

Village/Town of Mount Kisco
Zoning Board of Appeals
Minutes of April 19, 2016

Members Present: Chairman Donald Rose
Barbara Richards
Harold Boxer
Kim Lapple

Members Absent: Dan Guyder

Staff Present: Whitney Singleton, Village Attorney
Peter Miley, Building Inspector
Michelle Lailer, Secretary

Chairman Rose called the meeting to order at 7:32 p.m.

Chairman Rose stated good evening ladies and gentlemen, we are here for the Tuesday, April 19, 2016 meeting of the Mount Kisco Zoning Board of Appeals. We had two cases on the agenda but before we get to them we have a little housekeeping. We have the minutes from two previous meetings, November 17, 2015 and March 15, 2016 that have not been approved. I believe we have everyone here who represent participants in those meetings, do I have a motion to move if there are no additions or corrections.

Mr. Boxer stated I'll move to accept the minutes.

Chairman Rose stated is there a second?

Ms. Richards stated second.

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

Chairman Rose stated we will be begin hearings tonight with the new case because I suspect that there will be less time involved and I believe that most of the members of the audience are here to speak to the returning case. The new case is Mercedes Benz, Case# ZBA 16-1

New Cases:

- | | |
|------------------------------|-----------------------|
| 1. Mercedes Benz | Case# ZBA 16-1 |
| 333 N. Bedford Road | |
| Mount Kisco, NY 10549 | |
| 69.50-2-1 (SBL) | |

Mr. Peter Catizone of Catizone Engineering was present.

Chairman Rose stated we have received application materials requesting two variances for development that has been, my guess, going on for a year and a half or so with the Planning Board. I'll ask you sir to present the case that you have and begin please by stating your name and spelling it for the audio record.

Mr. Catizone stated my name is Peter Catizone. C-A-T-I-Z-O-N-E with Catizone Engineering and I represent Estate Motors and also speaking on behalf of Diamond Properties. But I just want to take you through a quick summary of the project, what it involves is the Change of Use of approximately 113,000 square feet of interior area.

Chairman Rose stated sir, if I could, I know this is always a problem because of the physical layout there. If you could perhaps tilt...

Mr. Catizone stated which way.

Chairman Rose stated you would not be able to see it maybe from over there but you may have seen these before.

Mr. Miley stated I have a set of drawings here.

Mr. Catizone stated is this.

Chairman Rose stated if you swing it the other way...

Mr. Catizone stated the other way.

Chairman Rose stated so the members of the audience can see as well, otherwise they hear something and they don't know what its referring to. I think we have drawings...

Mr. Catizone stated right, okay.

Chairman Rose stated as well so that we can follow it.

Ms. Richards stated yeah just use one set, they're too huge.

Mr. Catizone stated so very simply, the two major components are the Estate Motors, 113,000 square feet, this is C1.11, there you go, Change of Use. There is a 7,000 square foot certified pre-owned building which is entirely in the Town of Bedford. The Town/Village line is right here and just to give a little of history, the 2005 condition which was the unaltered from Grand Union, has about 73% lot coverage when you calculate it on a per district basis. Over the years that lot coverage has been reduced by the installation of serval islands, parking lot islands and landscaping in this area and the other thing that complicates this case a little bit is prior applications considered the entire site as a whole, not on a per district basis. When we came in with this application the Village Planner and rightfully so, asked us to evaluate this parcel on a per district basis, so if you calculate on the total site wide, using the ML standards as done in the past, we're at 69.9% so we would not need a variance but just to take you through it. We did break up the site and evaluate it on the ML district, the CL, these fingers here are in the CI district and we also did a separate zoning evaluation for the portion of the site that's in the Town of Bedford. This application deals only with the development that's in the ML district, so the, again the lot coverage allowed is 70%, the original lot coverage was 73.2% and if you turn to the next page, which is C 1-2, we kind of have it, if you're ever not watching the presidential coverage and you have easy reading time, you can follow it here but the historic is 73.2%, now over the years, that has been reduced again to 71.8 and we are proposing the addition of approximately 5,000, I think the number is 5,286 square feet of additional impervious area. What those areas consist of is a display area for the Cosentino tenant, they're a granite and tile supplier, marble and granite supplier. The construction of the Field House, which is 378 square feet, that is for public use so this field is utilized by many public organizations for soccer and other sports, so there's no restroom there, so this would be for public use and the majority of the square footage is basically additional sidewalk in this area here between the building and the Town line. So that's the first variance that we're requesting and the second is basically expanding the display, the parking of fleet vehicles for the whole site. So previously there were 10 U-Haul trucks, a couple of years ago that that was granted by this Board and what we did is we realized that we need more than 10 so we want to expand that to 17 but there are also various vehicles on site, for example and that's also on the next page, Diamond Properties has several vehicles that are out during the day but they're parked here at night. The HVAC company also has a couple fleet vehicles that they use to deliver parts, and Grand Prix, also has a race car and another fleet vehicle that's on the site. So rather than you know, pretend that they don't exist, we summarize them all, there's 30 in total, that would be 17 U-Haul, again 10 of them are already permitted by this Board or have been granted a variance for that and the balance which again is summarized on C1-12, the balance of those vehicles are fleet vehicles that could be parked in the front yard setback that are currently on site today. If there's any questions, we're happy to...

Chairman Rose stated and just for the record we understand that these variances have been identified by the Building Inspector and you put a verbal description of the needs into a letter which you are responding to.

Mr. Catizone stated yes.

Whitney Singleton stated Pete, can I ask you a question?

Mr. Catizone stated sure.

Whitney Singleton stated something maybe I didn't hear properly, are you saying that when you incorporate the CL zoning district, your development coverage goes down as a percentage, it's like 100% impervious surface. When you incorporate these roads...

Mr. Catizone stated no, no, when you incorporate the entire site, a lot of its, this.

Whitney Singleton stated oh, you mean when you incorporate Bedford.

Mr. Catizone stated that's how it was done in the past. When you incorporate Bedford and the CL, the development coverage goes down and that was kind of part of the reason that drove this that I don't think that Whitney or Jan, the Village Planner, we comfortable with the way that the zoning was calculated in the

past. So that's what kind of led to this recalculation on a per district basis and again we agree, we think it's appropriate, although it does help us to look at the whole site but we think its appropriate...

Chairman Rose stated I guess the idea is that we don't get into squabbles between different government bodies with different rules and interpretations.

Mr. Catizone stated correct.

Ms. Richards stated so, I just had a question about the parking, you said you apparently got a variance that allowed 10 between the building and the street, is that correct?

Mr. Catizone stated yes. So it's the front yard and the primary, principal structure, I think is the way its stated. So there's a variance, its for the Safe Haven moving, Safe Haven Storage, that was granted, I have it here in my letter.

Mr. Miley stated February 17, 2010.

Mr. Catizone stated 2010.

Ms. Richards stated and are 10 vehicles what's actually parked out there?

Mr. Catizone stated no, there's far more than 10 vehicles.

Chairman Rose stated are there far more than 17?

Mr. Catizone stated we're going to keep it to 17, the conversation I had with the property owner, Mr. Diamond, is look we're going in for 30 fleet vehicles, if you need 32, if you want to expand this further but he felt that 17 was the appropriate number.

Chairman Rose stated I think the issue here, I'm sure the Building Inspector might chime in, is one of enforcement because we can grant some variance...

Mr. Catizone stated right.

Ms. Richards stated like you did for 10.

Chairman Rose stated in a multi-tenant situation with all kinds of changes going on, on a regular basis and suddenly there are 15, maybe 20 sometimes, 40, no, back to 10. No one really knows, much harder is a policing thing.

Ms. Richards stated can you...

Chairman Rose stated than if it were a single tenant site.

Ms. Richards stated can you find a different place to park them?

Mr. Catizone stated the U-Haul is, they're the only ones that have a designated space, one of the conversations that we had with the Planning Board is do we find, designate a place for the other fleet vehicles that is not in the front yard? The problem is it's operational. So you have, let me just flip to, JT Roselle, let's say, they need to do a delivery, so the fleet vehicle needs to be accounted for that, so we have our standard parking and then we have to add these other vehicles to that. So that vehicle comes in, parks here and picks up some material and takes it for delivery, now that vehicle is not in compliance. It's not like we could say, okay JT Roselle, you park back here, it's not logical to load the van and do a delivery. The same thing with most of these, Grand Prix's operations are here and it just doesn't make a lot of sense to have, you know the vehicles parked at a location that's not adjacent to their use. Again, a lot of these are for deliveries, the Diamond Properties vehicles are largely not on the site during the day, they're there at night, the Diamond Properties office is here, so those vehicles obviously park close to the door when the employees come in in the morning, they'll get in the van and go to whatever destination that they need to go to. So, if it's a situation like U-Haul, yes you can designate a spot and it doesn't really matter to the customer whether they're here or somewhere else but the vehicles that are used more as an operational piece of the business, those are a little bit harder to deal with.

Chairman Rose stated so we can suggest that you take the extra U-Hauls and put them in Bedford.

Ms. Richards stated good idea.

Whitney Singleton stated I got your humor about that.

Chairman Rose stated someone else's problem.

Mr. Catizone stated well I don't think they have a restriction on that, so.

Ms. Richards stated then you could do that.

Whitney Singleton stated well they have a restriction on putting dumpsters on their side, right.

Mr. Catizone stated yeah, that's moved by the way.

Chairman Rose stated I guess reality even though we're calling this Mercedes Benz with Estate Motors, for our Board, we're really concerned with other things going on.

Mr. Catizone stated and it really affects more than just Estate Motors than this extra pavement. It really affects the entire site.

Chairman Rose stated so is the applicant, are you actually the applicant representing all of these different interests going on.

Mr. Catizone stated yes, we're representing Estate Motors and for the purpose of this variance, also Diamond Properties.

Chairman Rose stated right. Are there questions right now, there's a lot of information here to digest and we may want to get some feedback from the Planning Board as to what thoughts they've had because it clearly has been going on for about a year and a half, I guess.

Mr. Catizone stated we've been at this with the Planning Board since October of 2014. So it's been a little while. We did receive a negative declaration on March 22nd, so we feel that we're at a good point to move forward, which is why we're here.

Whitney Singleton stated to be clear though, as I think the Chair pointed and you confirmed, what's going with Mercedes and what's going on with the application before the Planning Board in both Bedford and in Mount Kisco, really is tangential, if not directly related to what Pete's proposing this evening. What the prior variance application that you've granted for fleet parking vehicles was specific to Safe Haven and it was specific to a particular location and it was granted to the property owner, not to any individual tenant. So whether Grand Prix comes and goes or Mercedes comes or goes or anything else, this variance that he's seeking would run with the land. It would go to whatever other use is there. Whether it's the development coverage of the site, whether it's the parking of fleet vehicles.

Chairman Rose stated I think it might help us to have a site visit either individually or as a group just to become more familiar with what the physical situation is on the site.

Ms. Richards stated and maybe we could also get Planning Board input.

Whitney Singleton stated if you want for purposes of fluidity, the Planning Board meeting is Tuesday, that question could be put to them verbally on Tuesday evening. I think I know what their response will be but I will let them speak for themselves and that can be reported back to your Board and I can also circulate to your Board a copy of the resolution going back to 2010 for Safe Haven or for DP-21 on behalf of Safe Haven.

Chairman Rose stated right, okay. That would be a way to start moving forward.

Ms. Richards stated and then we could make separate site visits.

Chairman Rose stated I'm not sure that we need a group visit, it's pretty straight forward, I believe.

Ms. Richards stated before the next meeting.

Chairman Rose stated my time is constrained over the next few weeks so. Weekends especially.

Mr. Catizone stated should anyone an escort for that site visit, just to answer questions, please reach out, I'll be happy to accommodate as a group or individually, we can make arrangements.

Ms. Lapple stated I think that's a good idea.

Whitney Singleton stated the resolution which I'm forwarding to each of you now, has a map showing where the 10 U-Haul vehicles are supposed to go. I think Pete's plan shows where he's proposing.

Mr. Catizone stated there's 10 that are supposed to go here, the first 10 spots and we're going to take the entire row or we'd like to take the entire row and that's pretty much what's...

Chairman Rose stated that back row so to speak.

Mr. Catizone stated this, we have it with a block around it.

Chairman Rose stated oh there's 17 there, right.

Mr. Catizone stated we have 10 now but they pretty much occupy the whole area.

Chairman Rose stated if they go beyond 17 now, which apparently they do, where do they end up going, continuing into this.

Mr. Catizone stated they end up, the problem and I think you stated the enforcement issues, they don't really park efficiently, so they might have a trailer that's taking up two spaces and they tend to take up some of these spaces, so it seems like and Peter maybe you can chime in, it seems like they you know, we'd like to be here but they have been in this corner.

Chairman Rose stated what is the width of these spaces.

Mr. Catizone stated they're standard spaces.

Chairman Rose stated is that 10 feet.

Mr. Miley stated 9 ½ by 18 ½ and with regard to answering Peter's questions, enforcement, by virtue of the resolution, that's when we'll be able to enforce and essentially you can't anticipate a violation but if they are in violation, they'll be subjected to suspension and the revocation. There is some control mechanisms by agreeing to a certain number, I can't anticipate that they'll exceed that number until I actually see that they've exceeded it.

Mr. Boxer stated what's the size of the vehicles because those are standard automobile spaces.

Mr. Catizone stated they vary, some of them are like the tug along trailers, some of them are bigger box trucks, I haven't seen, Peter would know better than me, I haven't seen anything...

Mr. Miley stated the last time I was there, it wasn't that extensive.

Mr. Catizone stated I haven't seen, I hate to be technical, like an SU-30, which is a 30 foot wheel base, I haven't really seen, not to say that they wouldn't be there but I mostly see smaller vehicles out there.

Chairman Rose stated so potential for, you know, clobbering the parking plan is there.

Mr. Catizone stated right, well this is kind of why we, can employee can actually back the vehicles at this spots and it gives the person who is renting it a clear shot out without making...

Chairman Rose stated is that how they're done generally, an employee will...

Mr. Catizone stated well they always park because they don't want someone to damage it and to be 100% honest, I haven't spoken to the Safe Haven people to you know, get an exact operation of how it's done. I'm speculating to a certain degree but any time I've rented a vehicle, they generally want you to drop it and you know, they'll do their inspection and they'll park it. Again, it's very few, at least in my experience, very few you know larger and longer vehicles and more along the lines of shorter box trucks.

Chairman Rose stated for the record, since this is a public hearing, is there anyone in the audience who wishes to comment on this application. Apparently, negative on that. If there are any more questions, we'll take them, otherwise...

Whitney Singleton stated can you just double check your notices.

Mr. Catizone stated yeah, I looked at them real quick and that was not on there. I'll double check it.

Ms. Richards stated so we'll do a site visit before the next meeting.

Chairman Rose stated right.

Ms. Richards stated and Whitney is sending us some Planning Board information.

Chairman Rose stated for the record, I cannot be here at the next scheduled meeting, if there's a possibility that the May can be deferred, I think May 30th would be the only Tuesday...

The Secretary stated May 30th is a Monday.

Chairman Rose stated May 31st.

Mr. Miley stated correct, that's a Tuesday.

Ms. Richards stated the day after Memorial Day.

Chairman Rose stated because we, on short notice we can't bring it in closer in case someone is planning on submitting. When is the deadline for the May submission now?

The Secretary stated the 26th, April 26th for the May 17th meeting.

Chairman Rose stated so we couldn't, to be fair, we couldn't bring that closer.

Ms. Richards stated and you can't do the 17th.

Chairman Rose stated I can't do the 17th.

Ms. Richards stated I can't do the 17th either, actually. And you can't do the 24th.

The Secretary stated the 24th is Planning Board.

Chairman Rose stated the 17th would be too close.

Ms. Richards stated no, the 17th is the meeting.

Chairman Rose stated the 17th is the meeting.

Ms. Richards stated the 31st, I'm okay with the 31st.

Ms. Lapple stated for what a meeting.

Ms. Richards stated no, it's the Planning Board meeting.

Chairman Rose stated no, I can't do the 24th.

Ms. Richards stated I could for the 31st.

Chairman Rose stated the 31st is a possibility.

Mr. Miley stated I'm open.

Chairman Rose stated if that seems suitable. If everyone here can do the 31st.

Mr. Boxer stated I don't put things in my phone, I still use a paper calendar.

The Secretary stated I'll send an e-mail tomorrow just to confirm.

Mr. Boxer stated I remember better.

Ms. Catizone stated sometimes its safer that way.

Chairman Rose stated so we will then have a site visit before that next meeting and the meeting may be moved to the 31st, that will be determined by the polling.

Mr. Catizone stated thank you.

Chairman Rose stated we need a motion to adjourn this hearing.

Ms. Lapple stated motion to adjourn the heard. Ms. Richards seconded the motion.

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

Chairman Rose stated thank you.

Mr. Catizone stated thank you.

Returning Cases:

**2. Stephen Cohen
37 (39) Willetts Road
Mount Kisco, NY 10549
69.64-2-1**

Case# ZBA15-11

Ms. Jody Cross of Zarin and Steinmetz was present.

Chairman Rose stated okay, the next hearing is a returning case but in fact I don't believe we ever opened the case in the first instance. So this will be the initial actual meeting for Case# ZBA15-11, Stephen Cohen 37/39 Willetts Road.

Ms. Cross stated good evening, my name is Jody Cross, I'm from the firm Zarin & Steinmetz.

Ms. Richards stated do you need her to spell it.

The Secretary stated no, thank you.

Ms. Cross stated I'm here today on behalf of the Cohen's and I'm here with Mr. & Mrs. Cohen and we're here in connection with an application for an interpretation and a variance. So back in 2014 the Cohen's received a building permit for one finished room and one bathroom over their existing detached garage. They spent \$100,000 in connection with that building permit, built to that building permit and now when they sought a certificate of occupancy, they were denied based on a bulk issue which we'll get to and more importantly a use issue and what they were told is that their proposed use is not permitted. I just want to say frankly I was surprised when they called me about the level of public interest in this application and for that reason, we do have Court Reporter here and that's really to protect our client's rights and to protect your record. So I was also surprised to hear about a lot of the misinformation that was going around on this application and you've received some letters from the public, you've received, you'll hear some members of the public speak about certain conversations and e-mails they had with the Cohen's. I want to point out that a lot of those conversations either are taken out of context or are accurate but were had long before they looked into their legal rights and what they can do on their property or were just in terms of laypeople. So when they may have said we're going to use the property for a certain use, they weren't considering the legal terminology. So here we are today and I'm here to address exactly what it is the Cohen's intend to use the property for. They intend to use it for a legal accessory living space to their single family use. They have no intention of using their property for anything other than a legal accessory living space for their single family use. Now you're Zoning Code allows any customary use to a single family use and prohibits the operation of a business and separate residence. So, what is it that they intend to do, they're going to use it as a family gathering place, there's going to be a T.V., couches, chairs, a computer where Mrs. Cohen may do work from home, like many of us or their kids might do homework. There will be places for the kids to play, to read, to play board games and to gather generally as a family. They have made no secret of the fact that a couple times a year, grandma may come and stay on a fold out couch. They are not looking to conduct a business there, so I mentioned that Mrs. Cohen does work from home sometimes, many of us work from home, I'm going home from this meeting to do some work. That's not conducting a business, if that was an impermissible use in a single family zone, I think a lot of people would be in trouble. They also do not intend to rent out the space or to use the space as an apartment, there's no kitchen there, they don't intend to put a kitchen in, there's just an open space and steps down to an exit, steps down to the yard. They don't have any intention of using for any of the prohibited uses. So whether you call the space, there's been question of what you call the space, I don't think there's something particularly in your Code, it's been referred to as a playroom, a gym, it's been referred to as a home office but it could be a den, a rec space, a bonus room. A lot of people have that over their garages, whether it's attached or detached. In fact, there are other garages in this neighborhood, detached garages where there are similar open, finished rooms with a bathroom. There's at least one other in a detached garage, there's one in a garage that's attached by just a breezeway. So that's actually what they told the Building Department they intended to do, that's what their building permit said they wanted to and gave them

permission to do, that's what they built, their building permit was never revoked, they never got a violation, they never got a stop work order, so that's what they built to and are looking for an interpretation as a permitted use. So, that brings us to our interpretation application which is we want, we are seeking an interpretation that use of this finished room and bathroom are, is an accessory use to a single family home. So we start with an interpretation, your Board knows zoning is in degradation of common law rights, any ambiguities in your code are interpreted in favor of the applicant. So, here the question is then, what's a customary accessory use. So, first your Building Department did interpret what they're looking to do, as being customary accessory use which is why they granted the building permit. So, the permit was issued for a finished room and bathroom, obviously if there's a bathroom there, it's intended for living space. Not just for storage. But, you know, I'm a land use lawyer, I do a lot of these, I know sometimes Building Departments, very rarely make mistakes but they do, so I went and did some research on it, there's actually two important cases out of the Second Department, right on point, there is a case called Kam Hampton I Realty Corp, that's K-A-M Hampton, roman numeral one versus the Board of Zoning Appeals of the Town of East Hampton. In that case, the Second Department upheld as a customary accessory use in separate accessory buildings, uses include a home office, a library and a gym and they were found to be customary uses to a single family home.

Mr. Boxer stated do you have a cite.

Ms. Cross stated I actually have copies of the cases, I'll grab for you in a moment. In *Rendely v Town of Huntington* in 2007, the Second Department held that an accessory with habitable living space was an accessory use to a single family home, so much broader and that's what we're looking at here. So, in both of those cases, there was also very important [inaudible]. In each other those cases, either members of the public or members of the Zoning Board were concerned that there was a slippery slope. If we allow this finished room with a bathroom, someone is going to convert it to an illegal apartment, they're going to use it for illegal purposes, a business, they may start using it for business purposes. And what the Second Department held was fear and speculation that an applicant may use a property for impermissible purposes is not a basis for denying their use and I'm here to tell you that the Cohen's have no intention to do that. I'm here to tell you that you guys have a wonderful Building Department, Code Enforcement and a Zoning Code to protect you but that's the not case. They may have at some point considered the use differently at the beginning of their process, again, they're here to represent to you that they will put, they will agree to any reasonable conditions in a Certificate of Occupancy, they're even willing to put deed restrictions in saying that they will never use this as a rental property, as a separate residence or a business. So, you know, ultimately, here we are, we're asking for you to interpret that this use is a permitted use so that they could get their C.O., subject to the variance. I'll discuss momentarily, but it seems this is a threshold issue, so I do want to stop and answer any questions you may have about this portion of the application and if you'd like I can grab you copies of the cases that I cited. I'll just grab that for you.

Ms. Cross distributes copies of case law cited

Chairman Rose stated now, just to be clear, the variances you are requesting should be in response, timely response to the June 22, 2015 letter of denial.

Ms. Cross stated yes, we requested variances in connection with that letter.

Chairman Rose stated and so the 60-day period applied, you have the right to appeal this determination within 60 days.

Ms. Cross stated and we did appeal timely, frankly the letter was somewhat unclear, it didn't make a lot of sense to us because it spoke to enlarging the nonconforming use as to height and issues like that and we really came at, our initial application was to get an interpretation as to what kind of variance we would even need. But then we did further research and we did speak with Mr. Miley and it became clear, which is why we amended our application to specifically ask for that variance rather than wait for you to tell us what we needed then make application for the variance.

Whitney Singleton stated so you're saying that the Building Inspector's determination that specifically cited the nature of the bulk noncompliance in two different sections, was not sufficiently clear.

Ms. Cross stated it was not clear to us exactly what it was we needed to request.

Whitney Singleton stated so specifically, the Building Inspector said 110-34 G (4) precludes accessory structures from exceeding 15 feet height, you are seeking to enlarge a noncomplying building, 110-35 D, specifically states noncomplying buildings and structures may not be enlarged without a variance being obtained from the Zoning Board of Appeals, pursuant this chapter. That part was not clear?

Ms. Cross stated we weren't clear why it was considered a noncomplying building, at the time...

Whitney Singleton stated when it also said you can't exceed 750 square feet and that you're building exceeding 750 square feet and that was in degradation of 110-31 G (5), that part wasn't clear either.

Ms. Cross stated no, we thought our building was not in excess of 750, and we've since had our surveyor look at it and its 757 square feet.

Whitney Singleton stated so what determination are you appealing tonight?

Ms. Cross stated I'm sorry?

Whitney Singleton stated what determination are you appealing from for your area variances?

Ms. Cross stated we are appealing from the denial letter and we timely filed an appeal and then we amended the specifics of that appeal.

Whitney Singleton stated but it specifically states in the State Law that when you file an appeal, you must specifically ask for, disclose the nature of the relief which you are seeking and you did not do that. You specifically said you were not pursuing area variances.

Ms. Cross stated and at the time we asked for an interpretation as to which area variances we would need, if any.

Whitney Singleton stated so seven and half months after the deadline for filing is when you're seeking area variances.

Ms. Cross stated well if you want to look at it from our original application then you can grant an interpretation that we need a 56 square foot variance, then we'll go and get that variance.

Whitney Singleton stated I think that the Building Department has already determined that you needed that variance back in June of 2015. They very explicitly stated that and they specifically stated that you would have seek relief from the Zoning Board which your client has elected not to do.

Ms. Cross stated well we're here now seeking that relief.

Whitney Singleton stated in an untimely fashion.

Ms. Cross stated if that's the ruling of this Board, then we will ask that the Village make a determination on our pending Certificate of Occupancy application that hasn't been ruled on, that's been pending since I believe September and they could deny based on that variance and we'll come back here. It seems we've placed everyone on notice and the public's on notice as to what it was we're seeking and you know, we stand by whatever decision the Board makes but that's our position. Certainly, if the Board has any questions which regard to our interpretation, which I don't think is an issue, we're happy to answer them.

Chairman Rose stated just one point of business since you've hired a Court Stenographer. Will you make the copy of that work being available to the Zoning Board?

Ms. Cross stated absolutely, as soon as we have a copy of the transcript, we'll submit on the record.

Chairman Rose stated okay. There is a long history, are there other questions that the Board Members can think of at this point. We might open the hearing to the public because their points of view, however guided by their own thoughts and knowledge we leave to them. Now, four people have indicated their desire to speak on behalf of the application, we'll take it from the top. Keith Ferguson.

Mr. Ferguson stated hello.

Chairman Rose stated good evening.

Mr. Ferguson stated I have with me a signed letter from 17 neighbors, in the immediate neighborhood. On the back there is a map just to kind of signal, the red house is the Cohen's the green circles are pretty much everybody else who signed. I'd just like to read you this letter. It is our understanding that the Cohens residing at 37 Willetts will present their case at the upcoming ZBA meeting, they seek a variance following the denial of a Certificate of Occupancy for renovations preformed on their garage. We are concerned neighbors who have chosen to submit this letter to express our views and respectfully ask the ZBA to include in their consideration when they ultimately have to adjudicate this matter. Our neighborhood is very clearly designated as low density, single-family residential zone. That designation was a significant

reason many of us purchased and upgraded our homes over the years. We believe that it's important that we preserve its uniqueness and character. In addition, our Town has been receiving a lot of criticism from our non-Mount Kisco, Bedford Central School communities due to lack of enforcement of our Building Code, particular when it comes to multi-tenant dwellings. The Town needs to apply the Building Code equally throughout the Village which means that no exceptions are made when the Code is clear. Our opposition is particular strong because the applicants knew what they were doing from the beginning, there was a clear discrepancy with the Cohens intention expressed to the Town when they initially applied for a building permit and their true intentions communicated to various neighbors as well as Mr. Cohen's specific comments at the ZBA hearing on June 16th, well after the construction was started and more after it was almost done. Specifically, when he'd say publicly that their actual plan was always to have grandma sleep in the garage apartment. He has indicated to some neighbors that his ultimately plan was to add an elevator, so his mother, mother-in-law could stay with them permanently at some point, for the remainder of life. As you are well aware, the Code expressly restricts the use of a garage as a legal sleeping space at all. The Cohens are quick to point to some other homes in our neighborhood that have apartments and/or finished garage space as a precedent. The reality is the Building Codes have evolved over time and what may have been allowed years ago, is not necessarily allowed in the Code today. We want to preserve the character of our low density neighborhood, if exceptions are made here, it would be a slippery slope for the rest of the neighborhood and the Town in general. I would just add that if the Building Department, hypothetically did make a mistake, Whitney, what was that legal standard, an estoppel...

Whitney Singleton stated collateral estoppel does not apply against a municipality.

Mr. Ferguson stated what was that?

Whitney Singleton stated collateral estoppel.

Mr. Ferguson stated the Cohens would have saved a lot of money if they had been more forth coming when they actually applied for the building permit, early on even when they knew their garage plan was counter of zoning laws and facing neighborhood opposition, they continued to spend aggressively on what some would consider lavish improvements for what they termed empty finished space, including replacing a window with a sliding door that opens to a well-appointed back deck and more expensive foam insulation among other accoutrements. They also hired a lawyer in an attempt to have the Building Code altered for their benefit, despite attempts to assure neighbors that they decided to renovate the third floor of the main residence instead of the garage itself. Their ploy now is to disguise their sleeping space intent as a request to use the garage space as an office or play room, or some other innocuous use. They're absurdly making the claim the falling asleep in front of the TV in your main residence family room, is somehow counter to our zoning code and is justification to allow overnights guests in the their garage. None of that should matter as the primary purpose of a separate garage is to store cars, not as an office or other usage as the C.O. denial had made clear. We all bought homes at significant costs, with many of us undertaking expensive repairs and upgrades during those renovations we have been upfront with the Town's Building Department and followed the Building Code as instructed. Allowing the Cohens to circumvent the Building Code, with a less than candid approach to add separate sleeping quarters, again, even disguised as an office or some other seemingly innocuous use would increase the density of the neighborhood, change its uniqueness and character and would cause a slippery slope as others look to add separate living quarters for their owner use. And it would unfairly put the burden on neighbors, including myself, to enforce the Building Code for each time they have an overnight guest, something they've already done even though the Town expressly them not to. We respectfully ask the ZBA to deny the Cohen variance. This is the original.

Whitney Singleton stated let me correct something, its equitable estoppel, I said collateral.

Mr. Ferguson stated this is the original copy.

Chairman Rose stated thank you. Peter Grunthal, you've added your name to the list.

Mr. Grunthal stated good evening, my name is Peter Grunthal, I'm a resident of Mount Kisco, I'm concerned about the long term desirability of Mount Kisco as a Town, as all of you know, I'm also a Trustee of the Town and because of that I'm not taking a position on this application, it would be inappropriate for me to do so. But I do want to make some comments, which are relevant to many applications that come in front of you, including this one.

Mr. Petrick stated can you speak up please? Thank you.

Chairman Rose stated we need microphones.

Mr. Grunthal stated I'll be better from this point on. The Village Code as you know is important to all of us for the obvious reasons and it's there for certain reasons, it's to protect the Village from

overdevelopment, from the unscrupulous use of properties by owners and the zoning of the Village is what it is for reasons that you're all familiar with and it's my understanding that the role of your Board is to grant variances under certain circumstances when they meet certain criteria. But it is my hope that you would only grant variations, sorry, variances when they are needed, not when they are simply wanted by an individual for their own particular use, irrespective of the rest of the community. In other words, when there is anomaly in the Code, when something has happened that makes it necessary to grant a variance because some strange thing has happened in the past because the Code can't cope with a particular situation that has arisen, then yes, variances may very well be necessary and should be granted but when an individual comes forward and they want something for themselves which does not benefit the neighborhood, does not benefit the Village, and indeed meets opposition from people, then it is my hope that you would not grant such variances. I see your job as being granting variances only when they are really needed and not simply to cope with individual desires. I think that the issue of precedents is also important, if you're going to grant a variance of any type, whether it be this or any other one that obviously leads to other applicants wanting to do the same thing and when that's been done in face of opposition of the neighbors, then clearly that's not something that we want. Something else comes up that has annoyed me in certain situations and that is when an applicant comes to you after the fact, they've started building, they've done something, they've spent money and they come on the premise, in the private sector that is it better to ask forgiveness than to ask permission and so I would say to you the fact that it's been done, the fact that moneys been spent, should not alter the principals at stake over here and if somebody has spent money even when they did not have the appropriate permissions and so forth, that's just bad luck, its not bad luck, it's their own fault. So I would ask in your regard, in the after the fact situations, just to repeat, when there is a need for a variance, I would hope you would give it, when it is purely an individual desire and it affects the neighbor adversely, I would hope you would not. Thank you.

Chairman Rose stated thank you. Well, I would say that the actions of the Zoning Board are very much guided by New York State law and previous judicial findings so that in the case of an area variances for instance, we have to go through a specific set of five factors and determine how a proposed variance fits. If it's an area variance that's a quantitative type of thing, we are mandated to grant the minimum variance necessary to meet that established need. We almost always respond carefully if neighbors are in opposition to a particular variance, to explore what that means for that local community but also to weigh how that variance might impact the large community. Setting precedent is something that is always of great concern.

Mr. Grunthal stated may I say that I'm familiar with the broad outline of your responsibilities, the criteria you need to meet, the fact that you are not responsible to the Board of Trustees of this Village that you are an independent body and I fully respect that. What I am asking you to do is not to be nice guys but to apply the Code as should be applied.

Chairman Rose stated anyone else have any comments on that?

Whitney Singleton stated I actually have a question of the applicant, just a point of clarification. In your submission you state that this basically functional living space, as it would be anywhere else, that they're going to be sleeping there, watching TV there, going on the internet, an office, so its basically the same function as inside the house, correct?

Ms. Cross stated it's a bonus room, as it could be inside the house, yes.

Whitney Singleton stated so the things they would do inside the accessory structure, would be no different than the things they would do inside the principal structure.

Ms. Cross stated except this would be a family gathering place, they could have a similar room in the house but their seeking to have it as an accessory use.

Whitney Singleton stated their seeking to have it as an accessory use, if I watch TV in my bedroom, it's part of my principal use, if I watch TV in my living room, its part of my principal use. If I go and watch TV outside or in another building, it is the same use, correct?

Ms. Cross stated its functional living space, correct.

Whitney Singleton stated functional living space, so what you're doing is you're having functional living space in more than one building.

Ms. Cross stated correct, it's an accessory use in an accessory structure.

Whitney Singleton stated right, but what our Code provides and it may be quite different from the other

communities that you're referring to, is that our Code specifically states that a dwelling unit can only be in one building.

Ms. Cross stated this is accessory living space to the dwelling unit.

Whitney Singleton stated you just said it was the same use as what goes on in the main house.

Ms. Cross stated that is not what I said, I said you can do the same things in the house. This is not their dwelling unit, this isn't a residential use, this isn't a residence use, pardon me.

Whitney Singleton stated if they sleep in it, it's not residential, if they watch TV in it, it's not residential.

Ms. Cross stated it is certainly residential, what I said is it's...

Whitney Singleton stated if they play games in it, it's not residential.

Ms. Cross stated pardon me Whitney, I misspoke, what I meant to say is it's not a separate residence. It is additional living space in connection with their...

Ms. Richards stated in a separate building.

Ms. Cross stated in a separate building...

Whitney Singleton stated but it's in a separate building.

Ms. Cross stated for their single family use.

Whitney Singleton stated and that is prohibited under our Code.

Ms. Cross stated not that, that's respectfully your interpretation of that provision, we're asking the Board to make that interpretation.

Whitney Singleton stated I will read the relevant section. A dwelling unit is a building or entirely self-contained portion thereof. That means that a dwelling unit can only go on in a single building.

Ms. Cross stated your Code also says that customary accessory uses are permitted in a accessory buildings and the courts have said that this is a customary accessory use to...

Whitney Singleton stated I respectfully disagree but I now understand where we have a difference of opinion and that helps dramatically.

Ms. Cross stated and again, to the extent that there may be some ambiguity which we believe if that's what you're counsel is telling you, then it needs to be interpreted in favor of the applicant.

Chairman Rose stated well we certainly will have a lot of things to consider. Let us proceed with two more people who have indicated a desire to speak to the application. Amy Justiniano.

Ms. Justiniano stated good evening.

Chairman Rose stated please speak here, so that your voice will be picked up by the...

Ms. Justiniano stated I've never spoken here, I apologize. My name is Amy Justiniano and I live at 14 Washburn Road, which if you're familiar with the neighborhood, is the neighboring block. My husband and my two kids have lived in our house for a little under 9 years and we met the Cohens when they moved in a couple of years ago. I'm here in support of the Cohens. Just to tell you a little bit about myself and where my mindset is here, I'm a lawyer as well, although I don't do this type of law, I was a prosecutor at the Manhattan DA's office for 14 years and now I'm a chief compliance officer at a company. I take these things very seriously, I take the laws very seriously by my job and I take compliance very seriously and I've thought long and hard about what the Cohens are doing, what their arguments are and why the neighborhood seems to be opposing this and quite frankly, I don't understand it and I don't agree with it and that's why I'm here in support of the Cohens. I met the Cohens about 3 years ago when they moved into the neighborhood, I met them at a block party, I instantly felt very welcomed by Ellen when I met her, she actually had remembered me from a music class we had taken with our kids prior to her moving to the neighborhood and Stephen, her husband has struck up a conversation with my husband who happened to be very enamored by flying and Stephen, as a pilot, took my husband out for a flight. We really thought they were very nice and kind and thoughtful and very neighborly people. Our children have played together.

You may or may not be aware that Ellen has also setup a community website that not only our whole neighborhood uses but all the neighborhoods beyond in Mount Kisco use. It's a resource for people to share, you know babysitter information, or to sell things, whatever it may be and I'm aware of many people who have used that and Ellen set that up for the community, purely out of the kindness of her heart. I have family that visit all the time, my parents live in Florida, and my parents come to my home and I want that to be a welcoming place for them where they can have a little bit of privacy and have some comfort when they come and I don't see anything wrong with that. There are several garages in our neighborhood that have these detached garages with this space that we're talking and no one seems to be opposing that but what really actually makes me quite frankly sad is that the Cohens moved to this neighborhood and I was very proud when I met them to say Captain Merritt's Hill is a wonderful neighborhood, it's a welcoming neighborhood, it's a great place to raise a family, you guys are going to love it. And from the minute they got here, for reasons I don't really understand, they have been targeted about this renovation, they have been met with resistance, they have been very unwelcomed in the neighborhood and that makes me very sad as a resident of the neighborhood. I don't see why using a space for family gathering, multipurpose room, and bonus room, whatever you use it as and occasionally Grandma comes to stay in the space, is a violation of the Code. I understand there's an issue with the variance for the stairs and one of the considerations is how it looks from the outside, is it aesthetically concerning to the neighborhood, having these stairs and I can tell you, I walk past their house every single day, our bus stop is one house away and I walk past their house multiple times a day, I've never even noticed this issue that you're speaking of from the outside. So from my perspective, from walking past and looking at it, I don't see how it's aesthetically changing the neighborhood at all. There are renovations that go on all the time in our neighborhood and quite frankly, I think that's a good thing, people want to stay in their homes and renovate their homes and make them useful for themselves. And that's in my opinion, all that the Cohen's are trying to do here, they're trying to make their residence into a home and use it for their needs, I don't see how it bothers anyone else. I understand that the Cohens have agreed to and I believe their lawyer said it as well before, put in the Certificate of Occupancy that they will not rent the place and they have assured me that they would not rent the place. I have no reason to believe otherwise, I trust and believe that they are honest and good people and good neighbors and I ask that you take all that into consider and grant them what they are seeking.

Chairman Rose stated thank you. Comments? One more, Jed Petrick.

Mr. Petrick stated thank you Mr. Chairman.

Chairman Rose stated I would also, just before you being, note that Jed Petrick has written a letter to the Board...

Ms. Richards stated we have read it.

Chairman Rose stated we would put into the public record as well as other letters, once from Christine Johnston and a third from you may have the list there but in any case just so everyone is aware, there are letters both in support and in opposition of the file. Thank you, Jed, please present your case.

Mr. Petrick stated thank you. Jed Petrick, I live one house to the north, 45 Willetts Road. I've lived in Town for 25 years.

Chairman Rose stated come a little closer, so that your voice will reach the microphone.

Mr. Petrick stated I don't think the issue tonight is whether the Cohens are nice people or not. I've had many, many people come and tell me that the Cohens are nice people, I'm sure they are. My dealings with the Cohens really surround this garage. We're here tonight, finally, to talk about the garage and the work that's been done on it and whether it's acceptable or not. This is two years too late, Mr. Cohen had an opportunity to come here before he began his construction to seek a variance from you, that's the not the way it turned out. When the Cohens realized that the my wife and I were going to push back against this build out of this guest house for Mr. Cohen's mother, the day that construction began, Mrs. Cohen sent a letter to my wife and said hey I understand Stephen and Jed, have spoken, I'd like to have my voice heard as well. Fair enough. We went over to Mrs. Cohen's living room about I don't know, a couple days later and we listened to what they had to say, Mrs. Cohen was kind of curious as to why I would have a problem, how it would affect me, a guest house in their garage. Their request pretty much was to ask me to look the other way and the response that I gave was, you're asking me for a variance that I don't own. The variance is owned here by the Zoning Board, I can't grant that to you. My suggestion is, the way it works in this Village, you put your best shot together, you come in, you make an appointment, you visit with the Zoning Board, you make your case, they hear you and then they decide what's right and what's wrong. Mr. Cohen said to me, he said at that and I'm shortcutting some things, so young lady, you're welcome to say out of context but I don't believe this is but I'll let you do it. Mr. Cohen said well I guess I'll do that Zoning Board thing and then took three seconds and said I'm just going to build it and I'll deal with the

consequences later. Well here we are two years later, you asked, you did, you ask why people are concerned about what's going on with this garage, that's kind of why. He didn't care, I'm going to do what I want to do. Mr. Cohen told me in my kitchen the day the construction began that the garage was a very important part of their house hunting expedition, this garage at 37 Willetts met their needs. There was room for him to create a wood working room, he could do some wood work, he could maybe park a little sports car in there, antique car, an MGB and there was a room upstairs, a guest house for my mom. It was designed to be a guest house from what I was told and the only things I was told, from day one. So to call this a multipurpose family room, is a smoke screen, its crazy. That's not what it is, now its well we're going to have an occasional guest, I don't know what they're going to do. I don't know. I don't know that I'm willing to trust and find out. And so, I put a line in my letter there, fool me once, gym and a playroom, shame on you, fool me twice, shame on me. Please don't let the Village get fooled again, deny this thing. Thank you.

Chairman Rose stated thank you for your comments. Are there other questions, comments?

Ms. Cross stated Mr. Chairman, I'd like an opportunity just to briefly respond to a couple of the comments.

Chairman Rose stated oh, by all means.

Ms. Cross stated first, the well-appointed back deck that was referred to, that's part of the variance application, it's a 35 square foot landing, so I'm not sure anyone would call it a "well-appointed deck" although it is lovely and nice. We also, I know being the lawyer who was hired on this, I was never hired to come in and try the law, I think there was some reference to that but just wanted to make that clear. I also want to point out that something was said about variances being denied when there's opposition and I think Mr. Chairman, you stated the law correctly, that generalized community opposition is not in fact a basis for an objection, for a denial. This is also isn't a situation where they built first and then came to ask permission later, they got a building permit for a finished room and a bathroom. They built a finished room and a bathroom, so they're here, yes they're seeking a variance for the bulk issue which was a 56 square foot variance, I think it's something like 6.9% but the use itself was permitted by the building permit, was permitted by the Building Department.

Whitney Singleton stated can I clarify that because you've said that twice now. You said the use was permitted, a room is not a use. A room is not a use. The only application that was received for a use was when there was a Certificate of Occupancy sought and it was for an office. That was the only time that your clients requested that there be a use. As a matter of fact, for point of clarification, the Building Inspector reached out to your clients' architect saying you said that this is a room and a bathroom but I need to know what the intended use is and their architect gave a completely different answer.

Ms. Cross stated the architect said it was going to be a playroom and gym.

Whitney Singleton stated just, when the Building Inspector issued a building permit for a room, there was no associated use with that renovation. It was a room before, it is a room now. It was authorized only for accessory storage.

Ms. Cross stated I'm not sure I've seen anything in the record that says its authorized just for accessory storage.

Whitney Singleton stated that's what the approvals say back in the '60's, the '40's.

Ms. Cross stated that's not what the clients have applied for or even indicated in their application, like you said playroom and gym and as I indicated, playroom, gym, when used the word office, they were not referring to a quote unquote place of business, it was being used in the colloquial sense and we've tried to correct that and that's also why we're here. So, just as a point of clarification, if you want to go back to the use that the Building Inspector was considering, it was a playroom and gym. That's what we're talking about, what's a playroom, its bonus room, it's a place for the family to gather and the kids to play.

Whitney Singleton stated playroom and gym is not what the application is for. The application was for an office. They said it would be a playroom and gym but they sought an application for an office.

Ms. Cross stated and we reached out to the Town, to the Village to explain that it was a colloquial error. They're not looking for an office, the way I refer to it in my office is it's not an office with a big O, as it's defined in your Zoning Board. It's an office as some people refer to an extra room in their house, as an office because it has a computer in it, it also might have a couch and a TV. So that's why we're here, we're clarifying that point of issue now, so what we're seeking is an interpretation that functional living space is an accessory use to a single family house. We're not asking you to judge whether or not the Cohen's are good people which you've heard from neighbors that they are and you've heard from neighbors that they

don't think they are. That's not even why we're here, it's not up to this Board to decide if they're going to abide by the law, we're asking this Board to render an interpretation.

Chairman Rose stated however ascertained by neighbors that indicate statements made, that turned out to be not true later, raised the issues of credibility of any of the statements made.

Ms. Cross stated for one, I understand that...

Chairman Rose stated it's irrespective of whether someone thinks their nice people or not nice people, that's really neither here nor there when it comes to our work that we have to do.

Ms. Cross stated and I understand that and we are concerned about what has been said because we're talking about conversations that happened months ago, that happened in someone's living room, weren't recorded, no one's under oath. We're here representing on the record what they intend to use it for, so even if when they first started it they had other intentions, they have since learned what they can and cannot do in this space. And they are, on their behalf I'm telling this Board what they intend to do with the space and what they don't intend to do with the space.

Chairman Rose stated okay.

Ms. Cross stated also just wanted to point out, at the last minute, one of the neighbors David Ley, was going to attend but could not, he also submitted a letter which I gave copies to Michelle.

Ms. Richards stated we have the letter. We have it.

The Secretary stated the Board received that letter.

Ms. Cross stated and if the Board has any questions.

Chairman Rose stated I think maybe we're ready to digest this information. There's a lot of background discussion that has to be sorted out among the members and of course we will have consultations with Counsel to guide us on this.

Ms. Richards stated [inaudible].

Ms. Cross stated obviously, we did not talk about the five factors for the variance we're requesting. That issue is fully set forth in our submission, as you know whether or not a variance should be issued is a balancing test of five factors and whether the benefit being sought by the applicant outweighs and detriment to community, in this case we're talking about a very minor variance which of course is contingent upon the interpretation but since it's contingent upon the interpretation we can address that at a later meeting or we can answer any questions you have now. I do want to again, point out and I think Mr. Chairman, you did address it. Area variances are typically sought for items that a property owner does desire, not necessarily need and that's why there is this balancing test of benefit versus detriment.

Whitney Singleton stated I think we can probably stipulate also that it's not only a threshold issue as to whether the use is permissible, it's a threshold issue as to whether or not the application for the bulk relief is timely.

Ms. Cross stated and if its determined that it's not timely and its determined that the use is permitted, we'd refile an application for Certificate of Occupancy, it could be redenned on the bulk issue and we'll just come back here and reargue it and re-notice it in front of the same people who are here today.

Chairman Rose stated I think we're going to leave counsel with some homework and draw up some possible scenarios so we can keep the hearing in motion, instead of having a little bit happen in one meeting and a little bit more in another meeting.

Ms. Cross stated understood.

Chairman Rose stated clearly we're not prepared to make a determination tonight and I would remind you and your applicant that we have four members present, one member could not make it. You always have the right to request a formal vote until such time as we have five in attendance.

Ms. Cross stated understood, we would ask then that the hearing be continued so you could discuss with counsel what has been proposed here.

Chairman Rose stated yeah, we will certainly, we're not ready to close the public hearing but we will, we don't know, there may be more information that comes in possibly from people who are just finding out about the hearing.

Ms. Cross stated understood and we will also put in another submission in time for the next meeting, addressing some of the questions that counsel has raised.

Whitney Singleton stated and another point of clarification, the two cases that counsel has presented to you tonight, were based upon a board being upheld that their determination would not be overturned as illegal or arbitrary and capricious where they found that the uses were customary. It was not a situation where the court determined that those uses were accessory, in both of those cases.

Ms. Richards stated okay.

Chairman Rose stated okay, if there are no other comments from the members of the public, I'll ask that this case be adjourned to the next meeting of the Board.

Ms. Cross stated and if I understand correctly, that may be...

Whitney Singleton stated Chairman, do you want to keep it open for public hearing at the next meeting or just written comment.

Chairman Rose stated I don't know.

Whitney Singleton stated clearly the applicant wants to put in further comment.

Chairman Rose stated I don't have a problem with keeping it open. I think most of the public comment has been heard but if there is someone else, we can certainly keep it open until the next hearing.

Ms. Cross stated thank you and have a good night.

Chairman Rose stated so, we need a motion...

Mr. Boxer stated move to adjourn. Ms. Richard seconded the motion.

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

The meeting adjourned at 8:50 p.m.