

**Village/Town of Mount Kisco
Zoning Board of Appeals
Minutes of August 16, 2016**

Members Present: Chairman Donald Rose
Barbara Richards
Harold Boxer

Members Absent: Kim Lapple
Dan Guyder

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

Chairman Rose called the meeting to order at 7:34 p.m.

Chairman Rose stated good evening ladies and gentlemen, this is the August 16, 2016 meeting of the Mount Kisco Zoning Board of Appeals. We have only three present and so for everyone's benefit, any decision we make would have to be unanimous and with only three, it can only go that way. So any applicant has the right, when we don't have a full Board, to either defer the entire hearing or at least defer taking a vote and closing the hearing. With that the first item would be approval of minutes, we are rapidly getting caught up, thanks to Michelle's hard work. **We have one from May 19, 2015 that the three of us were present for, do we have a motion to approve?**

Ms. Richards stated motion to approve. Mr. Boxer seconded the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Rose stated and June 21, 2016, we were all here.

Ms. Richards stated motion to approve. Mr. Boxer seconded the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Rose stated okay, the first returning case, Lexington Properties, we will listen to now, bear in mind that our regular counsel, Mr. Singleton had to recuse himself from this case and furthermore it turned out that the assistant attorney for the Town was unable to attend. So we are without counsel tonight and without Building Department but we will proceed with what you have.

**1. Lexington Properties c/o Leonard Brandes, AIA
15 Locust Street
Mount Kisco, NY 10549
(SBL) 80.48-2-7.2 & 8**

Case# ZBA 15-17

Mr. Leonard Brandes, AIA, was present to represent the application.

Mr. Brandes stated okay, good evening Mr. Chairman and members of the Board. I'm Leonard Brandes, to recap where we were, the existing property was setup as two separate lots originally, those are the existing nonconforming lots, back about 5 years ago it was brought before the Planning Board and did get combined at a Planning Board hearing to set it into one lot, the two previous lots was a residential one- and two-family, the other one was a limited commercial. They are now both considered as a one- and two-family, and that was officially in in Town's approval. The reason for that is because it is a nonconforming lot, its still too small to meet the Code, it's 5,900 square feet where 6,500 feet is required. It's still too shallow where 100 feet in length is required, we only have 50 feet in length on one of the smaller yards, smaller lots. So we're trying to work this within the main bounds, I mean it was obvious at that time when they did approve to have that we were going to require variances for the property. After meeting with Mr. Rose at the property site, we've modified it and also meetings with Peter from the Building Department, we were able to reduce the amount of variances required, we originally were requiring, I believe it was nine, we're down to I believe five. Of the five, two of them are because they're nonconforming, we cannot do anything about the being too shallow and cannot do anything about the lot being too small.

Ms. Richards stated meaning you're not changing it, it's just how it is.

Mr. Brandes stated this is the size of the lots, I have no choice.

Chairman Rose stated it is what it is.

Mr. Brandes stated it is what it is, and the Town was aware of that when they combined the lots and we tried to modify to make it happy for everybody.

Chairman Rose stated its really almost a legal size in area, except that it's been flipped sideways, you have to think of it that way.

Mr. Brandes stated yes, its more like a sidewalk, exactly, it's almost the right size. The existing house is marked here in the black outline, where we only had a little over 9 feet for the front yard and 1.1 feet in the rear yard, so the existing property does have that old house, it's only about 900 square feet, the existing house, its in fairly bad condition, we do want to take it down because we want to build on something else. The proposed two-family house will allow us to have two interior parking areas and two exterior parking areas. We were able to reduce the driveway, bringing the house in forward, was one of the issues that we talked about, so we made this rear yard a little bit deeper, we added another foot here and we brought this over 2 feet. I still need to maintain access over here, so I can't go too far because we do need, in case of a fire or emergencies, you have that access around the building. Each apartment that we have is only 1,200 square feet, so we're not making large buildings, we're looking for a small reasonable building within this area and that still leaves us a nice yard as well, along the side and along the front and now the rear section of 15 by 50 feet, so we still have a lot of extra area here. So the zoning variances now that we're requiring is no longer for coverage because we now meet the coverage of 40%, that's the maximum coverage, we are meeting that but we are looking for the front yard and one of the issues with the front yard. And I'll go back to this drawing, is that and Mr. Rose was with me when we looked at that, right now we have 18 feet from the street before our property line even starts so being pulled forward is not going to have an effect on the character of the neighborhood, when you have these houses over here which are far closer to the road line and where we are. So that was one of the additions that we talked about is to create, pull it closer, give us more of a backyard, make the front yard smaller and require a larger variance there but reduce the amount of variance in the backyard. The houses in the back, by the way, there's a garage over here and a garage over here and a garage over here, so we're not within other houses that we'd be affecting on this properties.

Chairman Rose stated it should be noted that the area in front of the proposed house is really part of the Town property, a little wall there and people have been using that widening of the street effectively as parking, so whether the Town will take that out or not, is beyond obviously the applicant's control.

Mr. Brandes stated right, its out of our control but we're not affecting here, we're keeping our walkway over here and the parking areas over here, so we're trying to avoid that so we that we don't lose parking spots, that is one thing we don't want to have is losing parking spots outside.

Ms. Richards stated okay, you need a front yard...

Mr. Brandes stated we need a front yard variance...

Chairman Rose stated front yard, side yard...

Mr. Brandes stated and a side yard over here.

Ms. Richards stated that three.

Mr. Brandes stated and that the lot is nonconforming, the lot is too small, there's nothing I can do with those.

Ms. Richards stated oh okay, the one that exists already. How many bedrooms in each?

Mr. Brandes stated we are trying to get, by the way this is the previous one, this is where we were previously, so we were closer on the edges and the sides but we did make those improvements.

Ms. Richards stated so how many bedrooms each?

Mr. Brandes stated we're looking to have, if possible three bedrooms each, they're small bedrooms.

Ms. Richards stated the square feet is not big, I was just wondering.

Mr. Brandes stated right, it's only 1,200 square feet but they are two floors but that's how we're able to get it. This is the existing house right now and the lot area that we're talking about and the local houses around it, so we're going to be improving the area, we're giving them two very good apartments to be working with, here are the footprints. The basement area when you come in has a one car garage, they each have a storage area, so each apartment gets storage as well, and that's underground completely, we do not have

any intention of any inhabitants at all, that's why there's not windows or anything in there, its just storage and some mechanical space will be in there as well. On the first floor we'll have a living room, a stair going up, powder room, eat in kitchen area, and then up the stairs, each apartment will have a master bedroom with a walk-in closet, bathroom with two sinks and two small bedrooms.

Ms. Richards stated only one bathroom up there.

Ms. Brandes stated yeah, one bathroom with two sinks, but we made it as compact as we can, we do have the powder room downstairs and I think that makes for a very nice apartment. As small a hallway as possible so we can get this amount in here, we tried to make a reasonable home out of this and having windows, also having the big windows in these bedrooms make the bedrooms feel bigger, so we're trying to create something nice out of this. And looks wise we're working out the front of the building over here, we're having the nice gable ends over here, we're creating something nice for neighborhood, we're not trying to make something, I'm not putting up a pre-fab couple of trailers in there.

Ms. Richards stated okay.

Chairman Rose stated you will see in the elevations though, effectively will look like a wider roof than that because you've got those gables at the front and back so that will kind of make a rectangle and it will be far better than what's there now.

Ms. Richards stated than what's there now. I went there, we all went there.

Mr. Brandes stated and the setback wise, we have much better setbacks than the existing building right and the buildings around it as well because the buildings around are much closer. I think this is an improvement all around for the neighborhood and creating apartments that the Town certainly needs.

Chairman Rose stated I would like to just add a little summary of the history of what happened with this particular site, for the record, pull the Village Board meetings from the time that they combined the two lots. Originally there was one tax lot but it was split by the zoning line going right through the middle of it...

Mr. Brandes stated correct.

Chairman Rose stated might just call that a drafting area. The one part that had the house on it was commercially zoned and the other part of empty, zoned residential. They could have, I imagine that they'd like to expand the two lots and use it commercially, that would have been a different kind of battle. What they did say however is that what they intended to do at the time was to add to the existing house to make that larger and more modern.

Mr. Brandes stated the proposals I found in the records because I went through the records also, was that they actually kept this house and added another house is what they were doing, on every proposal I found before. They were trying to create two separate homes...

Chairman Rose stated really, I didn't see that in the Village Board minutes.

Mr. Brandes stated that's in the boards, its in the next application that they made, once they got that approval.

Chairman Rose stated oh, okay.

Mr. Brandes stated and then they tried for a two-family and keep the one-family, then they tried to make just two separate one-families and it was creating a lot of issues. Keep in mind this is also, this is commercial on this side, the changes and across the street over on the corner is commercial also, that's where the former glass company was.

Chairman Rose stated its probably fair to say, if they couldn't build a two-family house here, the whole value of the project is gone, if they have to make that a single family house for rent, the economics just don't work.

Ms. Richards stated well truthfully at 1,200 square feet each, that's a single family 2,400 square feet, so it wouldn't change it that much.

Mr. Brandes stated we didn't really change the character.

Ms. Richards stated it would be tiny, you'd have to make a cabin there, if you wanted to comply, you can't really have a house there. It's not, right now it's zoned residential, so you can't do anything else with it anyway.

Mr. Brandes stated we rezoned to residential, one- and two-family is what we're allowed to do now.

Ms. Richards stated right, I think this is much better, I am much more comfortable with this than with those nine variances prior.

Chairman Rose stated yes, well that was part of the intent, I guess Peter Miley had the same focus as well.

Ms. Richards stated so I'm okay with this as it is.

Chairman Rose stated we did speak about making sure that the boundary is improved in appearance and it might be...

Ms. Richards stated some landscaping, yeah.

Mr. Brandes stated we're doing landscaping and shrubs throughout.

Chairman Rose stated there's some ugly fences and so on and...

Mr. Brandes stated some that are collapsing. Like on this side, the buildings themselves across the way, unfortunately but that's not our property.

Chairman Rose stated as you've already drawn things in, I think that one of the conditions would emphasize that the perimeter and landscaping shall be maintained.

Mr. Brandes stated absolutely.

Chairman Rose stated Mr. Boxer, any questions?

Mr. Boxer stated I'm good.

Chairman Rose stated I think if you're willing to risk...

Mr. Brandes stated I think we're willing to risk it, I think we've done...

Ms. Richards stated it's chancey, you know?

Chairman Rose stated if that's the case, since this is a brand new hearing actually, it was new set of documents and new publishing of the house, is there anyone in the audience who would care to comment, favorably, unfavorably towards the project, if not, **I would entertain motion to close the public hearing.**

Ms. Richards stated motion to close the public hearing. Mr. Boxer seconded the motion.

Chairman Rose asked for all in favor. The motion carried by vote of 3 to 0.

Mr. Brandes stated thank you very much.

Ms. Richards stated we have to go through a few more steps.

Chairman Rose stated we will now go through the mandated tests for granting an area variance, which you may listen to here or at your seat, is fine.

Mr. Brandes stated thank you.

Chairman Rose introduced the five factors:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance.*

Ms. Richards stated I think it improves the properties, it doesn't...

Chairman Rose stated give them an up-to-date brand new house with new landscaping, new treatment of virtually every part of the surface of the lot, it will be a definite improvement to the lot.

- 2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than area variance.*

Chairman Rose stated and I believe that they've looked at several different solutions and the only thing that made the most sense economically is the one that's been presented.

- 3. Whether the requested area variance is substantial.*

Chairman Rose stated well we have extremely substantial variances in part. The largest of course is the lot depth, the Code for this zone requires 100 foot depth and the depth at one point, actually for the western part of the site is only 50 feet, so there is a 50 foot variance required there. There is no variance required for the width because it easily meets that. The lot has an actual square foot area of 5,491 which is 759 square feet...

Mr. Brandes stated its spelled out here, its easier.

Chairman Rose stated less than the required 6,250. So that is...

Ms. Richards stated well its substantial on paper but because its such an odd lot that exists, its not really, its not that its not substantial but it's the oddity of the lot that makes it substantial.

Chairman Rose stated yeah, beyond the control of the applicant, the lot is what it is.

Ms. Richards stated right.

Chairman Rose stated the rear yard has a required setback of 20 feet, proposed is 15.5, so a variance of 4.5 feet is required there, that in the scheme of things is 25% of the setback but because of the nature of the area, the existence of sheds and other kinds of things on neighboring properties, I think makes it not really an issue, its not going to bother people. The side yard and this would be on the east side, has a requirement of 10 feet, the proposed setback is 8 feet, so a variance of 2 feet is required there. Again, while its 25% now we're talking about a smaller, absolutely number feet and the neighbor to the other side has a house pretty far from the property line, so I don't think that's going to be an issue. The lot depth we spoke about. The front yard setback has a requirement of 25 feet, proposal is 9 feet, therefore the variance is 16 feet, which ordinarily would be a showstopper because of the size especially at the front but the mitigating factor there is the fact that the street line is as much as 18 feet from the property line of the site.

- 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.*

Ms. Richards stated I think they're doing some improvements, so I don't think there's any, you know I think its improving it.

Chairman Rose stated yeah, they'll have to be meeting all the usual requirements for runoff and control of stormwater, will be a net gain for the area.

- 5. Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board which shall not necessarily preclude the granting of the area variance.*

Chairman Rose stated again, in almost every case, including this, it is a self-create difficulty, certainly this is a sophisticated owner of the property and they would have been well aware of the limitations of the site when they first acquired the property. But this not necessarily preclude the granting of the area variance, with that, **do we have a motion to approve the five variances?**

Ms. Richards stated did you say yeah?

Mr. Boxer stated I'll move to approve everything, I'm not going to list them out, you did already. Everything you said, I approve.

Ms. Richards stated just with the condition that the landscaping be maintained.

Chairman Rose stated are there other conditions that, we'd love to put the condition that the Town should take out the existing widening of the street and...

Ms. Richards stated but we can't do that.

Chairman Rose stated and we can't do that and that's not something that the applicant...

Ms. Richards stated just that they maintain the landscaping and the screening.

Chairman Rose stated and the normal Village Code will control the amount of parking.

Ms. Richards stated Harold made the motion, so second.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Mr. Brandes stated thank you very much.

Ms. Richards stated one down. Time for the burger man.

**2. Burger King
230 N. Bedford Road
Mount Kisco, NY 10549
(SBL) 69.58-4-1**

Case# ZBA16-5

Mr. Viktor Solarik of VKS Architects and Mr. Bob Moyer of Burger King were present to represent the application.

Chairman Rose stated ah, yes, the Whopper.

Ms. Richards stated I call him the burger man because he was here for the other burger.

Mr. Solarik stated good evening, my name is Burger Man. Bob is the manager of Burger King and we were here in June to request a variance from signage on the building and we have discussed with the Board and went back to revise the plans to propose reduced size sign on the front entrance with a Burger King logo. And those are the only two signs that we're proposing, the north and south towers which are signifying the building corners has no signage proposed under this revised proposal. So what you see is only the front facing North Bedford Road which is the main entrance to the facility, has the reduced size 'Home of the Whopper' sign which is 12 inches high and 20 inches long, we actually went back to the manufacturer of the sign and they agreed they can make it, [inaudible] allows them to make it pretty much per Burger King specs...

Chairman Rose stated this is what it looked in the original.

Ms. Richards stated that was this original.

Mr. Solarik stated right.

Chairman Rose stated so that brings the...

Ms. Richards stated the...

Mr. Solarik stated it bring it in from the edges and then it reduces the height to 12 inches.

Chairman Rose stated and I recall, we were okay with the size of the logo sign?

Mr. Solarik stated the button, it was 3 feet...

Ms. Richards stated we just removed one button, there was two buttons.

Mr. Solarik stated there were two, one was on the north and the south side, we eliminated both and put one in the middle.

Ms. Richards stated and the variance that you need now is...?

Mr. Solarik stated is only for the size of this sign because it exceeds the 75% of the façade.

Ms. Richards stated got it.

Chairman Rose stated yeah, there was discussion as to whether the monument sign already constitutes one of the allowed signs or not.

Ms. Richards stated but then it was determined it wasn't part of the, right, it wasn't part of the building or there wasn't, we did talk about that that the monument sign was separate.

Mr. Solarik stated correct.

Mr. Moyer stated that's what was said.

Chairman Rose stated and that remains as is?

Mr. Moyer stated yes, that stays the same.

Ms. Richards stated I mean, I really think this okay.

Chairman Rose stated well certainly the building is much more acceptable that way, people are not going to miss it.

Ms. Richards stated they already know where it is, anyway.

Mr. Moyer stated right.

Ms. Richards stated I'm okay with this.

Chairman Rose stated any thoughts?

Mr. Boxer stated nope.

Chairman Rose stated any input from the public on this particular proposal, it's just a sign ordinance question, if not, I suggest we close the public hearing.

Ms. Richards stated motion to close the public hearing.

Mr. Solarik stated there was a Short EAF prepared and submitted, Michelle probably knows what happens with that.

The Secretary stated Whitney.

Whitney Singleton stated because it's a commercial site it's an unlisted action so your Board would have to make a determination that it is an unlisted action and that there are no adverse environmental impacts resulting from the application.

Chairman Rose stated right, that was part of the package, is true. The Short Environmental Assessment Form, and I believe that it's clear that the answer to each of these question will be no or small impact.

Ms. Richards stated actually there isn't even any impact.

Mr. Solarik stated the front end is filled out, part I, part II is yours.

Ms. Richards stated just this.

Chairman Rose stated right, so we're looking at page 1, I think all of those no.

Ms. Richards stated I think all of these are no.

Chairman Rose stated its really just a matter of affirming that.

Whitney Singleton stated it would be the check box on the bottom of page three, the first check box, no I'm sorry, it will no result...

Chairman Rose stated it would be the second check box, which will summarize all of the eleven answers on page 1, check this box if you have determined based on the information and analysis above and any supporting documentation that the proposed will not result in any significant adverse environmental impacts. If we are all agreement with that conclusion, we should...

Ms. Richards stated check the box.

Chairman Rose stated take a vote on that and then we'll do the administrative end of it after, **so a motion?**

Ms. Richards stated I make a motion that we accept this. Mr. Boxer seconded the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Rose stated and then we need to go through the...

Ms. Richards stated do we, for a sign?

Chairman Rose stated yeah...

Ms. Richards stated okay.

Chairman Rose stated its awkward but...

The Secretary stated did you close the public hearing?

Mr. Solarik stated yes.

Mr. Boxer stated nope.

Chairman Rose stated no, we didn't.

Ms. Richards stated I thought we did close the public hearing.

The Secretary stated I heard a motion but no second.

Ms. Richards stated okay, motion to close the public hearing. Mr. Boxer seconded the motion.

Chairman Rose stated asked for all in favor. The motion carried by a vote of 3 to 0.

The Secretary stated thank you.

Chairman Rose stated since it's not a use variance, its an area variance and if its an area variances...

Ms. Richards stated we have to go through it.

Mr. Solarik stated it was 20 instead of 16.8.

Whitney Singleton stated okay.

Chairman Rose stated and we can just race through the application of these criteria for this type of case is awkward.

- 1. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance.*

Mr. Boxer stated no.

Chairman Rose stated no.

- 2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than area variance.*

Chairman Rose stated no.

Ms. Richards stated no.

Chairman Rose stated they're just bringing their building into conformance with the new company design standards.

- 3. Whether the requested area variance is substantial.*

Chairman Rose stated in this case, its really just a slight enlargement of the, what would call the, motto of the 'Home of the Whopper'.

Ms. Richards stated the logo.

Mr. Boxer stated mantra.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.*

Ms. Richards stated no, it won't change anything.

5. *Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board which shall not necessarily preclude the granting of the area variance.*

Ms. Richards stated well in this case, interestingly they have requirements from their parent company, so maybe not. It doesn't matter, actually.

Chairman Rose stated the case where the parent company has created the problem. In any case, either way that one looks at this, that's not going to effect the determination. **With that we have a motion to grant the variance?**

Ms. Richards stated motion to grant the variance. Mr. Boxer seconded the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Mr. Solarik stated thank you very much.

Mr. Moyer stated thank you.

Chairman Rose stated okay, the next...

Ms. Richards stated what did I just do with it.

Chairman Rose stated the next case will be...

Ms. Richards stated Bagnato, I just had it in front of me.

Chairman Rose stated Bagnato.

Ms. Richards stated I just had it and now I can't find it, here it is.

Chairman Rose stated its being, there is a new case number ZBA16-6, Bagnato 205 Lexington Avenue Corporation.

**3. Bagnato 205 Lexington Avenue Corp.
205 (215) Lexington Avenue
Mount Kisco, NY 10549
(SBL) 80.32-4-6**

Case# ZBA16-6

Mrs. Liz Crecco was present to represent the application.

Mrs. Crecco stated I'll give this to you.

The Secretary stated yes, thank you.

Mrs. Crecco stated hi, Liz Crecco, back here.

Chairman Rose stated so, would you care to present a summary of the...

Mrs. Crecco stated this is mine and my husband's property. So I missed the beginning, I came in a little bit late and you had made an announcement, and I'm not sure what that was about.

Chairman Rose stated oh, since we only have a bare minimum quorum, three, with a membership of five, you have the right to either defer the entire hearing tonight to the next meeting or you can make a presentation and we can discuss it and keep the public hearing open to the next case before we vote, if you feel...

Ms. Richards stated you can have us vote but you need all three...

Mrs. Crecco stated but you guys have been voting so positively tonight, I'm not a gambling woman, but...

Ms. Richards stated we could talk about it anyway, we could talk about it first and then she could decide, right?

Chairman Rose stated we could do that too.

Ms. Richards stated you could tell us what's different or what's up-to-date.

Mrs. Crecco stated okay.

Whitney Singleton stated there also may be issues associated with their application that will require conferral with the Building Inspector, who's not here.

Chairman Rose stated yeah.

Whitney Singleton stated part of their application present a different then what the Building Inspector put in his memo and he's not here.

Chairman Rose stated and there is enough out there that I think its fair to say that we would get to the point of making a decision because we will need some more input and review...

Ms. Richards stated it just means that next time, if we have a full Board, you don't have to worry that all three of us say yes but you could tell us where you are now.

Mrs. Crecco stated yeah, well obviously I was hoping that tonight would be, put a lot of things to rest because in light of and I'm sure you read the application that Anthony and replied to Peter Miley, correcting some historical information which I'm sure once Peter has seen the letter, would agree was mistaken and so without Peter here I agree with you, I don't think, there's just too many talking points that he should be here for. Disappointing in the fact that its not a full quorum tonight because as you know, its almost two years in September that there's been a lot of adjournments and meetings that haven't happened, not to our fault. I'm disappointed but I'm happy if you have any feedback to what has been brought forward.

Ms. Richards stated can I ask a couple of questions, as long as you're here anyway.

Mrs. Crecco stated yes.

Ms. Richards stated so you're looking for a parking variance...

Mrs. Crecco stated yes.

Ms. Richards stated and there's some conflict about the number of spaces.

Mrs. Crecco stated the number of spaces.

Ms. Richards stated I'm not sure how this little...

Mrs. Crecco stated thing came into play.

Ms. Richards stated this little building...

Mrs. Crecco stated yes.

Ms. Richards stated that we originally we had asked you take it out because it wasn't, right?

Mrs. Crecco stated correct and we thought no problem and then we looked, upon further investigation it became evident that the electrical boxes, everything for the whole property are in that building.

Ms. Richards stated that may have been the original...

Mrs. Crecco stated we bought it as is.

Whitney Singleton stated the prior site plan shows that it was not there.

Ms. Richards stated so at some point it was moved there.

Mrs. Crecco stated that 1965 site plan, that's correct.

Chairman Rose stated yeah.

Mrs. Crecco stated between 1965 and some other point in time, that building was put there, not from when we purchased the property.

Chairman Rose stated right.

Mrs. Crecco stated correct.

Ms. Richards stated but so in order to remove it, you would have to move...

Mrs. Crecco stated yeah, a massive amount of, all the electric panels, meters, everything.

Ms. Richards stated but it is, it looked like from when I reading the history and I don't know if this was now or past, that it was rented for \$100 a month as storage. Is it currently rented as storage?

Mrs. Crecco stated I believe it is used as storage by the commercial tenant.

Ms. Richards stated but is it rented as additional income, that's my question because that's a question that I have, if its only for electricals and it could be locked and it stayed there is different than if you're using for storage and somebody is...

Mrs. Crecco stated sure, which isn't a problem at all. Again, it's the cost of removing all of that for us, at this point in time we're pretty much out now, there's really no more money, we've done from our last meeting here, we did everything that was asked, we did hire the architect, we had the site plan done, we had the meeting with Peter and with the Planning Board Chair, as recommended because this Board made it clear that they would work with me and Peter would work with me to make it happen. The first meeting we go to with the Planning Board, the Planning Board received the application on time and in fact we worked very fast, I made sure we got everything in ahead of time, we got to the meeting the Planning Board said oh we didn't have a chance to look at your file, okay, great. Meanwhile we had a meeting with the Chair prior to the meeting prepped him on everything, got the application in with plenty of time okay, not happy, great, the next meeting they adjourned it for whatever reason that happens, so the third meeting we went to, Peter wrote a letter to the Planning Board saying you know what, they need a variance, so when we got to the meeting the Planning Board said we don't really know why you're here, go back to Zoning, literally.

Whitney Singleton stated I can clarify that, I don't recall the first part, so I'm not disputing that. With regard to your most recent meeting before the Planning Board, the Planning Board was anticipating seeing a site plan that would provide the requisite parking and everything else and the site plan is really nothing more than existing conditions. So when presented, well why are you here if you're not complying, well we want all the parking spaces waived, so the response was there's little we can do for you unless you get that relief from the Zoning Board of Appeals.

Mrs. Crecco stated except for that fact that we had a meeting with Peter and the Planning Board Chair, who directed us specifically what they wanted on the site plan and there was never discussion of anything about parking spaces at that time, at that meeting and I was there myself and I'm...

Ms. Richards stated but we had talked about parking spaces before...

Whitney Singleton stated that's in your resolution.

Ms. Richards stated yeah, that there was an issue with and I mean just did not...

Mrs. Crecco stated right and that we would need, and that there were credits to be had, right, okay, so we were in agreement that we were going to get credits...

Whitney Singleton stated the term credit is probably a little bit of a misnomer, you are entitled to preexisting nonconformity to the extent that it existed...

Mrs. Crecco stated correct.

Whitney Singleton stated legally existed at the time that the Zoning laws changed. So in other words if a setback is 10 feet, and you built it 10 feet and they increased it to 15 feet, you're allowed to keep it at 10 feet, doesn't mean you can move it closer. So, to the extent that you were nonconforming, you were allowed to continue to be nonconforming, you are not allowed to increase the degree of nonconformity.

Mrs. Crecco stated right, which we haven't.

Whitney Singleton stated well that's not exactly accurate.

Ms. Richards stated let me ask you a question before you go to the number of spaces...

Mrs. Crecco stated sure, go ahead.

Ms. Richards stated because I remember we had talked about the way the parking is, that little parking area you know where there's like three or four, however many spots...

Mrs. Crecco stated yes.

Ms. Richards stated is that legal, because I thought you were not allowed to back out onto a street.

Mrs. Crecco stated since this is a discussion, that's all we're doing is talking.

Ms. Richards stated right.

Mrs. Crecco stated what we have here is the 1965 site plan that was approved by the Planning Board which has three spaces, its on the second page of the...

Ms. Richards stated okay.

Mrs. Crecco stated three spaces, at this 1965 Planning Board they approved this site plan based on this.

Ms. Richards stated right, this.

Mrs. Crecco stated great. So, to my husband's credit, who has not been in the business of development, like I have a little experience in, not much but a little bit. I have never seen such a tremendous amount of evidence to show that this building lot has not changed since here, since this 1965 Planning Board said there's a commercial building, there's apartments and this is the amount of spaces that we approved. Nothing's changed and I can say that because we have the history of every single tenant that's been in this commercial space and that also hasn't changed. So, when we talk about parking here, and we talk about whether you get credits or no credits, well it all comes back to what's changed and nothings changed. Now, what he did over the years, apparently was added a different striping plan and there are currently 5 cars going in and they back out. So, if you want it back to the 1965 of three...

Ms. Richards stated of three.

Mrs. Crecco stated where they come in sideways, I guess my question is, is that what you're asking for?

Whitney Singleton stated can I comment on that, that's not for this Board to determine.

Chairman Rose stated that is the approved site plan.

Mrs. Crecco stated that's the approved site plan.

Ms. Richards stated so we don't have to worry about that, okay.

Whitney Singleton stated and with regard to nothing here having changed, that building that says one-story concrete building that was not existing in 1965.

Mrs. Crecco stated okay but is that what the problem is here?

Whitney Singleton stated well that's part of the problem.

Ms. Richards stated that was part of the problem.

Whitney Singleton stated and with regard to the, when you say what's existing, what's existing is not necessarily what was approved that deck is not approved, you had an approved...

Mrs. Crecco stated we agreed to take the deck down, oh sorry, let me clarify...

Whitney Singleton stated I just want to make sure that when you say this is what's there, its always been there and...

Ms. Richards stated no, that deck is coming down, you said that in the letter.

Mrs. Crecco stated okay, the deck is 100% coming down, we did say that we would take the concrete building down, then we find out all the major electrical is and again we've gotten pretty much nowhere, I have no more money, so it, I'm going to take a building down and I still am nowhere with rebuilding my building which is what I want to do. No problem, the deck we totally agree, we ran into a problem with this building because all the electrical meters, everything else in this.

Ms. Richards stated so what I would want to know is, is the building rented separately?

Mrs. Crecco stated okay.

Ms. Richards stated okay because it looked like it might have been, now I don't know if that's current or not.

Mrs. Crecco stated okay.

Ms. Richards stated and whatever storage is in there, would it be like, okay, the electric is in the thing, lock the space...

Mrs. Crecco stated possible to eliminate it, not a problem. I can say that without a doubt.

Ms. Richards stated everything out of there, locked and to be for nothing but mechanicals.

Mrs. Crecco stated padlocked and to be used, right and you do Fire Marshall inspections, they can come and see that it would be just that.

Whitney Singleton stated you can't use it anyway, there's a provision in our Code that says that accessory structures shall not be permitted for any retail service or other commercial use.

Ms. Richards stated okay.

Whitney Singleton stated it can be used for no commercial uses.

Mrs. Crecco stated okay.

Ms. Richards stated but it appears that its being used for something.

Whitney Singleton stated not appears, it was.

Ms. Richards stated that's what I'm saying...

Mrs. Crecco stated that's fine.

Ms. Richards stated the other thing is, was there any discussion about, when we walked here, right...

Mrs. Crecco stated yeah.

Ms. Richards stated you can walk off here and kill yourself, so you can, you know when you're on the property and I have major concern about that and wondered was here a discussion of putting up some kind of a barrier or fence there?

Chairman Rose stated I believe so.

Mrs. Crecco stated done.

Ms. Richards stated okay, got it because that was scary to me.

Mrs. Crecco stated you were very concerned about that, we heard you multiple times, Anthony took care of it.

Ms. Richards stated it was unbelievable, okay.

Mrs. Crecco stated so behind here is the concrete structure, they were concerned of people getting on to it or falling...

Ms. Richard stated you could fall right off, and there were kids toys.

Chairman Rose stated a child could hurt themselves.

Mrs. Crecco stated right, 100%, when I tell you we did everything to the extent we could since you left, there are two Code things which we have not done yet. Anthony did a lot of the Code stuff in the buildings as per Peter Miley, the two areas that he didn't do were the hallway, there was emergency lighting that needs to happen and there are sprinklers that need to be added. Anthony already made an appointment with the official inspector to come out because Peter said he's unofficial, we need a fire guy to come. That work will happen before he gets out there but again, we're here because...

Ms. Richards stated so the issue is parking, that's one and this little building.

Mrs. Crecco stated yes.

Whitney Singleton stated yeah, there's also the issue of what's legally allowed in the main building.

Mrs. Crecco stated okay so specifically, can you clarify that?

Whitney Singleton stated well with regard to the downstairs, let's dispense with some of the easy stuff, there was a hasp lock along Maplewood Drive, which is not allowed.

Mrs. Crecco stated what's a hasp lock?

Whitney Singleton stated a hasp lock means its locked from the outside, so if there's a fire, you can't get out.

Chairman Rose stated there's a piece that goes over a loop, and a door lock.

Mrs. Crecco stated okay.

Whitney Singleton stated that was, I don't think anyone is dispute...

Mrs. Crecco stated I near heard that...

Whitney Singleton stated it was raised by the Building Inspector.

Mrs. Crecco stated so this is a Code thing, okay, fine.

Whitney Singleton stated with regard to that, it appears as though and this is to be continued later, with regard to what extent was the downstairs being used for commercial purposes and for what specific purposes. And then as to the upstairs, it appears according to Peter and some others that upstairs was a total of two apartments and not four and that seems to be confirmed by the material that was used to re-demise the second floor into two apartments. And the third floor into two apartments and that also seems to be corroborated by the prior property owners own acknowledgement before the Zoning Board of Appeals.

Mrs. Crecco stated okay, so going back to, I guess Peter's letter talking about the tax card record of 1954, indicates two-family...

Ms. Richards stated where are you?

Mrs. Crecco stated oh I'm sorry, Peter Miley's letter dated April 22nd. The tax letter indicates two family plus roomer and a one-family over garage.

Whitney Singleton stated right.

Mrs. Crecco stated my first question is what's a roomer?

Ms. Richards stated a single room I'm thinking, a single room rental?

Mr. Boxer stated SRO?

Whitney Singleton stated my understanding was that there was two apartments in the building and in addition to the two apartments, one of the Bagnato's relatives stayed in one of the rooms, it was not a separate apartment, it was a room within an apartment and it was Carme Bagnato or somebody else...

Ms. Richards stated and the one-family is the one that had the fire.

Chairman Rose stated yeah.

Whitney Singleton stated correct. The one-family, ironically, is the one thing that's not in dispute here, they actually have a variance for that use. It's nonconforming now...

Mrs. Crecco stated then he goes on to say on the second page, the tax assessor property record card dated...

Whitney Singleton stated the same memo? The 22nd?

Mrs. Crecco stated 22nd memo, same one, then there's a five family plus stores, then it goes on to describe the first floor Marshall Moving Company and storage area, \$100 per month and a dental lab. Just sidebar, this Marshall's Moving that Peter assumed was a moving and storage company, was not a moving storage and company, you'll agree with that?

Whitney Singleton stated its not for me to agree, I'm not disputing what you're saying but its not for me to agree.

Chairman Rose stated but that's not for...

Mrs. Crecco stated unfortunately Peter interpreted it was a storage facility and it wasn't. We were able to actually contact the owners of the business who clarified that was strictly an office, their whole storage facility was in Pleasantville, we have a notarized record of it. Apparently there was a member...

Whitney Singleton stated can we pause on that?

Mrs. Crecco stated yeah.

Whitney Singleton stated I don't think, I'm not trying to make more work for you its really not, I guess Peter can agree with you...

Mrs. Crecco stated okay.

Whitney Singleton stated but if you want this Board to take testimony or take evidence in or your statements or your husbands statements, in his submission that he talked to Eva Marshall and Jack whatever his name is...

Chairman Rose stated John Rookwood.

Whitney Singleton stated yeah, that's just hearsay, if you can get an affidavit from these people, it would be more helpful unless you find out that Peter...

Mrs. Crecco stated is a signed, notary letter enough?

Whitney Singleton stated I don't know that I saw that in mine.

Mrs. Crecco stated that's from June 28, 2016. To the Mount Kisco Zoning Board attention Donald Rose to the Chairman, and this came from John Rookwood.

The Secretary stated so when Anthony came in, he changed his submission, so that letter may have been part of the change.

Mrs. Crecco stated okay and the changed submission didn't get to this Board.

The Secretary stated no, the change got to them that may have been part of the first letter that he didn't want in the packet the second go around because he had pulled out documents that he didn't want.

Whitney Singleton stated just give it to Michelle, to put in the record.

Mrs. Crecco stated is that enough though?

Whitney Singleton stated that's for them to decide and I've done my own independent investigation and what I'm finding out is that you're not wrong.

Mrs. Crecco stated thank you, that's pleasant to my ears.

Ms. Richards stated here, Tax Assessor property record dated '66, five-family plus storage.

Whitney Singleton stated right but the fact that something exists does not mean that its legal.

Ms. Richards stated oh it was never legal, even though that's what its saying it is, I understand.

Whitney Singleton stated and what Peter is saying is that he can easily tell by going in there and seeing whatever material on the walls, the exterior and interior walls and the space between the apartments came from material that was not available way back when it was...

Ms. Richards stated wasn't original, okay.

Mrs. Crecco stated if something is not legal, right, and in the interim when those apartments were there, we've had letters from the Town Building Inspector back in 2001, saying yes I acknowledge you have four apartments in this building, you've got a single-family house over there and you have commercial and prior to that you've got an approved Planning Board, I'm a little confused as to that part...

Whitney Singleton stated you don't have a Certificate of Occupancy.

Mrs. Crecco stated right, because buildings built in 1929 didn't issue them.

Whitney Singleton stated all buildings are required to have Certificates of Occupancy, in particular when you change your use from use to another and this is not 1984 or '86 or '62, this has always been the case. All buildings when they convert from one use to another are required to have a Certificate of Occupancy.

Mrs. Crecco stated I totally agree with you. I totally agree with you and my point back to you is once again and I am all about fairness in this world and I hope this Board is as well. When I tell you the research and the proof and the evidence that we have not had a change of use and a change of use has not happened since 1965 forward, its all be retail the whole time...

Whitney Singleton stated no, no, it clearly hasn't, when it was an antique store it was retail sale of bulk household items...

Mrs. Crecco stated retail, wait a minute, so an antique store is not retail.

Whitney Singleton stated it has a different parking requirement, it has a parking requirement of 1/300, when you go to retail, it has a parking requirement of 1/150.

Mrs. Crecco stated so now we're talking about change of use.

Whitney Singleton stated yeah and if you don't have a Certificate of Occupancy, you can't go to any use.

Mrs. Crecco stated okay terrific, so now we're on a new topic, we're on the topic of Change of Use, correct?

Whitney Singleton stated yes.

Mrs. Crecco stated so Change of Use, my husband did a FOIL require to Mount Kisco, asking for when a Change of Use was adopted by Mount Kisco. We did not get an answer from his FOIL, he then reached out on e-mail to I believe the Manager of Mount Kisco, saying 'hey, look, I put in a FOIL request, I never got an answer of when the Change of Use was adopted in this town'. I believe in your packet there's copies of the e-mails to the Village Manager, I know you were copied and other people were copied on it, the e-mail we got back stated that the best that they could see is that in 1984, the Change of Use occurred, the Change of Use Code came into play...

Ms. Richards stated the requirement.

Mrs. Crecco stated the requirement. Anthony's questions back to the everybody was well, when was it adopted because, am I to assume it started in 1984 and the response was by the secretary 'I believe, you can assume that 1984' and I'll pull out the e-mail is when it started. So back to your Change...

Whitney Singleton stated that's not what I responded.

Mrs. Crecco stated right, you responded that there's Codes going back 100 years and that the onus is on us to find out when it was adopted.

Whitney Singleton stated right, the purpose of a FOIL request is not to answer your questions, the purpose of a FOIL request is provide documents. We don't sit there an answer your questions, you make a request for a document and it's either an accessible document or its subject to a privilege and it must be denied. Nothing you requested was privileged and denied to you but it was not the job of the Building Department or its secretaries or the Village Manager or the records access officer or anyone else to answer a series of questions for you. If you want copies of every single Code, you're entitled to them...

Ms. Richards stated let's just stop for a minute, let me see if I can...

Whitney Singleton stated in essence it's like you're asking us to make your case for you, I can provide you with the Codes, and its unfortunate that you didn't get them in a timely fashion because they were provided to the Village Manager much earlier than his response to you, he just didn't forward them to you.

Mrs. Crecco stated okay, so we asked for a copy of when the Village Code was adopted, so what is that document called?

Whitney Singleton stated the first Village Code, as I think I mentioned in my e-mail goes back 100 years to 1928.

Mrs. Crecco stated the first Village Code?

Whitney Singleton stated the first Village Code.

Mrs. Crecco stated okay, so help me understand this. Nobody is going to volunteer when that Code was adopted because you see that as helping me build my case, I'm not in a court of law...

Whitney Singleton stated no, no, because you're saying the secretary in the Building Department said you could assume that this is the first date that is precisely the reason we don't answer questions.

Mrs. Crecco stated but we weren't asking a question, we were asking for a document.

Ms. Richards stated no but a FOIL request is a request for a document.

Mrs. Crecco stated right, but how come we haven't gotten it?

Whitney Singleton stated you were asking questions, you asked when was something adopted, you didn't ask for the document.

Mrs. Crecco stated so I asked the question wrong?

Whitney Singleton stated correct.

Ms. Richards stated no, you ask for, in other words you say...

Whitney Singleton stated if you want to say may I have a copy of the 1928 Village Code...

Ms. Richards stated right.

Whitney Singleton stated and a copy of the 1968 Village Code and a copy of...

Mrs. Crecco stated can I say may I have a copy of the Code for the Change of Use, I can't say that?

Ms. Richards stated there's all different dates, you'd have to know...

Mrs. Crecco stated no, no, no, it was only adopted sometime...

Ms. Richards stated copy of the original...

Mrs. Crecco stated adaptation of the Village Code.

Whitney Singleton stated right and I don't know that you're correct in that statement. I would have to go back and look.

Ms. Richards stated can I interrupt here for a second? A lot of this...

Whitney Singleton stated let me just point out one other thing, you also said that parking regulations didn't come into effect until a particular time, that's also an incorrect statement.

Mrs. Crecco stated I didn't say that.

Whitney Singleton stated your memo does, your husband's memo does.

Mrs. Crecco stated what we're talking about in the memo is because we keep getting told we changed the use which changed the parking requirement, and all we're saying is we didn't change the use and so how are we, why do we have to change the parking requirement?

Ms. Richards stated you might not have changed the use but the use...

Chairman Rose stated the previous owners.

Ms. Richards stated the use of the building has changed since the original, yes it has because...

Mrs. Crecco stated how?

Ms. Richards stated the retail that's there now is not the same as the use that was there prior.

Mrs. Crecco stated but it was all retail.

Ms. Richards stated there's different kinds of retail that require different kinds of parking.

Whitney Singleton stated was it not a dental office in a portion of it?

Mrs. Crecco stated yes.

Whitney Singleton stated was it not a offices for a moving company?

Mrs. Crecco stated yes but again it ties into the Change of Use...

Whitney Singleton stated was it not a church?

Mrs. Crecco stated that Code wasn't adopted when those things were there, that's my point, the change of use didn't come until sometime in the '70's or '80's...

Ms. Richards but that's changed...

Whitney Singleton stated but there are other provisions that require you to be and you're ignoring those, there are other provisions in the Code that demand compliance with the Code. If, there are several in here, if you look at 110-34, if you look at 110-35, if you look at the very opening chapter of the Zoning Ordinance, it says compliance required.

Ms. Richards stated okay, let me ask a question.

Whitney Singleton stated it talks about parking required, there's preexisting regulations for parking requirements, what happens to a site whose uses change and there are existing parking spaces that don't meet existing requirements, that's all in the Code. And my point is it's not for me to go make your case for you, its not for me to find the best arguments for you or to identify how to make your case. Its not that I'm not sympathetic to you situation, my job is to represent the Board.

Ms. Richards stated I have a question. What would make this building legal?

Whitney Singleton stated what would make the building legal?

Ms. Richards stated well conform, yeah.

Ms. Richards stated well conform, yeah.

Whitney Singleton stated exactly what your Board adopted. Ironically, here's what's really ironic, the back building is now prohibited today because you cannot have more than one principal structure on a property.

Ms. Richards stated right, we knew that.

Whitney Singleton stated but they got a variance for the building originally when it was prohibited, its now permitted, I mean now its prohibited. The front building was not allowed to have those residential uses upstairs, but today it is, what they have upstairs, barring the issues of Building and Fire Codes and compliance with those things...

Ms. Richards stated right.

Whitney Singleton stated barring those they can have those uses up there provided they have the parking.

Ms. Richards stated okay.

Whitney Singleton stated and your resolution said the only way that they can rebuild in the back because that was an ideal spot to tear down and make a parking lot and to tear down the other building and make a parking. The only way that they can build in the back building is in the event that they provide the required parking under today's Code and there was an analysis done by Peter and they are challenging his analysis as being incorrect.

Mrs. Crecco stated that's correct...

Ms. Richards stated so that's what this is...

Mrs. Crecco stated yes, that's it.

Ms. Richards stated wait. Is that all that this about, the parking requirement?

Whitney Singleton stated its about the parking requirement, its about an illegally constructed building, its about an illegally constructed deck...

Ms. Richards stated which we've already resolved because they're taking it down, okay.

Whitney Singleton stated its about illegally altering the approved parking lot.

Ms. Richards stated okay.

Whitney Singleton stated and I think, and there's some ancillary issues but essentially, that's it. That's from the Zoning perspective, there's a whole other litany of issues associated with Fire Code and Building Code, that are not per se before your Board.

Ms. Richards stated so our issue is we need a clarification on the parking, we need to figure out what we can do or not do with this building and that's out issue.

Mrs. Crecco stated yes, that's my understanding.

Whitney Singleton stated my preliminary review and I totally understand where you're coming from on the timing of and the length and everything else but the, and if you notice in your public hearing notice, this is not a public hearing for tonight, it's a carryover from the public hearing in July. So, I understand that they've been here for a while but I'm seeing this for the first time today. I understand Michelle got it out earlier but I've been in court for the Village on a number of different things and I have had only a preliminary opportunity to review this thing. I don't know that the applicant is incorrect with regard to Marshall Moving, my, I made one phone call and the person that's been in the Village for a long time, confirmed that fact...

Ms. Richards stated okay.

Whitney Singleton stated but that same person told me that its always been two apartments upstairs, not four and this is a person that lived next door.

Ms. Richards stated but the four is not illegal.

Whitney Singleton stated it wouldn't be illegal if they had the parking, so it gets circular.

Ms. Richards stated right, I'm trying to avoid that circle, that's what I'm trying to do.

Mrs. Crecco stated thank you.

Whitney Singleton stated while I don't disagree necessarily with regard to the Marshall issue, I do disagree vehemently in how the applicant is construing their entitlements to credits.

Ms. Richards stated correct.

Whitney Singleton stated I think its entirely incorrect.

Ms. Richards stated I would ask this, okay?

Mrs. Crecco stated okay, if I could just add this, putting aside the letters, the credits the proof that we will go around, I'm convinced if we felt like it, you can go for years. It's like badminton at this point, you asked for this, I did this, then you said that, I got, it's constant, there's always something and so all I can say is this, this property other than that concrete structure and the deck, it has preformed like this forever, back to the '60's at a minimum...

Ms. Richards stated but you know what...

Whitney Singleton stated but it hasn't.

Mrs. Crecco stated wait a second, as far as there being a retail store, apartments above, tax records that show apartments above, yes...

Whitney Singleton stated no four apartments.

Mrs. Crecco stated according to tax records there is.

Whitney Singleton stated tax records are irrelevant, the fact that somebody said...

Mrs. Crecco stated the funny part about that comment is...

Ms. Richards stated listen, can I...?

Mrs. Crecco stated they may be irrelevant for you right now but Peter Miley uses the tax records in all his letters, so how come he can use them and I can't.

Ms. Richards stated okay, let's not just go around in circles because we don't want to do that, so just wait a minute.

Mrs. Crecco stated no, I don't but I also just want to add what I'm getting at, the statement I was trying to make here, as long as we've had the property and any time before that because we've never heard anything different, we've never had problems with major car accidents or all these tragedies around this property, has not been the case. Let me just remind the Board, and I'll end on this, we had a fire two years ago, part of the building was destroyed, the initial Building Inspector said its unbuildable, it's over this 50% rule, we did not agree with that, we came back to this Board, Peter Miley and this Board determined you're right, actually you can rebuild it, its salvageable, but we just want you to do X, Y, and Z, get it up to shape but here we are, we're almost at the two year mark and we still don't have anything and again I mentioned we've not had problems in this area with the thing here...

Ms. Richards stated hold on, I want to say something now, although you're not totally wrong, we did not say just do this, this, and this, I said I want it to be to Code and I want an approved site plan.

Mrs. Crecco stated yes, correct.

Ms. Richards stated so its still not to Code because you still have this concrete structure, okay so there's still certain things. We did not say just do this, this, and this, we said want it to comply.

Mrs. Crecco stated 100% agree with you.

Ms. Richards stated now, I'm trying to keep this from being another two years, which is we can talk about this and whether it can be locked, I mean at least in my opinion you know, if there's electricals that it could be locked, that there be no storage, that it be et cetera...

Mrs. Crecco stated right.

Ms. Richards stated the deck is coming down but I want and regardless what is there is legal but you bought the property whether you bought it through a corporation or not and the onus is on you to know what you bought.

Mrs. Crecco stated 100%.

Ms. Richards stated so don't put it on the Town in terms of what's there.

Mrs. Crecco stated 100%.

Whitney Singleton stated and when the fire occurred it was illegally overcrowded and people could have easily die.

Mrs. Crecco stated I understand that people were living there illegally, we did not make that happen, we were unaware of that situation.

Ms. Richards stated but its your building.

Whitney Singleton stated its your building.

Mrs. Crecco stated it is our building, okay but that doesn't mean I made people go in there to an overcrowded situation.

Ms. Richards stated no, of course not,. But I would like to know what the calculation is, I don't think we can make an determination in terms of the parking, without knowing what is the correct calculation.

Chairman Rose stated methodology and...

Whitney Singleton stated I can give you my knee jerk reaction but this is just...

Ms. Richards stated yeah.

Whitney Singleton stated if the applicant is correct with regard to the space...

Ms. Richards stated okay.

Whitney Singleton stated we would not use a 1/1000 number for parking, you'd use a office requirement for parking. However, the applicant is also stating that they have an entitlement to a credit of five spaces for what's existing and they're double counting those five spaces.

Mrs. Crecco stated so we don't agree, we're not in agreement on that because my understanding is Peter put in for a certain variance of I think 9 spaces...

Whitney Singleton stated I think its less.

Ms. Richards stated there was too conflicting pieces of information in here, I didn't notice that.

Mrs. Crecco stated seven and more or less what we're getting at and its based on this moving storage company...

Whitney Singleton stated seven spaces, he says you're deficient.

Mrs. Crecco stated right and so basically in essence tonight you were going to say, oh you need a variance for seven spaces and the building and the deck, in essence...

Ms. Richards stated well the deck is gone, so we don't need a variance for the deck.

Mrs. Crecco stated and the deck is going to come down and the building is an issue, I need some help with that because of the electrical and we need a variance...

Ms. Richards stated right.

Mrs. Crecco stated all we were trying to say is look, we don't actually think we need seven, we believe we need two but that's difference of opinion the way we do our calculations, the way you do yours. Grant us the variance, if you want us to put three spaces in here or leave it as, I don't know but that's what we were looking for, was a variance...

Ms. Richards stated for the parking.

Mrs. Crecco stated correct.

Whitney Singleton stated right and there's a big difference between five and seven.

Mrs. Crecco stated between two and seven. That's exactly right.

Ms. Richards stated two is not horrible, seven is a lot.

Mrs. Crecco stated I'm hoping that you will look again or Peter will look again at this moving and storage that it was an office and maybe they'll give us a couple more credits but obviously he's not here and he has to weigh in on it.

Ms. Richards stated because you know what parking is a bit of an issue and seven is a lot. Two, three is not a lot, seven is a lot.

Mrs. Crecco stated and that's why we were hoping and we were very happy that we go in touch with the owners to find out it was strictly an office use and that maybe we will if peter deems it appropriate, he'll give us some more credits, so it won't be seven, it will be more like four or three. That's why I was hoping that he would be here tonight to say...

Chairman Rose stated let me just ask, did Marshall occupy the entire lower portion at that point or was there a second...

Whitney Singleton stated there was a dental store.

Ms. Richards stated a dental lab.

Whitney Singleton stated dental lab.

Chairman Rose stated dental lab.

Mrs. Crecco stated right so he gave us the credits on the dental lab but he said I can't give you for Marshall because it was strictly storage, at the time he thought it was storage. We come to find out it was strictly office, their storage was in Pleasantville.

Ms. Richards stated office, okay, what difference would that make in terms of...

Chairman Rose stated well it's a more intense use when you go to office...

Ms. Richards stated no, I mean the number, we don't know the number.

Whitney Singleton stated can I give you just like a scenario, hypothetical? If somebody has a building in Town with five parking spaces, and they have a use which let's just say there were no parking requirements before and they are operating and then parking requirements come into effect and they have a parking requirement now, they would have a parking requirement of seven, if they were to open up today. That means that they have five, they're required to have seven, they have a two foot, two space deficiency and they would be entitled to what you're calling a "credit" of two spaces.

Ms. Richards stated got it.

Whitney Singleton stated what our Code says is that with regard to parking, you may not increase that degree of nonconformity with regard to parking and that degree of nonconformity has increased by virtue of the following, or arguably increased by virtue of the following; one, they've increased the level of intensity of the commercial uses, they have gone from whatever commercial use you want to call it, moving storage, warehouse, dental lab to retail sale of bulk household items to full blown realty, so theoretically they've gone from a parking requirement of 1 per 1,000, this is a hypothetical, to 1 per 400, to 1 per 150, and next stop is fast food restaurant at 1 per 50. They have intensified the use without supplying the

additional parking that is prohibited under our Code, so that is one component of it. The other component is was this historically two apartments with a roomer or was it four apartments and according to Peter, his inspection says it was two apartments and according to what I understand it was two apartments. But ironically its not actually prohibited now to be more than that, if they can provide the parking.

Ms. Richards stated is there...

Mr. Boxer stated I have a question.

Mrs. Crecco stated and unfortunately I can't use these documents but I have proof it was four apartments because the Town used to pay, supposedly, subsidized housing to four families living in four apartment.

Ms. Richards stated you can get proof of that.

Mrs. Crecco stated I'm not allowed to use it here, nor am I allowed to use tax records...

Ms. Richards stated what do you mean you're not allowed to use it?

Mrs. Crecco stated well I can't use tax records from Mount Kisco, I assumed I can't use anything else.

Whitney Singleton stated the tax records, the Assessor is required to reflect on the assessment records what actually exists. It is in no way sanctioned or legalized or solemnization of what's going on there as being allowed under the zoning.

Mrs. Crecco stated aren't we just trying to show what has always been there? I didn't think we were talking whether it was legal or not legal. We're talking existing, preexisting, always existing in a building...

Whitney Singleton stated no, no, we're talking about what is legally preexisting.

Mrs. Crecco stated the problem with that is, because...

Whitney Singleton stated if something's existing its of no consequence if its illegal.

Ms. Richards stated yeah, this little thing is existing, this little concrete building...

Mrs. Crecco stated that's a no brainer, I'm talking strictly about the...

Ms. Richards stated no, but what I'm saying is it doesn't matter it's the same thing, like so its existing but it doesn't make it legal.

Mrs. Crecco stated totally but in 1929 you didn't get C.O.'s for these apartments and for this and for that and so the problem is you're saying to us the onus is on you, prove it was legal.

Whitney Singleton stated that's right.

Mrs. Crecco stated I keep going back to, I mean I'm back in boxes from so far back trying to get, show records like these have always been there.

Whitney Singleton stated they have always been there but its also argued that they have always been there as two apartments, not four.

Ms. Richards stated let's get to something else.

Mrs. Crecco stated okay.

Ms. Richards stated is there a way, you have this little parking area...

Mrs. Crecco stated yes...

Mr. Boxer stated can you bring the parking up, I know there's a slope there, if they just move that parking up to that grass area to get the parking they need?

Ms. Richards stated that was my question.

Whitney Singleton stated I think and I could be wrong on this, I think they're going to have building and development coverage issues and be back before your Board for further variances...

Mr. Boxer stated right, that might be easier...

Mrs. Crecco stated the question is, if its not a problem, why do we have to change it?

Chairman Rose stated we might rather grant that.

Mr. Boxer stated I'd rather grant that.

Ms. Richards stated because it is a problem because it's not legal and when you talk about granting variances, I know what you're saying but it is a problem.

Whitney Singleton stated you're saying that the existing activities should simply be...

Mrs. Crecco stated not simply, not simply however in so many experiences over the years, I have heard brilliant minds and I am not one of them, be able to go to a board and ask for some forgiveness, some leniency when the situation warrants it. This store is traffic by 90% people on foot who live in this neighborhood. The people that live in this building are the same people that have been there 10 or more years, the same people, one guy has a car. So in certain circumstances, boards have been sympathetic to the townspeople to say listen, we understand where you're coming from, that matters, its no different than urban development when you're saying you want people to have less traffic, less cars, less everything. People that come to the store, travel on foot, people that live in this building, one of the people has a car. So from that perspective, I ask that the Board take that into consideration as well and I know its not against the law for you to consider things, just like...

Chairman Rose stated it seems like a reasonable request except that the Board has to look at the bigger picture. The bigger picture is that you've got residents who are probably recently in this country, they're struggling, things will improve for them, there are many more recent immigrants in this Town now who have cars than was true 15 or 20 years ago...

Mr. Boxer stated if you look at the number of taxis.

Chairman Rose stated so that while maybe everyone is on foot now, if we grant a variance as is and say this...

Mrs. Crecco stated but I thought that's what we were doing here back in March when you said you wanted a new site plan and I had the meeting with peter and with the Chairman of the Planning Board, who specifically told us what to put on it. In fact, Peter is friends with my architect and called him to remind of what to put on the plan.

Ms. Richards stated but that wasn't anything to do with parking.

Mrs. Crecco stated but we did exactly what we were asked to do, is my only point.

Whitney Singleton stated did peter tell you to provide no parking and just ask for a variance for everything.

Mrs. Crecco stated he directed my architect what to put on the plan, that's how close they are, and because we trusted, after your meeting with you, Peter was going to help us to get this down in a couple of months.

Ms. Richards stated but didn't someone say what are you going to do about the parking?

Mrs. Crecco stated no, nobody said you have to add 20 spaces, or go back to the Zoning Board, this isn't going to work, nobody said that. We did a plan...

Whitney Singleton stated it was certainly said at the Planning Board meeting.

Mrs. Crecco stated right because Peter wrote a letter to the Planning Board and started bringing up use has changed, at which point Anthony went oh my god, let me go get a copy of the use code, when did it come into play?

Ms. Richards stated alright, let's go back to what you can do about parking.

Mrs. Crecco stated I can't do anything because I have nothing left in me, what more, we're going to take the deck down, we'll lock the building, I don't have money for anything else. I'm at the end of the my rope here, you're talking about cutting, carving into land now, now I need a site civil engineer, I have to figure out how to do that and I don't even know if that's going to be approved, I have nothing left. I have followed all the instructions all along, we had dug deeper into this thing than I've ever seen anybody, for nonprofessionals to show evidence and proof that we're on the right track here. And so to have a conversation about adding a parking lot, I mean we don't have anything left, what more can I say to you guys? And is it really necessary, I ask you, is it really necessary or can we just get a variance like everybody else who came before us tonight.

Ms. Richards stated but not everybody gets a variance for seven parking spaces, okay.

Mrs. Crecco stated I agree with that but you do give variances and you do work with people, I've seen it so where is the 'you guys working with me'? I thought this was going to be over two, three months ago and I'm nowhere.

Chairman Rose stated well because of the nature of the parking twenty spaces, according to Peter, are required, if this were a new project...

Mrs. Crecco stated I don't understand how I could have sat here with Peter there, the whole Board here back in March and Peter never said red flag, they're going to need 20 parking spaces.

Chairman Rose stated parking was definitely mentioned as one part of the resolution.

Whitney Singleton stated that was definitely discussed.

Mrs. Crecco stated so when we went to Peter and we had our meeting, he never said anything about you have to add 2 spaces, where are you going to get it from?

Whitney Singleton stated you didn't see the memos from April and from May.

Mrs. Crecco stated he said you're going to need a parking variance based on your preexisting uses and what has changed.

Whitney Singleton stated right.

Ms. Richards stated well that means either you need to add the parking spaces or get a variance.

Mrs. Crecco stated right and he came up with you need a variance for seven spots and we were able to...

Whitney Singleton stated so it was Peter's idea to get the variance.

Mrs. Crecco stated after the fact.

Whitney Singleton stated what I'm saying is this Board very clearly told you and its in the resolution...

Mrs. Crecco stated I know but why didn't he say that at the Zoning Board meeting? I don't understand why you guys sent me to Planning only to have Peter write Planning a letter saying they have to go to Zoning, Peter was here with us, why didn't he say she doesn't need to go, I'm so confused.

Whitney Singleton stated if you went to the Planning Board pursuant to the Zoning Board's resolution and you took down the deck and you took down the illegal, forget taking down the illegal building. If you simply went to them and demonstrated a plan that showed that you have the requisite parking, taking your preexisting credits, then you wouldn't be back before this Board.

Mrs. Crecco stated well then my meeting with Peter was for naught because the only reason I met with him was because I wanted to do it right and I made sure I took time off from work with my husband, to sit down with Peter and the Planning Board and this is what he told us to do and he told my architect to do. I didn't...

Ms. Richards stated that is existing, that is a plan of what's existing and now you've said you're going to do this, get rid of this...

Mrs. Crecco stated we agreed we're going to take the deck down.

Ms. Richards stated so it has to come out of here, okay and maybe we'll be able to do something here, so that's you know, but it doesn't preclude there being a parking requirement that you have to address and you made the assumption when Peter said well you're going to need a variance, you're going to need a variance means if you want to proceed, you need a variance. He doesn't know whether we'll issue that variance or not...

Mrs. Crecco stated right and I guess the other issue that came into play, it wouldn't be a big deal tonight if Peter's letter had said you need a variance of three spaces or four but he said you need seven, that's when we went back into our research, we found out Marshall Moving and Storage was an office...

Ms. Richards stated can we get a clarification?

Mrs. Crecco stated so all I'm asking is isn't it possible to have him read that letter from the Marshall's people...

Whitney Singleton stated why don't we do this, Peter's not in Town, when he comes back, he will be given this information, I'll take a look at it, I will talk with him, I will do a memorandum as to whether or not I agree or Peter agrees with their analysis, both as to the history and as well you know, what did you call it, the methodology for determining parking. And if your Board has no objection, I have no reservations about sharing that with the applicant before they come to the next meeting.

Ms. Richards stated right, that's fine. So then, if it's because a lot of it in terms of parking depends on the number, the number is a big difference...

Mrs. Crecco stated I know, that's why I was so excited when we got the Moving and Storage thing because I thought it was going to give Peter what he needed to just amend the amount of space.

Whitney Singleton stated there is no memorandum from Peter and I did speak to Peter before...

Mrs. Crecco stated I know there's no memo because he must have gotten it before he wrote the first memo and this moving and storage thing came in after.

Whitney Singleton stated I spoke to him right before he left and you know the only thing that he said to me that he wanted to convey to the Board was that he's done no inspections, there's been no inspection of this building from a Fire Safety perspective, that there's been scheduling going on but there's been no inspection.

Mrs. Crecco stated correct.

Whitney Singleton stated he didn't mention anything to me about moving or office space or...

Mrs. Crecco stated so then he must have gotten that afterward or I...

Ms. Richards stated but let's just get a clarification on how many, you can get the information before the meeting, so that we know. What about the little concrete building?

Chairman Rose stated if that's truly being used for electrical panels and other things, that becomes almost a necessary thing that was done, they must have added it outside for some reason, it may have been cheaper but obviously it was done without a Building Permit or C. of O...

Ms. Richards stated right.

Chairman Rose stated I have no problem granting variances with respect to that...

Mrs. Crecco stated locking it, whatever...

Ms. Richards stated as long as its locked.

Chairman Rose stated keeping it locked...

Mrs. Crecco stated you want to do regular inspections, fine...

Ms. Richards stated no storage.

Chairman Rose stated its there, it actually would be a rather difficult thing and expensive to remove.

Whitney Singleton stated do you want to, in light of this paragraph, do you want to withdraw your portion of your application that challenges the Building Inspector's determination as to whether or not it's a front yard?

Mrs. Crecco stated was he saying that as it relates to the concrete structure?

Chairman Rose stated yeah, it's not a side yard, it's a front yard because it's a corner lot.

Whitney Singleton stated all corner lots have two front yards and two side yards and the front yards are those portions that are along the public right of way.

Mrs. Crecco stated all corner lots have two sides and two front yards and you can use either, in your determination, that's just the way it is.

Whitney Singleton stated it's just a question, do I determine that your application needs to be denied for being incorrect or do you want to withdraw that portion of it or you want to think about it until you get to the next meeting.

Mrs. Crecco stated I don't know how to answer this right off the top.

Whitney Singleton stated so think about it.

Mrs. Crecco stated fine, if need to withdraw it, then I'll think about it and withdraw it.

Chairman Rose stated that is the, that's certainly the simpler part for this Board to deal with it.

Mrs. Crecco stated I don't think it's going to harm me if I withdraw but I don't, off the top of my head, so, okay, can I keep this?

Ms. Richards stated so the concrete is okay, the deck is gone, is the deck gone now?

Mrs. Crecco stated I don't believe the deck is gone.

Ms. Richards stated okay, why didn't you just take it out?

Chairman Rose stated well you have to get someone in to take it out, they probably want to do things, when they're doing the building.

Mrs. Crecco stated we have to do that and we have to get the two...

Ms. Richards stated they want to wait, okay.

Mrs. Crecco stated right and we have to still do the two things for Peter on hallway, like I said...

Ms. Richards stated okay.

Mrs. Crecco stated he scheduled with the Fire Marshall to come back but those two things.

Ms. Richards stated right, okay.

Chairman Rose stated actually it will be simpler for construction purposes to have it in place to help...

Ms. Richards stated right and then take it out at the end.

Mrs. Crecco stated either way, we're totally in agreement, we want it out of there.

Ms. Richards stated so, let's just get clarification on the parking, the number because that makes a big difference to me anyway.

Whitney Singleton stated when is the next meeting?

The Secretary stated we actually have to talk about that, it's supposed to be the 20th but the Village Board changed their meeting date.

Whitney Singleton stated yeah, it's the same night as this Board's meeting.

The Secretary stated yes, I was speaking to Barbara earlier and we were discussion potentially the 22nd which is a Thursday.

Ms. Richards stated I can do the 22nd, if that work.

Chairman Rose stated oh, that's interesting.

Mrs. Crecco stated of September?

Chairman Rose stated the 22nd would that work?

The Secretary stated of September, I don't see why it wouldn't.

Ms. Richards stated it works for me.

The Secretary stated it would be a Thursday night.

Mr. Boxer stated I wouldn't make the regularly scheduled meeting anyway.

Ms. Richards stated me either.

Mr. Boxer stated I'm going to be in Buffalo.

Ms. Richards stated I'm going to be in Stockholm, sorry.

Mr. Boxer stated I'll switch.

The Secretary stated alright, so everybody is okay with September 22nd, okay. Thank you.

Whitney singleton stated do you have, is the email that I received from your husband sufficient to send to you stuff?

Mrs. Crecco stated yes, thank you.

Ms. Richards stated okay. Got it in my calendar, I wasn't going to not go to Stockholm, sorry.

Mrs. Crecco stated okay, so as it relates to the parking spaces it's on Peter's memo of May 17th, that's your focal point I guess but we're going to get some clarification from that latest letter.

Ms. Richards stated we'll leave it to him to determine...

Chairman Rose stated yeah, we'll have to get interpretation.

Ms. Richards stated yeah, we have to leave that to him to determine.

Mrs. Crecco stated okay.

Ms. Richards stated meanwhile, if you think you can squeeze another space somewhere, have a look because it helps. I don't know, I'm just saying, if you look around the property and say well hey we can do, I don't know what you can do...

Mrs. Crecco stated it wouldn't be legal, because we're right on the street, all over. Out of curiosity, the building next door, it used to be a flower shop, it's not hardwood floors, they put a new retail store with apartments above, right.

Whitney Singleton stated that's because it's legal now.

Mrs. Crecco stated so how many apartments are in there?

Whitney Singleton stated two.

Ms. Richards stated your apartments are not illegal, you can have those apartments, it's not illegal.

Mrs. Crecco stated I know he said currently it's not illegal but it's...

Whitney Singleton stated everything flip flopped when they changed the zoning on this property.

Chairman Rose stated you mean in 1965, were they actually illegal apartments.

Whitney Singleton stated I forget the year where it changed but it changed from an R district to a C district...

Mrs. Crecco stated to a C district it's here.

Whitney Singleton stated when it did so, it made the building in the back illegal...

Mrs. Crecco stated you mean the single store, single-family.

Whitney Singleton stated and the building in the front permissible, provided it otherwise met the requirements.

Chairman Rose stated right.

Whitney Singleton stated but like we were talking about, what is allowed is a function of what was there legally, not illegally.

Ms. Richards stated September 22nd.

Mrs. Crecco stated September 22nd is the next meeting...

Ms. Richards stated and we'll get a clarification.

Mrs. Crecco stated and we make another application, I guess or just wait for the letter.

Whitney Singleton stated no, no.

Ms. Richards stated Whitney is going to let you know ahead of time.

Mrs. Crecco stated alright.

Ms. Richards stated and so the only thing is, that is my opinion on the concrete structure, are you alright with that?

Mr. Boxer stated leaving it there?

Ms. Richards stated leaving it and locking and no rent and no storage and...

Mr. Boxer stated provided that it passes the Fire Code.

Ms. Richards stated yes, of course.

Mrs. Crecco stated of course. But I mean, it's quite a great file to read, if you have time, every letter that went back and forth because even Peter's letter goes into great detail about what the zone was at the time, what the uses were in there, apartments, and commercial. Its very chock full of why we were allowed what we were allowed, I mean its good reading. I'll look for your e-mail. Thank you.

Chairman Rose stated thank you.

Ms. Richards stated which one is next?

Chairman Rose stated Leonid Rubakh.

Ms. Richards stated exciting stuff, right?

Chairman Rose stated do we need a motion, by the way, to adjourn the public hearing for that?

Whitney Singleton stated to the next meeting, yeah, just put it over.

Mr. Boxer stated motion. Ms. Richards second the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Rose stated okay.

Mr. Rubakh stated hello.

**4. Leonid Rubakh
60 Beverly Road
Mount Kisco, NY 10549
(SBL) 80.23-1-1**

Case# ZBA16-9

Mr. Leonid Rubakh was present to represent the application.

Mr. Boxer stated hi.

Chairman Rose stated hello.

Mr. Rubakh stated so I'll start that my house is on a big slope and I have a lack of storage and closet space in my house and specifically on the ground floor and in front of my house, I have a little mudroom that is in bad condition, I have some pictures, additional pictures. The roof is leaking, the foundation is cracked, it looks very outdated.

Ms. Richards stated just in that section? Like just in the front section is what you're talking about?

Mr. Rubakh stated yes.

Ms. Richards stated okay.

Chairman Rose stated it looks like it was tacked on.

Ms. Richards stated somebody glued it on.

Mr. Rubakh stated I'd like to change it and I hired an architect to create a new structure but it looks like the structure needs a variance because it exceeds. So also, currently it's almost the same size because of the stairs in front, so I moved the stairs to the side to decrease the variance and because my house is on a big slope, there is no other place you can build the addition, it's very difficult, on the sides you have to build a two-story addition.

Chairman Rose stated yeah, it's really in terms of variance, is a minimal addition.

Ms. Richards stated yeah, it's small, it's really small.

Chairman Rose stated that presents a much more attractive and organized entranceway and...

Mr. Boxer stated plus the property is unique.

Ms. Richards stated that whole road is a huge slope.

Chairman Rose stated yeah.

Mr. Rubakh stated and also it will be up-to-date, the house from the street it's going down so you don't see a lot of what's happening in the house.

Ms. Richards stated if you come from 133 up Beverly, how far up is it?

Mr. Rubakh stated it's the first, oh, up Beverly...

Ms. Richards stated so if I come off like from Mount Kisco, up 133 and I make the left on Beverly...

Mr. Rubakh stated it's like the sixth, seventh house on the right.

Ms. Richards okay, I'm just curious.

Chairman Rose stated oh that's the side that's sloping off rapidly into the river.

Ms. Richards stated with all the house are like that, down, those house, these houses, there's a red one that's for sale now.

Mr. Rubakh stated not this one.

Ms. Richards stated no, not this one but there's a red one that looks just like this, further up the road that's for sale and then you go around the top, all those houses that are like just on the cliff, right.

Mr. Boxer stated yup.

Mr. Rubakh stated and I already went to another Board, the Architectural Board and they approved my design.

Mr. Boxer stated okay.

Ms. Richards stated okay.

Chairman Rose stated Architectural Review Board.

Ms. Richards stated I'm fine with this improvement.

Chairman Rose stated yeah.

Mr. Boxer stated yeah, me too, let's give it the approval...

Whitney Singleton stated I'll prepare a resolution based upon your concerns and I'll put the standard conditions of approval in...

Ms. Richards stated right.

Whitney Singleton stated that if he doesn't construct within a week, it's...

Mr. Boxer stated you have to finish in a week...

Ms. Richards stated sir, no.

Whitney Singleton stated if there's anything specific with landscaping or prohibited lighting or screening or fencing, let me know now.

Ms. Richards stated its just not that visible.

Whitney Singleton stated so it will be restricted to the plans that are approved tonight.

Chairman Rose stated reference these plans and so...

Ms. Richards stated yeah, that's it.

Whitney Singleton stated it's an area variance so there's no SERQA.

Mr. Boxer stated we have to make a motion.

Whitney Singleton stated motion, second?

Ms. Richards stated motion. Mr. Boxer second the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Mr. Boxer stated congratulations.

Chairman Rose stated and so you'll write it up as if we did discuss all of those things.

The Secretary stated you have to close the public hearing too.

Ms. Richards stated close the public hearing.

Mr. Boxer stated motion. Ms. Richards seconded the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Rose stated done, that's very attractive, I think it will be an improvement to your house and the neighborhood.

Ms. Richards stated there's such an odd mix of houses on that road, it's unbelievable.

Mr. Rubakh stated thank you.

Ms. Richards stated you're welcome.

Mr. Boxer stated if you drive up Manchester because it's also like, I love looking at Manchester when you're on the train platform, whoa!

Chairman Rose stated those are some hills. Okay, Eugene and Stacey Mun, 11 Parkview Place.

Ms. Richards stated unfortunately you were last.

**5. Eugene & Stacey Mun
11 Parkview Place
Mount Kisco, NY 10549
(SBL) 69.79-7-1**

Case# ZBA16-10

Mr. & Mrs. Mun were present.

Mr. Mun stated that's fine.

The Secretary stated they're just happy to be on the agenda.

Ms. Richards stated its been worse.

Chairman Rose stated let's see we're supposed to go easy on every other one...

Ms. Richards stated except this...

Whitney Singleton stated actually I do have an issue which I'm sure Harold is going to bring up as well.

Ms. Richards stated oh god.

Whitney Singleton stated this application reflects a number of easements that are not contained in the application, there's some drainage easements and I have no read those, I don't know what the scope of them are.

Mr. Boxer stated yeah because you can't build over them, we have to see what they are.

Whitney Singleton stated I don't know that they're eight feet or twenty-five feet or...

Ms. Richards stated you mean all these that are shown here.

Mr. Mun stated I have the survey, if you want to see that.

Chairman Rose stated actually those things...

Whitney Singleton stated it does reference the easement, that's good.

Chairman Rose stated the survey should have been represented as part of the easement.

Mr. Mun stated yes, you don't have them?

Chairman Rose stated no.

Ms. Richards stated no.

Mr. Mun stated I thought I dropped off ten.

Chairman Rose stated we didn't have and the only drawings that we we...

Ms. Richards stated we have this here, this little one.

Chairman Rose stated have seen which I don't know, these were not made by an architect, I don't think.

Mr. Mun stated no, I drew them up myself.

Ms. Richards stated but do you have architectural drawings?

Mr. Mun stated we have an architect that's working on the drawings right now.

Chairman Rose stated but they're not actually ready.

Mr. Boxer stated okay.

Mr. Mun stated not done, we're waiting for this to get approved before he finishes the drawing.

Chairman Rose stated because normally we have to reference the architect drawings to really tie down what it is and in general with an addition, while the degree of the variance is not a killer, but it's a long addition and if there were another house on this side that could be an issue...

Mr. Mun stated which there isn't.

Chairman Rose stated that's why in general we would want to see the elevations and get an idea of the bulk of something that is going to be...

Mr. Mun stated there was supposed to be more drawings of the house, the floor plans, elevations, no?

Ms. Richards stated this?

Chairman Rose stated well we have plans...

The Secretary stated it was all within your letter that you submitted, yeah, they have it.

Ms. Richards stated that's what we have.

Chairman Rose stated you have a section taken through the center of the house?

Mr. Mun stated yes.

Ms. Richards stated is there something missing?

Chairman Rose stated you must be using a little program that helps you draw things.

Mr. Mun stated yeah, one of those.

Mrs. Mun stated can you tell it was free?

Ms. Richards stated but this all that we had.

Mr. Mun stated yes.

Chairman Rose stated which actually, isn't really enough for us to make a properly word...

Mr. Boxer stated right, it has to be sealed by an architect. So if you can get the architect to do the plans and then submit those.

Mr. Mun stated because I did run these by my architect and he said these should be fine, so I just assumed.

Ms. Richards stated yeah, they're not enough.

Mr. Mun stated okay.

Chairman Rose stated unless we can approve it subject to but that's not really.

Whitney Singleton stated I don't have any problem with you waiving any submission deadlines or anything else for them but with these notes on the files map, I've got to go back and check these things.

Mr. Boxer stated do you have surveys in there? Can I see that when you get a chance?

Chairman Rose stated yeah.

Whitney Singleton stated it's from the original developer, Fell and Alan, and they're, it references that there are portions of filed map, filed lots as opposed to actual lots and it references in his thing stuff about drainage easements, I guess backing up to the Parkway Authority.

Mr. Boxer stated right, you're not going to build anything in back, right?

Chairman Rose stated haven't you built a play area back in here?

Ms. Richards stated its just the side.

Chairman Rose stated I saw looking at Google, I saw what looked like a fenced area.

Mr. Mun stated yeah, the previous owners built a fence that goes out and there is a garden.

Chairman Rose stated does it go beyond, it looks like it goes beyond the line.

Mr. Mun stated yes, it does.

Ms. Richards stated so see we need a plan really shows everything, what's there and what you're doing.

Mr. Mun stated okay.

Ms. Richards stated so typically when you come, you would come with here's what's here and then your architects drawings and I mean a lot of times the architect comes, he doesn't need to come but to explain what's there now and exactly what changes you're making.

Mr. Mun stated okay.

Mrs. Mun stated what's there now, so the survey doesn't count as what's there now?

Ms. Richards stated well you have a play area that extends in a different portion.

Mr. Mun stated well it's not really play area, it's just a garden.

Mrs. Mun stated it's just a fenced in spot.

Ms. Richards stated but it really has to be more detailed than this, this is not enough.

Chairman Rose stated is that the complete or is that only a portion of the survey.

Mr. Mun stated okay.

Mr. Boxer stated it's a portion of the survey, it doesn't have the seal, well it's certified here.

Ms. Richards stated I know you tried to avoid having those plans done.

Whitney singleton stated is the garage currently there?

Mr. Mun stated there is a garage currently there.

Whitney Singleton stated so its back here.

Mr. Mun stated it is right up against the setback so...

Chairman Rose stated for the survey, we should have a complete survey, the full size.

Mr. Boxer stated a new one.

Mr. Mun stated that is the full size.

Whitney Singleton stated its cut off.

Mr. Mun stated it is a little cut off.

Mr. Boxer stated it could be what you got at the closing, I know lots of times people take old surveys and copy them, copy them and by the time get to you their missing half and your lawyer says okay, we'll take that rather than making you get a new survey.

Whitney Singleton stated you know what actually might be very helpful, do you have a copy of your title report from when you purchased, it was like 10 years ago...

Mr. Mun stated title report, I'm not sure.

Mr. Boxer stated can you ask your, who was your attorney?

Mrs. Mun stated Keith Betensky.

Whitney Singleton stated who?

Mrs. Mun stated Keith Betensky.

Whitney Singleton stated oh no, we can't approve that.

Laughter.

Mrs. Mun stated you know who he is?

Whitney Singleton stated no, I don't know who he is.

Mrs. Mun stated I got scared.

Mr. Boxer stated if he's still around, you can call him and ask him if he has a copy of the title report in his file.

Whitney Singleton stated that would make things...

Mr. Boxer stated make life very simple.

Whitney Singleton stated infinitely easier.

Mr. Mun stated what is that?

Mr. Boxer stated title report.

Whitney Singleton stated that would help me, I can access the original subdivision plat through that but its not going to be a complete survey.

Mr. Boxer stated right.

Whitney Singleton stated and I can find out what the easements are. But if you have a title report, they're going to say you're taking subject to, well he's the title attorney.

Mr. Boxer stated do you have a copy of your deed...

Whitney Singleton stated the deed is in here.

Mr. Boxer stated who...?

Whitney Singleton stated it was not your company, I think it was Benchmark.

Mr. Boxer stated I can get stuff from Benchmark. Benchmark is an agent of ours.

Ms. Richards stated but I think we want a plan.

Whitney Singleton stated but to get an updated survey can be expensive. They're going to have to get an as-built anyway.

Chairman Rose stated it's not terribly expensive you know because everything is done with modern equipment very fast.

Mr. Boxer stated they still charge, trust me.

Whitney Singleton stated they're going to have to get an as-built anyway for the Building Department.

The Secretary stated at the end of your project.

Mrs. Mun stated isn't that an as-built.

The Secretary stated it is but once you finish your construction on the addition, the Building Department will require an as-built survey.

Mrs. Mun stated that's called as-built.

Mr. Boxer stated yeah, so you're going to have to get it anyway, so you might as well get it now.

Chairman Rose stated you can start it now.

Mr. Boxer stated I mean we don't have much problem with what's going on other than there are certain requirements that have to be fulfilled. Are the deeds in the package?

Whitney Singleton stated yeah, it was in the end of the package.

The Secretary stated it's usually the last thing that's in there.

Whitney Singleton stated I'd give you mine but then I won't have it.

Ms. Richards stated this, right here.

Mr. Boxer stated yeah, here it is. Okay, let me call Benchmark and see if I can get it from them.

Whitney Singleton stated [inaudible].

The Secretary stated absolutely.

Mr. Boxer stated the title number is in here, the title number is on schedule A.

Whitney Singleton stated yeah.

Mr. Boxer stated want me to see what, ask for copies...

Whitney Singleton stated so long as they don't have any objection, I'm fine with it.

Mr. Boxer stated you might have to, I guess I'll let you know if you need approvals, then you can call them.

Whitney Singleton stated sure.

Mr. Boxer stated you might have to give us a written letter authorizing Benchmark to release it to us.

Mrs. Mun stated can it be on the back of a napkin? Do we have to give it to you now, the authorization?

Mr. Boxer stated no, no, let me see what they want. The might just give it to me.

Ms. Richards stated you're lucky because he's a title attorney.

Chairman Rose stated are we pronouncing the name correctly by the way, do you say Mun or Mun?

Mr. Mun stated most people say Mun but Mun is the right way to say it.

Mr. Boxer stated Mun, a long U.

Whitney Singleton stated are you taking the survey too? Because if you are, I just want to take a picture of it.

Mr. Boxer stated no, you can have it.

Mr. Mun stated I have another copy, if you want that one?

Whitney Singleton stated yeah, that would be great, I just need the filed map number.

Mr. Boxer stated the filed map number is...

Ms. Richards stated are we looking for a plan?

The Secretary stated are you waiving the dealing also?

Mr. Boxer stated yes.

Chairman Rose stated yes.

Mr. Boxer stated its blurred but I think its 3073 or 78. If you get the title report, it will tell us what the, hold on, let me look at the description, its 3078.

Chairman Rose stated 3078, once you're told what it is, then you can see it.

Ms. Richards stated 3078, that's obvious, that's it, who's keeping this?

Chairman Rose stated what was so hard about that?

Mr. Boxer stated okay.

Mrs. Mun stated he can keep that copy though.

Mr. Boxer stated you just bought the property.

Mr. Mun stated we just bought it in April.

Mr. Boxer stated so they should have the file still.

Mr. Mun stated so what do we need to get you?

Ms. Richards stated I mean it looks okay but...

Mr. Boxer stated let me see what I can get first and then we can let you know, I might be able to get what we need.

Mr. Mun stated but I still need...

Chairman Rose stated we still would want the architects actual plans.

Mr. Mun stated so I need plans from my architect.

Mrs. Mun stated that's like in the big sheets of paper.

Ms. Richards stated yes. It could be on little sheets but it doesn't matter, sometimes they put it on a big board.

Chairman Rose stated a lot of architects are now going onto smaller sheets that are...

Ms. Richards stated the size doesn't matter.

Chairman Rose stated 18 by 24, depends on the architect.

Ms. Richards stated it's the plan of here's what here and here's what we're doing..

Mr. Boxer stated we have one of those in here, right?

The Secretary stated yes.

Mr. Mun stated okay, so just site plan, not an actual plan of the building?

Ms. Richards stated no, a plan of the addition and what you're doing, what façade you're putting, what sizes, here is what's here now, right, isn't that what they normally do?

Chairman Rose stated yeah.

Mr. Boxer stated something like this where it will have drawings of what its going to look like when its built.

Mr. Mun stated okay.

Mr. Boxer stated and the insides.

Mrs. Mun stated he sent that to us, didn't he?

Mr. Mun stated I mean he e-mailed it but that's just for design drafts, they're not actual...

Mr. Boxer stated once you give it to us, you have to stay with what you give us, you can't change it after you give it to us.

Ms. Richards stated right so you want to make sure that it's correct and what you want.

Mrs. Mun stated okay.

Ms. Richards stated are you using someone local?

Mr. Mun stated no really, they do a lot of work here but they're located in Poughkeepsie.

Mrs. Mun stated Dan Contelmo...

Mr. Boxer stated who is it?

Mr. Mun stated Contelmo Architects, Daniel Contelmo.

The Secretary stated is he related to Jeff from Insite Engineering?

Mr. Boxer stated probably.

Whitney Singleton stated Jeff, yeah, Contelmo is a rather strange name, Jeff is a principal at Insite Engineering.

Mr. Mun stated I have no idea, I could ask him.

Ms. Richards stated architect engineer, probably right.

Chairman Rose stated it runs in the family, my grandfather was both.

Mr. Boxer stated and all my relatives are lawyers.

The Secretary stated okay, you just need a motion to adjourn to the next meeting.

Ms. Richards stated motion...

Whitney Singleton stated let's...

Mr. Boxer stated let's figure out...

Whitney Singleton stated there's no reason why they will not be on the next agenda.

Mr. Boxer stated right.

Ms. Richards stated no reason.

Whitney Singleton stated because you have to adjourn to a date certain, just to follow procedure, so if you've adjourned to the next meeting and they don't have everything in, you will need to re-adjourn at the next meeting. You can't just not have them appear and...

Mr. Boxer stated right but we'll waive the time frames...

Whitney Singleton stated so what specifically are we asking from them? Architectural plans, elevations, is that which, and as far as this stuff we will need a copy of any of the easements and your survey and Harold is going to try to get a copy of those so you don't have to go through the hassle. That shouldn't be a problem.

Ms. Richards stated and we're adjourning, we're keeping the public hearing open until September 22nd which is our next meeting.

Chairman Rose stated okay.

Mr. Mun stated so if we have any more questions I can ask...

Chairman Rose stated ask Michelle.

Ms. Richards stated not me.

Mr. Boxer stated okay, thank you.

Mrs. Mun stated thank you.

Ms. Richards stated now can we make a motion to adjourn.

Mr. Boxer stated yes, motion. Ms. Richards seconded the motion.

Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0.

The meeting adjourned at 9:15 p.m.