or staff?

Board Member Bonforte stated no, Chairman, I'll make a motion to close the meeting.

Chairman Hertz stated I like that motion, would anyone second that.

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

Chairman Hertz stated the meeting is closed.

The meeting adjourned at 8:34 p.m.