

Village/Town of Mount Kisco
Zoning Board of Appeals
Minutes of June 21, 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 7:37 p.m.

Chairman Rose stated good evening ladies and gentlemen, we'll proceed with the Mount Kisco Zoning board of Appeals meeting, Tuesday, June 21, 2016. Just some administrative things to take care of. Michelle, you said there were 3, you sent us one by e-mail.

The Secretary stated I did send you one by e-mail and then you have May 31st and April 21st, which the three of you can vote on.

Chairman Rose stated can we vote?

The Secretary stated as long as you're all in agreement.

Ms. Richards stated just Harold and I, is that enough.

Whitney Singleton stated you need to have a quorum of a full Board, present at that meeting.

Ms. Richards stated that May 31st, the last meeting.

Chairman Rose stated but there's three of us.

Whitney Singleton stated you have three people that were at that meeting, that's sufficient.

Ms. Richards stated okay, then we can vote on both of these.

Chairman Rose stated and we can vote on February 25th.

The Secretary stated I didn't print it out, I'm sorry. I you want to hold off and we'll carry it to the next meeting.

Ms. Richards stated let me just see if I have it in my e-mail. No Harold.

The Secretary stated I'll carry that one to the next meeting.

Chairman Rose stated can't vote on that one anyway. Okay, we do have minutes that are rapidly getting caught up. We have them for May 31, 2016 and April 21, 2015. If there are no changes to be made, I'll entertain a motion to accept the minutes.

Mr. Boxer stated I move to accept the minutes. Ms. Richards seconded the motion.

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

Chairman Rose stated we will move on, we have no returning cases tonight, we do have four new cases on the agenda, we'll take them in order. First is John Medini, 68 Washburn Road, Case ZBA16-4, come forward, sir.

- 1. John Medini
68 Washburn Road
Mount Kisco, NY 10549
(SBL) 69.56-4-1**

Case# ZBA16-4

Mr. John Medini was present.

Chairman Rose stated come on up, please, to the table here where we have the microphones.

Mr. Medini stated good evening.

Chairman Rose stated state your name clearly for the record.

Mr. Medini stated John A. Medini.

Chairman Rose stated and we understand that you're applying for basically a C of O for a deck that was put in some time ago that turns out to require a variances. If you could just give us the background on...

Mr. Medini stated on the deck, sure. It was built sometime in the early 60's by my father and apparently he thought the property line, I'm guessing, was the middle of the wall and ended up being the inside of the wall, which resulted in IT being 1 foot 3 inches over the line and it happens to be just the northwest corner, it's not the whole length of the deck, as you can see in the survey.

Ms. Richards stated so the deck has been there since the '60's.

Mr. Medini stated yes, he either built it too close to the line or its grown since then. This is the corner of the deck right here, it's too close to there, it's supposed to be 30 feet.

Mr. Boxer stated 30 feet, okay. Don't steal my pen.

Mr. Medini stated I've got my own. This is the corner here, there's approximately 1 square foot of deck that's in violation.

Chairman Rose stated is the parkway land wooded on the other side of that wall.

Mr. Medini stated there's no house anywhere here, my next neighbor over here is way over here, this is all wooded and then the parkway runs there.

Ms. Richards stated how did you happen to find out now, that you have no C.O. for it?

Mr. Medini stated because I'm getting the house in order to sell and trying to get caught up with everything.

Mr. Boxer stated that's when everybody gets snagged.

Mr. Medini stated that's when everything comes to the surface, that's right. And I did go around to my neighbors and I asked them if they had any objections to the variance being granted and I got a bunch of signatures here, if it means anything.

Mr. Boxer stated they said no, or yes?

Mr. Medini stated they said cut the deck off, we don't want to talk to you anymore.

Laughter

Ms. Richards stated I mean, its been in existence for this long, I don't see a big issue with it.

Chairman Rose stated yeah.

Ms. Richards stated but does that mean that if somebody replaces that deck, they're going to replace it in the same footprint?

Mr. Medini stated oh, I don't think so.

Whitney Singleton stated they could repair it.

Chairman Rose stated they can repair...

Ms. Richards stated they can repair it but if they wanted to tear it down, they would then have to come...

Mr. Medini stated they would have to conform to the current zoning.

Ms. Richards stated okay.

Chairman Rose stated or chop off the corners of the deck.

Mr. Medini stated yeah, we entertained that idea but not for too long.

Chairman Rose stated yeah, that would be more of a problem. I see you've gone to a little effort here to get a drawing after the fact. I assume the Building Department has accepted the drawing.

Mr. Miley stated yes, we didn't issue a permit yet. We received the drawing, we didn't review the drawing for the permit, compliance with the Code yet.

Chairman Rose stated so the first step is to approve the variance and I, frankly don't see any reason for a lot of discussion.

Ms. Richards stated no.

Chairman Rose stated do you have some...?

Whitney Singleton stated I just have two issues that I'd like to point out, if I'm not mistaken, on the 300 foot notice requirement, the house that's circled, that's not your house.

Mr. Medini stated that's correct, that is incorrect.

Whitney Singleton stated I am correct or your map is incorrect.

Mr. Medini stated no, the map is incorrect, my house is the last lot there where the mark is.

Whitney Singleton stated so technically there may be people that did not get noticed on the other side of the Saw Mill Parkway.

Mr. Medini stated yes, they did.

Whitney Singleton stated well you will be proceeding at your own risk, should it be determined that they challenge us.

Mr. Medini stated I've already spoken to two people that received notice across the parkway, as a matter of fact, one of them called me and said I don't have any problem.

Whitney Singleton stated right, I'm not talking about those, I'm talking about if you move the circle over and there were lots that didn't get noticed, they could theoretically raise an issue but I think it's highly unlikely being across the parkway where a deck that's existed for 30 years. The other point of clarification I wanted to make was, you said in your letter of principal points that the 30 foot setback did not exist at the time the deck was originally built, I believe that is in an incorrect statement. The 30 foot setback was existing in the early '50's.

Mr. Medini stated the house was built in '52 to '54 and the deck was put on after that.

Whitney Singleton stated right, so it was 30 feet back then. It's a point of clarification, I don't know whether...

Ms. Richards stated I still don't really see an issue with it, its been there.

Chairman Rose stated I mean that's good to have in the record but I don't think that that would affect the determination of the Board. You do have the right and I should mention to this everyone, since we have a quorum of 3 out of the 5 people on the Board, any decision that we make tonight would have to be unanimous and you do have the right to request a deferral of inaction until we do have a full Board present. That would apply to you and do you wish to roll the dice and go?

Mr. Medini stated do you think I'll have any problems with the absent members of the Board?

Mr. Boxer stated they have no vote.

Ms. Richards stated no, its really us, so if we were to say no, you're bound by that. So what he's saying is that if you wanted more people to take a better chance...

Chairman Rose stated if one person says no, then its out.

Ms. Richards stated you're out, right.

Chairman Rose stated I don't think the reality is, I think if we were to take a straw poll, it would be favorable.

Ms. Richards stated I'm fine with it.

Mr. Medini stated okay.

Chairman Rose stated this is one of those things that does happen from time to time.

Mr. Medini stated well when things were done 50, 60 years ago, I guess they just went ahead and did them and didn't think about the consequences.

Ms. Richards stated so we have to go through the five factors.

Chairman Rose stated this is pretty minor. I should ask if there any members in the public audience that wish to comment on this particular case and if not, if there are no other comments from the Building Inspector or Counsel, **I'd request a motion to close the public hearing.**

Mr. Boxer stated so moved. 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 with that being closed, then we are obliged to go through five factors prescribed by New York State Law in the case of an area variance.

- 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 since its already there, its not affecting any change.

Chairman Rose stated no and apparently there's been no negative comment on the existence of the slightly erroneous, not erroneous...

Mr. Medini stated misbehaving corner of the deck.

Chairman Rose stated misbehaving, it didn't get a grant earlier but anyway.

- 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.*

Mr. Boxer stated cut it off.

Ms. Richards stated tear it down, build a new one.

Chairman Rose stated its feasible but not practical and certainly the aesthetic result is not going to be...

Ms. Richards stated right.

Mr. Boxer stated you don't want to scallop the edges.

Mr. Medini stated I'd have to but the corner off at the other end of the deck also, to make it match.

Mr. Boxer stated right.

Chairman Rose stated so I would said for lots of practical reasons, its best as it is.

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

Chairman Rose stated this is really a fairly minor variance.

Ms. Richards stated pretty small, yeah.

Chairman Rose stated its only one corner of the deck in an area where no neighbor could possibly see a difference 1 and ½ feet out of 30 feet.

- 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 again, its already there.

Chairman Rose stated its there and there's no effect.

- 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.*

Mr. Boxer stated it was not self-created by the applicant.

Ms. Richards stated that's interesting.

Chairman Rose stated not by the applicant but by the applicant's family, I would say so it is still the same ownership effectively, in a family line.

Mr. Medini stated I would say maybe my father used a crooked ruler at the time.

Ms. Richards stated okay.

Chairman Rose stated so with that, do we have a motion to grant the variance as requested.

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

Chairman Rose stated and shown on the drawings submitted.

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

Whitney Singleton stated so the limitations on that were limited to the specifications that were submitted with the plans.

Mr. Boxer stated you better hope they didn't have crooked rulers.

Mr. Medini stated not this guy, no. All set.

Chairman Rose stated you're all set.

Ms. Richards stated you're done, you can sell your house now.

Mr. Medini stated thank you very much.

Chairman Rose stated that's in the Captain Merritt's Hill area.

Ms. Richards stated in the area I swore I'd never live. There's a house for sale on Willetts too.

Chairman Rose stated its really nice area.

Ms. Richards stated I know.

Mr. Boxer stated Washburn?

Ms. Richards stated the whole Captain Merritts Hill, after that last case, I said I'll never live there.

Chairman Rose stated the Mayor live across the street.

Ms. Richards stated oh really.

Chairman Rose stated the second case tonight is Burger King.

Ms. Richards stated Burger King.

Chairman Rose stated case ZBA16-5. This is a request for a variance.

Ms. Richards stated why do I think you're the BareBurger guy?

Mr. Solarik stated I'm the burger guy.

Chairman Rose stated another burger.

Mr. Solarik stated burgers are coming to Town, I guess.

Ms. Richards stated weren't you here?

**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, Manager of Burger King, were present.

Mr. Solarik stated Viktor Solarik, VKS Architects and with me is...

Mr. Moyer stated Bob Moyer, Burger King.

Mr. Solarik stated Bob is the manager of the Burger King and basically they are required to update the exterior by corporate headquarters, and with that comes the sign package that Burger King recommends.

Ms. Richards stated recommends, does not require?

Mr. Solarik stated they do require certain signage but of course they have to comply with many different town ordinances. Originally the Burger King button, which you see here, is proposed as 6 foot diameter, we have reduced it to 3 feet, just to keep it a little bit more in the area and the scale of the property. However, we have a conflict because we are proposing three locations for the sign and the ordinance allows two.

Mr. Boxer stated how tall are the letters?

Mr. Solarik stated they are 14 inches.

Whitney Singleton stated Chairman, speaking of the issue of conflict, this would be a good point for me to bring up the fact that I previously represented this particular applicant, more than 15 years ago, in a single matter. I don't believe that it presents and conflict of interest but I feel as though I should disclose it. I represented Mr. Caradelli when the intersection was redesigned as part of the Target development.

Chairman Rose stated okay, I wouldn't think that that would have any bearing on the signage issue.

Ms. Richards stated the only thing I think is that the new building looks better than the old building.

Mr. Solarik stated yes.

Ms. Richards stated you know, in terms of appearance.

Mr. Boxer stated there will be no signs on the street, correct?

Mr. Moyer stated there is a road sign. The existing road sign would stay.

Mr. Solarik stated there is an existing road sign that is located right here and its...

Mr. Boxer stated so now you're up to, that counts as one of the signs.

Chairman Rose stated that counts as one of the signs.

Mr. Solarik stated well...

Mr. Moyer stated okay then that, then we have three at this particular point now with the old building and it would have three.

Mr. Solarik stated there are three signs currently, there's the sign on the side of the building, there is a sign on the front and then the road sign.

Mr. Moyer stated and then road sign.

Mr. Boxer stated but that was under the old sign law.

Chairman Rose stated old sign code, maybe two codes back, I'm not sure how long the previous requirements...

Mr. Solarik stated this goes back to 1998.

Mr. Moyer stated we remodeled back in '98, so that was...

Mr. Boxer stated that ordinance is no longer in effect.

Ms. Richards stated yeah but does that mean that the variance that they're asking for is different because you're going to need additional sign, right.

Mr. Solarik stated if the existing sign remains, is what you're saying?

Mr. Boxer stated yes.

Ms. Richards stated if the existing sign remains, right.

Chairman Rose stated what's the size of that existing road sign?

Mr. Moyer stated that's good question.

Ms. Richards stated you don't have a picture of that road sign, do you.

Mr. Solarik stated I thought I did.

Ms. Richards stated I didn't see it.

Mr. Boxer stated I don't think it was in the pictures.

Whitney singleton stated if I'm not mistaken, the road sign that he's talking about, it's a way finding sign in the public right of way, its not on this property.

Mr. Boxer stated oh okay.

Ms. Richards stated oh, so it doesn't count.

Chairman Rose stated its not a Burger King sign.

Mr. Moyer stated I'm not sure what you're determining it as...

Mr. Solarik stated I think it is in the public right of way.

Whitney Singleton stated it's a way finding sign that say Burger King a 1/4 mile, there's one at the exit of the highway too.

Mr. Moyer stated yea, okay, exactly.

Mr. Boxer stated that's for people that get lost.

Chairman Rose stated let's see if we can find that.

Ms. Richards stated yeah but if its not on their property then it doesn't...

Mr. Boxer stated we just want to confirm it.

Chairman Rose stated okay, if we think that's not a factor, we go back to the presented signs.

Mr. Solarik stated so there are two of the Burger King logos signs on the south and north side, which is where the new towers are proposed. One is at the take out window or above it, and one is on the south side where it's a corner of the building so it's visible from the street.

Ms. Richards stated do you need that one?

Mr. Solarik stated well, that's, the question is what do you see from the road as you approach it from the north, going southbound, this is what you would see coming down.

Chairman Rose stated if you didn't have that north sign, you would see 'Home of the Whopper'.

Mr. Moyer stated well that faces the road, not the sides.

Ms. Richards stated yeah, so you might not see it, depends where you were.

Chairman Rose stated on the present building, there's nothing on the north side, is that correct?

Mr. Solarik stated that is correct.

Ms. Richards stated yeah, there's nothing.

Chairman Rose stated in fact, is the sign on the west side actually inset so that from...

Mr. Solarik stated it is because the front door projects out so from the north side actually, you don't see any of that, this projection of the front entrance hides a sign on the south side.

Chairman Rose stated so they're coming from the north...

Mr. Solarik stated the building has no identification.

Chairman Rose stated I think most people are aware of, my feeling is that with recognizable buildings by the architecture and I assume this will be, is this the architecture that will soon be on all of the Burger King's...

Mr. Solarik stated that is correct, basically all Burger Kings are undergoing this alteration, so this one also is conforming to the corporate design.

Ms. Richards stated so, you need a variance because this sign, 'Home of the Whopper', is taking up too much space, correct?

Ms. Solarik stated yes and it's a third sign on the building as opposed to...

Ms. Richards stated I understand the third sign, so what about your letter sizes and is that, you don't need a variance for that? It doesn't say that...

Chairman Rose stated 14 inches is the maximum.

Mr. Miley stated it exceeds the allowable by 7 foot 9 3/4 inch...

Ms. Richards stated the length.

Mr. Miley stated that's correct.

Mr. Moyer stated correct, that's the road sign.

Ms. Richards stated yeah, I got it but the size of the actual letters are within the allowed...

Mr. Miley stated there's no objection to that.

Ms. Richards stated okay.

Whitney Singleton stated are you before the ARB right now?

Mr. Solarik stated we did already go in front of the ARB with the building modifications, and it was approved but we didn't review the signage because it doesn't comply.

Mr. Boxer stated you have to get a variance first.

Ms. Richards stated and seriously, that button, to me, I would be okay with the length of 'Home of the Whopper', which to me is more important, if you eliminated this one because you don't have it now and I would say you're pretty busy, right. So, I don't think eliminating the one button is that significant whereas if this is their new way of saying, you know, then I think that would be more important. So, if there's a give or take, if you remove this, I'm okay with this.

Mr. Boxer stated I'm not okay with it.

Ms. Richards stated you're not?

Mr. Boxer stated no.

Ms. Richards stated okay.

Chairman Rose stated to me, its too big.

Mr. Solarik stated so if it was a reduced sign, the length, would it be more agreeable?

Chairman Rose stated yeah...

Mr. Boxer stated and to reduce the length, you have to reduce the letter size.

Mr. Solarik stated the height, yes.

Chairman Rose stated yeah, it would have to be in proportion.

Mr. Solarik stated the proportion would have to be the same, so if we went down, I would have to see what 12 inches, how much it would shrink in length but that's, we probably lose a couple feet, maybe.

Chairman Rose stated is there some leeway with this corporate entity because towns vary a lot.

Mr. Solarik stated we already reduced it from their recommendations and they really have no jurisdiction over what you control, so they need to live with whatever you guys recommend.

Ms. Richards stated whatever you can do.

Mr. Solarik stated they would like to have visibility.

Mr. Boxer stated Whitney, the sign in the street is not a sign for direction. It's an actual Burger King sign.

Whitney Singleton stated I'm not...

Mr. Boxer stated the sign in the street that you said was just a directional sign.

Whitney Singleton stated yeah, I'm not, I don't know what it is, I know that there are directional signs in Mount Kisco for Burger King.

Mr. Boxer stated okay, but that one is an actual sign, so now they're up to 4 signs.

Whitney Singleton stated where are you looking?

Mr. Boxer stated I Googled Burger King Mount Kisco photos and I showed it to him and he said that's what it is.

Ms. Richards stated oh, it is a sign, now it's another sign.

Chairman Rose stated so it is a sign.

Whitney Singleton stated does it have arrows and stuff or does it say Burger King.

Mr. Moyer stated it's a Burger King logo out on the sidewalk.

Mr. Solarik stated it's like a freestanding...

Chairman Rose stated like the Nissan sign.

Whitney Singleton stated so it's like a monument sign?

Mr. Solarik stated yes.

Whitney Singleton stated I would have to, first of all, I would have to defer to the Building Inspector to make a determination as to that sign and whether or not that would eliminate, whether that would constitute an additional sign, it wouldn't be a building sign. But it wouldn't necessarily constitute an impermissible building sign but I haven't evaluated that.

Mr. Miley stated neither have I.

Chairman Rose stated okay, well I think you need to inquire about that. Personally, if that's a Burger King sign in front, that's visible from both north and south directions...

Mr. Boxer stated then you have your button, also.

Chairman Rose stated and I would say take both buttons off the ends of the building and put it on the front, with Home of the Whopper.

Mr. Moyer stated so we're back to just two signs.

Chairman Rose stated well that's what...

Mr. Moyer stated if you're deeming that one on the road as a sign, so how do we determine...

Ms. Richards stated wouldn't there have to be a permit for it? If there was a sign there, wouldn't there be a permit for it?

Mr. Miley stated there should be.

Whitney Singleton stated well you're also talking about a different time and a different place.

Chairman Rose stated right.

Whitney Singleton stated we didn't have this sign ordinance way back when.

Ms. Richards stated right.

Chairman Rose stated the present sign ordinance is much more strict than the previous.

Mr. Miley stated we need to confirm whether it's a directional, or an actual logo, or an actual sign, I have no idea what type of sign it is.

Mr. Solarik stated it has a logo, it is actually on the property, its located on the site plan and so its within the property, I just looked at it.

Ms. Richards stated so that's another sign then.

Mr. Miley stated Viktor, is there an elevation showing the sign?

Mr. Solarik stated I don't have it shown but it's a monument sign.

Ms. Richards stated do you have a picture Harold?

Mr. Boxer stated really small, this is my wife's phone because my phone got dropped into some water, I'm waiting for a new one.

Chairman Rose stated yeah, it doesn't swim.

Whitney Singleton stated I'll see if I can call it in, you got it on Google Earth.

Ms. Richards stated I tried, I couldn't find it.

Mr. Boxer stated its not that one that they advertised that they pour champagne on. This over here.

Mr. Miley stated so we're calling it a free standing monumental sign, that's what we're classifying it as.

Mr. Boxer stated there it is, don't touch the thing.

Ms. Richards stated oh it is a sign, it absolutely is.

Chairman Rose stated I think it may have an arrow on it as well but definitely a monument sign and a fairly sizeable one.

Mr. Boxer stated right.

Chairman Rose stated so think we need to refer this back to the Building Inspector for a more thorough...

Mr. Miley stated a free standing monumental is permitted in the district.

Mr. Boxer stated okay.

Ms. Richards stated but it still counts as a sign, meaning?

Mr. Miley stated number of signs is number of signs, correct.

Whitney Singleton stated I see what you're saying.

Ms. Richards stated here's a bigger picture, of there it is.

Board views computer image.

Ms. Richards stated okay, so that's a different number of signs then, that counts, there is its, right there Don.

Mr. Moyer stated right now that means we have three, is what would be existing, the existing building has three, right now then.

Whitney Singleton stated it's a little bit of a wayfinding in that it says drive-thru.

Mr. Boxer stated it does say drive-thru, it depends on how much you want to stretch it.

Mr. Solarik stated well obviously...

Mr. Boxer stated I'm okay with that sign as long as we can do something with the proposal on the building.

Mr. Moyer stated well what do you recommend?

Mr. Solarik stated so if we put the button on the front, above the front entrance and reduce the size of the 'Home of the Whopper' on the canopy below and kept the monument sign, does it sound like we're closer?

Ms. Richards stated and then you're eliminating the other button?

Mr. Moyer stated eliminating the other two buttons.

Mr. Boxer stated yeah, people going southbound are more likely to see your sign that's in the street, rather than the sign over the drive-thru.

Ms. Richards stated you know, it's kind of like shouting out at you.

Chairman Rose stated well except that you can argue that if you're looking straight at the building coming out of Target, let's see, you can't see the monument sign there, it's on edge.

Ms. Richards stated so you'd have a reason for the button.

Chairman Rose stated so you'd have a reason for the button in the front.

Mr. Solarik stated I mean it's a busy area, there's a lot of other signs.

Chairman Rose stated has this been yet to the Architectural Review Board?

Mr. Solarik stated yes, as far as the building modifications.

Mr. Boxer stated but not the sign.

Mr. Solarik stated but the signage they couldn't review because it didn't comply with the ordinance.

Mr. Boxer stated well I think you're going to come back and show us how 'Home of Whopper' what it would like as reduced, you might want to bring two or three variations of reduction.

Chairman Rose stated I'm not against a, you know, the need, I mean I don't think you need to make this sign so short that you can't read it.

Mr. Moyer stated so short that you can't read it.

Chairman Rose stated to force it into that because it's a long phrase but a little bit smaller and maybe instead of 14 inches, its 13 or 12...

Mr. Solarik stated also if we reduce it with the button above it, maybe that will create a little more space there and proportional.

Chairman Rose stated I wouldn't object to a variance on that.

Mr. Solarik stated okay, so we'll revise this.

Chairman Rose stated and bringing it in a little.

Whitney Singleton stated can I try to save your Board and the applicant a little bit of time.

Chairman Rose stated sure.

Whitney Singleton stated they're here before you for a variance for two principal signs where one is permitted and a variance for having three signs on the building where only two are permitted and then the size of the lettering, correct.

Ms. Richards stated the length of the sign.

Whitney Singleton stated if they get their lettering to something more acceptable and you're proposing the elimination of some of the signage...

Mr. Boxer stated the button over the drive-thru.

Ms. Richards stated the one button on the drive-thru.

Mr. Solarik stated the north and south buttons.

Whitney Singleton stated what would then be the needed variance?

Chairman Rose stated they would still need a variance for the length of the 'Home of the Whopper' sign, I believe.

Mr. Miley stated the 75%.

Whitney Singleton stated 75% of the front entrance, correct, or the front of the building?

Chairman Rose stated how long is the sign now?

Mr. Solarik stated its 23 feet.

Chairman Rose stated 23 feet and I think the maximum would be 12 feet.

Mr. Miley stated 16 feet.

Whitney Singleton stated 16 feet.

Chairman Rose stated 16 feet is the width...

Mr. Miley stated allowable is 75%, 16 feet. It exceeds by 7 foot 9 ¾ inches.

Chairman Rose stated that would be two-thirds or so of that size, which...

Whitney Singleton stated but you're saying the store front would be limited to that bump out or the entire frontage of the building.

Mr. Miley stated the whole frontage of the building.

Whitney Singleton stated so they'd be restricted to the 16 feet.

Mr. Miley stated correct.

Whitney Singleton stated if they were to come down to the 16 feet...

Mr. Miley stated no variance is needed.

Whitney Singleton stated they wouldn't have to come back to your Board.

Chairman Rose stated right but all I'm saying is that...

Mr. Moyer stated but if we come down to 16 feet, it will be so small you're not going to see it.

Chairman Rose stated but I think that will make the letters so small that it won't serve their purposes.

Ms. Richards stated right, so we're saying make it a bit smaller but not...

Whitney Singleton stated okay.

Mr. Boxer stated is that sign going to be lit or are those just, what are these made of?

Mr. Solarik stated yes.

Mr. Moyer stated is it lit?

Mr. Solarik stated yes.

Mr. Boxer stated these are plastic with in lights?

Mr. Solarik stated no those extruded aluminum.

Chairman Rose stated are the letters themselves lit individually? They must be. Its aluminum with a plastic face, a translucent...

Mr. Solarik stated where it's, there's going to be LED lights inside the sign.

Mr. Boxer stated inside the sign.

Mr. Solarik stated yes.

Mr. Boxer stated okay.

Chairman Rose stated there may be some practical limits there.

Mr. Moyer stated in terms of reducing the size.

Chairman Rose stated that's why I saw saying that maybe coming down let's say from 14 to 12 might be, still give you a decent size letter and it would shorten this by a proportional amount.

Mr. Moyer stated but it will still be too long, so we'll need a variance but that seems okay.

Chairman Rose stated yes but I think, you know, there we'd have to balance the need for a readable sign and identification versus strict adherence to the requirements.

Mr. Boxer stated well actually, most people going north or south don't see the front of your building.

Mr. Moyer stated people coming out of Target?

Mr. Boxer stated right, but the people going north and south have the street sign.

Mr. Moyer stated if we do reduce the size of this, can we put the logo on top of it and count that as one sign.

Chairman Rose stated yes.

Mr. Solarik stated the Code counts it as two signs but you allow two signs.

Ms. Richards stated right.

Mr. Solarik stated even with the monument.

Mr. Moyer stated even with the monument sign, that would be...

Ms. Richards stated well we can choose to call the monument directional.

Mr. Boxer stated they have to make a determination on the monument sign.

Mr. Miley stated right, as it appears it's a permitted sign.

Mr. Solarik stated I'm sorry?

Mr. Miley stated as it appears in the Code, it's a permitted sign and doesn't effect your variance.

Mr. Solarik stated okay.

Mr. Miley stated your variance is aside from your monument sign that's essentially at the public right of way, or at the entrance of the public right of way.

Ms. Richards stated which we could count as a directional sign.

Mr. Miley stated no, we don't have to count it as any sign, it's a permitted sign.

Mr. Moyer stated okay, so forget about that. We'll just have the two here.

Mr. Solarik stated the button and the 'Home of the Whopper' with the smaller size letters.

Mr. Moyer stated and eliminate the ones on the towers and that seems okay.

Ms. Richards stated yup.

Mr. Solarik stated and we'll still need a variance obviously, so we'll come back to, with the revised...

Mr. Moyer stated we'll need a variance for size.

Ms. Richards stated yes.

Mr. Solarik stated proposal.

Ms. Richards stated okay.

Mr. Miley stated so Viktor, you're going to, you can shoot it through e-mail because you're going to show me some reduction.

Mr. Solarik stated yes, exactly.

Mr. Miley stated okay.

Mr. Solarik stated we'll redo these renderings.

Whitney Singleton stated heat's the length currently?

Mr. Solarik stated 23' 9".

Ms. Richards stated 16' is allowed.

Mr. Miley stated in the meantime I'll still make a trip just to take a peek at the sign location and make a determination as part of the revised denial letter, if need be.

Mr. Solarik stated but we don't need to send out new notifications, do we?

Mr. Miley stated you're lessening the variances, so you can come right back.

Ms. Richards stated but are there anymore burger places in the Town that you're going to be coming back for.

Mr. Solarik stated I'll let you know.

Ms. Richards stated just asking.

Whitney Singleton stated if it were to be reduce proportionately, like if you went from 14 inches to 12 inches...

Chairman Rose stated one seventh.

Whitney Singleton stated yeah, it would be a sign length of 20 feet as opposed to 24 or whatever.

Chairman Rose stated yeah, it won't be so substantial.

Mr. Moyer stated that's okay.

Chairman Rose stated still requiring a variance but...

Mr. Solarik stated less severe.

Whitney Singleton stated the other thing that you need to do, if you're coming back, you need to get a short form environmental assessment form, there's nothing in there. I don't see this as being an exempt application.

Mr. Solarik stated we'll fill out the EAF. Thank you very much, good night.

Mr. Boxer stated thanks for cooperation.

Chairman Rose stated Hudson Riley.

Mr. Boxer stated Charlie, we all have to leave.

Mr. Martabano stated why does this shock me?

Mr. Boxer stated even if one of us leaves, you're in trouble.

Mr. Martabano stated there's no doubt.

Ms. Richards stated I'm telling you now, I'm going to tell him, I'm not listening to this twice.

Interruption in recording.

Chairman Rose stated Hudson Riley, LLC

**3. Hudson Riley, LLC
179 Main Street
Mount Kisco, NY 10549
(SBL) 80.25-3-26.1**

Case# ZBA16-7

Mr. Charles V. Martabano, Esq, Mr. Matthew Tynan, principal, Mr. Ira Grandberg of Grandberg Associates were present.

Chairman Rose stated this is a rather complex situation.

Mr. Martabano stated Hudson Riley...

Chairman Rose stated the building, the repurposing, let's call it, it's really very interesting.

Mr. Martabano stated that's a good point, I had put in my submission, I was going to start it out by saying that, we have to put ourselves on the record by the way.

The Secretary stated you are on the record.

Mr. Martabano stated okay, fine, thank you. This is Matt Tynan, he is principal of Hudson Riley, LLC.

Mr. Tynan stated hi.

Ms. Richards stated hi.

Mr. Martabano stated members of the Zoning Board. I put in my submission that this is an interesting opportunity, like the other application I have tonight where we can rehabilitate a building that's been in Mount Kisco since, in this case I think probably 1930 and a building that's unfortunately fallen into disrepair. To try to come up with a repurpose as you put it that actually works for the Village and works for the applicant, especially within the parking credit that's been established as we outlined in our submission by the Planning Board. It took a fair amount of effort to make this work out right and we have the ability to make it work right in terms of uses. In terms of the parking, the parking credit but we do need a variance because we have a physical training that's the most unusual that you will ever come across and it's a very specialized purpose. But because of its specialized nature and its business plan, it makes this work for everyone and that's why we're happy to make this application. Before we even get there though, I'd like Ira to go over with you, some of the planned improvements to the building because I'm sure all of you are very familiar with it and he's been at this for quick a while, been to the ARB et cetera and he'll go over that with you.

Chairman Rose stated and just before you start, I personally would like to find out something more about this parking credit. It seems like a very new thing in my experience on the Board, what does it actually mean?

Mr. Miley stated the credit is essentially from preexisting uses prior to the Zoning Code change, so they're credited based on square footage of a conforming use at the time. New use comes in, they establish what the credit was established for the entire structure, hypothetically saying you have 20 spaces for that structure, one use takes up 13, one use takes 7, as long as they stay within the parameters of the credit, that credit was established prior to my time being here.

Chairman Rose stated but what does that term mean, a credit?

Mr. Martabano stated what I think that they mean is that we will not need a variance unless we exceed the parking credit that's been established based on the historical uses of the building. In this case, the historical use is Leisure Living...

Mr. Boxer stated what's the credit?

Mr. Martabano stated the credit is a total of 30 parking spaces and we are actually, and remember in the CB-2 district, its really 75% of the required et cetera, so when we brought our mixture to the Planning, first to the Building Inspector of course and we showed what the parking standard should be for each, it was determined we were actually one below the established credit. And as unusual as its going to sound to you because of the unusual nature of our uses, we're actual going to use less than that.

Chairman Rose stated right.

Mr. Martabano stated which, this is a very, as you pointed out before, its very unusual but thank god is very unusual in terms of what we're trying to do with the building.

Chairman Rose stated okay...

Mr. Martabano stated and by the way that was an established credit by resolution of the Planning Board dated June 9, 2015 and the actual breakdown is in your submission.

Chairman Rose stated okay, so let's proceed.

Mr. Martabano stated Ira, it's yours.

Mr. Grandberg stated the building you're all familiar with, built as Charlie, around 1930, we are completely creating new cores on every floor, right now they're not interconnected. We're putting a stair core with bathrooms in the building, restoring the front of the building, we're putting new windows in the building, we're putting a new sprinkler system in the building, new water supply in the building, new HVAC in the building. We're bringing it back to standards that meet that current energy and building code, new electrical distribution systems and exterior insulation. So, a lot of investment is being put into the building by Mr. Tynan and it does have very unique uses. There are three floors, each approximately 15,000 square feet, is that correct.

Mr. Martabano stated each floor is 5,000, for a total of 15,000.

Mr. Grandberg stated 5,000 each, right and they're open floors presently, there is a potential tenant for the first floor, and the third floor will be used by Mr. Tynan for private use and it's the second floor that we're requesting the zoning variance for.

Mr. Martabano stated and let me just expand upon his private use, it is for his private car collection and even though we've assigned 5 parking spaces based on the storage of 1 per 1,000, he is the only person that goes there. This not where cars are repaired or anything like that, this is his personal collection, he is the only person that goes there.

Ms. Richards stated so where are you putting those cars?

Mr. Martabano stated those are on the third floor.

Mr. Grandberg stated there is a ramp and a driveway in the back of the building because of its previous use and it goes right up to the third floor.

Ms. Richards stated interesting, how many are there?

Mr. Martabano stated that's where their storage was.

Mr. Tynan stated cars? 10.

Mr. Martabano stated he won't let me see them or drive them, and I've asked repeatedly.

Mr. Boxer stated why can't we see them?

Mr. Richards stated if you want a variance, we need a picture, just kidding. Okay, go ahead.

Chairman Rose stated how many rides in those cars per year can we get as Zoning Board members?

Mr. Grandberg stated I guess if you approve it, you could work it out.

Off topic conversation.

Mr. Grandberg stated the building is unique in that the rear of the building has a ramp that takes you both to the third floor and a separate entrance to the second. So the only street front entrance is the ground floor and it will have complete new windows, and a new sand blasted front or chemically treated front and it will look like a totally renovated loft building.

Chairman Rose stated that will be a very nice addition.

Mr. Grandberg stated with low occupancy.

Ms. Richards stated do you have any idea what might be on the first floor.

Mr. Martabano stated yes and I'll explain that in just a second. Before we do that, would you describe the exterior improvements in terms of the façade improvements.

Mr. Grandberg stated as I mentioned, its all new windows, all chemically treated, going back to the original brick, new store front, new awnings and that's pretty much the front. The sides of the building, if you know it, have enormous amounts of windows and one of the reasons this took so long is because of the way the Building Code is written, the windows to replicate windows in metal that have to be insulated, are expensive beyond imagination, in order to compensate and mitigate that problem, we have to sprinker the

whole building and we still will have metal clad windows but that with the sprinkler system meets the current Building Code and Energy Code. So there's more than a normal amount of windows in this building and that's an expensive that Mr. Tynan has to occur.

Chairman Rose stated was this building a factor of some sort.

Mr. Grandberg stated it was a car dealership.

Mr. Martabano stated I believe it was a car dealership back when it was first done...

Mr. Tynan stated Cadillac.

Mr. Martabano stated thank you, it was Cadillac before my father became the dealer and moved it up to North Bedford Road.

Mr. Grandberg stated it's a fully fireproof building, its totally concrete. It's amazing, its built forever.

Ms. Richards stated okay, so what was going to be on the first floor?

Mr. Martabano stated the first floor is a use, you may have, its presently in Brookfield, Connecticut, its called Pottery Factory. And if you remember there was a business just up and across the street called the Paint Bar, where people could buy a ceramic piece and paint and fire and do that, so that's going to be the use on the first floor, which I think will be a very good use for the area, the Planning Board looked at that as well.

Mr. Tynan stated children, birthday parties...

Ms. Richards stated right.

Mr. Martabano stated so we'll have that on the first floor, the physical training studio we're going to talk about tonight on the second floor and the personal car collection on the third floor. So in terms of impacts and re-tenanting this building, it's unique and we've got the unique uses to go with it, so we think its going to work out very, very well. Now, the reason we're here tonight is that in the CB-2 zoning district they limit physical training studios to 2,500 square feet and this is essentially twice as big. The obvious intent I'm sure, I didn't research the original adoption but when you have a really big physical training studio, you have really big classes, you have really big numbers of participants and parents and all that sort of thing so obviously I can understand the limit especially in the Central Business District. What we have is the diametric opposite of that because Upwards Pediatric Therapy specializes in providing physical training and physical therapy for children of early infancy through 18 years old and they do this in a one on one type of therapy.

Mr. Tynan stated special needs.

Mr. Martabano stated you have a list in there of all the special needs disorders that we talk about and this requires a great deal of space so you have two participants, you have two people who do that therapy and they need a great deal of space for it. The layout will confirm this to you and I will Ira just take you through the proposed layout.

Mr. Grandberg stated there's an enormous amount of gym space, you come in and there are the two office for the two principals, the therapists, there's the dark room that acclimates kids to, I don't know the subtleties of it but the owner is here tonight, if you like to go over that.

Mr. Martabano stated it helps to acclimate them before the training starts, to calm them, et cetera.

Mr. Grandberg stated so this is the core that is typical on all floors, so that's not part of it. So its only about 4 or 5 people for the entire building and they are not lots of little offices that this large, there's a recreation space, there's a gym space, there's a dark space and the two offices and that's it.

Mr. Martabano stated exactly, to give you an idea, again, they need large amount of spaces because they use various devices that you don't see in a martial arts studio obviously. We took some pictures of existing types of facility to show you the need for the significant amount of space and the various pieces of equipment that they use. Again, there is not group setting, it is one on one, very customized, very individualized therapy, only two therapist, only two participants at any given time.

Mr. Richards stated so are the two therapists, the only people that are going to be working in the space? Is there administrative staff?

Mr. Martabano stated no.

Mr. Richards stated so it's just two therapists and whatever the clients.

Mr. Martabano stated as I put in the submission to the Planning Board, there could be, I believe a trainee that they might bring on during the summer but that's it.

Mr. Tynan stated both businesses, first and second floor, are existing businesses with an existing location, so this isn't a new business model, so it will be a second location for each business. They've already been proven successful elsewhere.

Chairman Rose stated so are the particular therapists lined up to take this space.

Mr. Martabano stated oh definitely, one is here tonight, if you'd like to meet her.

Chairman Rose stated oh, sure.

Mr. Martabano stated Elizabeth, this is Elizabeth Tynan, she is one of the principals and she can answer any specific questions.

Ms. Richards stated who will be working in this space, you'll be working in this space?

Mrs. Tynan stated yes.

Ms. Richards stated where is your other space?

Mrs. Tynan stated Fairfield, Connecticut.

Ms. Richards stated okay.

Chairman Rose stated possibly related to the owner of the building, I would guess.

Mr. Martabano stated yes.

Chairman Rose stated so in your existing space in Connecticut, is it similarly generous of the size available, the room available?

Mrs. Tynan stated we have a large gym space, we share an office at this time and we don't have the dark room that would really benefit so many of the children that we treat, so there is more space in this space. But there is definite in seeing a need for it and it would be a, we would have a more full service...

Mr. Martabano stated Elizabeth, could you just explain the purpose of the dark room again, I probably didn't do a good job.

Mrs. Tynan stated sure, we call it a dark room but I think most people picture like a photography dark room and that's not what it is. It's more of a room where you can calm all of the senses, so you can bring all of the sense down, you can make it dark, you can have some black lights or just some fish tanks or something like that, a very calming space. So when a child, for example, with autism comes in and they're not regulated and they're not calm, maybe they're harming themselves or they're not able to focus on what we need them to focus on, we can take them in there and do some techniques that can calm them before we move out to do more functional tasks.

Mr. Boxer stated I need one of those in my office.

Laughter.

Mr. Tynan stated those photos are from the Fairfield office.

Chairman Rose stated I've never heard of such an extravagant use of space for that kind of...

Mr. Tynan stated set up obstacle courses, swings...

Chairman Rose stated it sounds expensive...

Mrs. Tynan stated equipment wise its expensive, when you put up swings and balls and mats and all of that but once that initial set up is done, there isn't a whole lot of cost after that.

Chairman Rose stated because the overhead is pretty...

Ms. Richards stated is it covered by insurance?

Mrs. Tynan stated it could be, yes. I don't accept insurance currently but people can submit as an out-of-network provider.

Ms. Richards stated right.

Mr. Martabano stated and there is a demonstrated need for that type of service in this area.

Mrs. Tynan stated because its therapy, its physical and occupational therapy.

Mr. Boxer stated where do you expect to draw from?

Mrs. Tynan stated I already have clients that live both in New Canaan, I have a couple in Pound Ridge and a few in Bedford, so I think just building on that, instead of them all the way to Fairfield or me driving to their houses, there would be a more centralized location. And then I work with Angel Fish Therapy which is an aquatic therapy company which works out of White Plains and Greenwich and Norwalk, so they would refer to me.

Ms. Richards stated so you think you have enough clients, you won't have an issue with that.

Chairman Rose stated with only two at a time, obviously the number of patients you can see in a week, is pretty limited.

Mr. Martabano stated it is, indeed. Again, that's the ideal type of use that we wanted to get for this building.

Chairman Rose stated I can't imagine any other use that is so non-intense.

Mr. Martabano stated right, and imagine if we had a 5,000 square foot karate dojo we wanted to bring, I think you might have some issues with that. You know, going back to the, looking at the issue for example for the magnitude of the variance, of course it's a significant variance but this is an incredibly unique situation and it's a great use of a preexisting structure. The other thing that's good and I raised in my submission is that, if it were not for these types of uses, you know, that building is entitled to be tenanted and it needs to be tenanted in order for it to be rehabilitated, we could have something else on those two floors, this is two thirds of the building which is being used, 10,000 square feet, for these low intensive uses. It's a tremendous thing for the Village.

Chairman Rose stated yeah, definitely.

Mr. Martabano stated and I think that gets over any factor of the magnitude of the variance from my point of view. The Planning Board, as you know, we went to them on May 24th, they were very enthusiastic about these uses, as a matter of fact, they gave a great compliment to this specific use coming to the Village and they're going to be considering a resolution of site plan approval on the 28th, for the Change of Use, not site plan, forgive me. Provided your Board endorses the variance, so that's why we're here tonight.

Mr. Boxer stated what are the variances you need?

Mr. Martabano stated the only variance we need is one, there are no parking variances, its simply that we want a physical training studio of 5,070 square feet where 2,500 square s what's permitted under the code. That's the only variance this needs.

Mr. Grandberg stated and the way the code reads, its very broad brushed, I mean what is a physical training studio, this is unique to this building and its nonspecific in the Code for this use and the building is unique, so all things being equal...

Ms. Richards stated it was called something else, like physical therapy, what would the Code say?

Whitney Singleton stated well that's, this is the first, I was just walking to the Building Inspector about that, this is the first we're hearing of this as far as it being occupational and physical therapy, we were told it was going to be a physical training studio.

Mr. Martabano stated it's the same thing Whit, in terms of how we presented it.

Whitney Singleton stated Charlie, a professional office is defined as an office for a properly certified or licensed physician, psychology, physical, occupational or speech therapist.

Mr. Martabano stated we're not doing speech therapy.

Whitney Singleton stated but you're doing occupational and physical therapy,

Mr. Martabano stated but we're doing it in a physical training context and we went over this with the Building Inspector, and I think he's made that determination and we went over these specific uses and this plan.

Mr. Miley stated Charlie, the first thing I wrote down was physical training studio or therapeutic office, this is the first I've heard of that piece, so it did raise a question for me. I just want to make sure that the application is what it is.

Ms. Richards stated so what would the difference be?

Whitney Singleton stated well the irony would be that a professional office would be allowed and wouldn't require a variance from your Board as to the size of the use but, it would change the parking requirement and perhaps that could go to the Planning Board as a specific use and not require a variance from your Board. I don't know because this is really the first...

Mr. Richards stated what if it was physical therapy, is that considered the same?

Whitney Singleton stated if it was physical therapy, let's just say it's the equivalent of an office, a professional office at 1 per 150, 1 per 150 for 5,000 square feet, I'm not a mathematician but its big number, correct? Theoretically the Planning Board could determine that this is a unique use that doesn't fit neatly within the designated categories and they could make up their own designated parking requirement for this use and not need to implicate your Board for a variance.

Mr. Martabano stated but this language that was in our submission, is what was in our submission to the Planning Board, verbatim, so when you say it's the first time...

Whitney Singleton stated but the Planning Board doesn't not evaluate the permissibility of uses Charlie.

Mr. Martabano stated understood, everyone, we discussed this use at the Planning Board level and there was no change and now all of a sudden its changing, when we still believe...

Whitney Singleton stated Charlie, this is the first time I've heard therapy.

Mr. Martabano stated its in the submission I sent you Whit, it's in the May 24th submission.

Whitney Singleton stated okay, I'm just telling you.

Mr. Martabano stated I promise you that, what you hear now is from our May 24th submission, its from before May 24th, it was heard at the May 24th meeting.

Whitney Singleton stated wasn't that a conceptual application.

Mr. Martabano stated I'm not sure, it was our actual site plan application, I mean Change of Use application, its not conceptual because it's a Change of Use.

Chairman Rose stated Change of Use is something that would be approved by the Planning Board.

Mr. Martabano stated that's right.

Whitney Singleton stated well let me just back up, it's a question of which box does it fit in, it's not a question of all of a sudden it becomes a horse of a different color.

Ms. Richards stated so we can choose to...

Mr. Martabano stated the impacts are going to be the same.

Whitney Singleton stated that's correct.

Mr. Martabano stated we're talking about we're still going to have only the two people providing this training and its one on one training. I'm not sure that we're just mincing around when in fact this is something that we want to facilitate.

Whitney Singleton stated I didn't say we're just mincing around, what I'm saying is that its up to the Building Inspector to determine the use, the permissibility of the use and the degree to which it requires a variance. If he's comfortable with the physical training studio, that's up to him.

Mr. Martabano stated okay.

Whitney Singleton stated but when I'm standing here, I'm hearing therapy and licensed and insurance and things like that which are more along the lines of a professional office.

Mr. Martabano stated if you want to look at the box about the office, what about the training facility itself? In other words, you want to talk about this office use, this is what this facility is all about, the training studio, the whole gym part of it, you wouldn't classify a gym as a physical therapy office, wouldn't you?

Whitney Singleton stated certainly.

Mr. Martabano stated I don't understand, how?

Whitney Singleton stated cardiac rehab is...

Ms. Richards stated how about Radio Circle?

Whitney Singleton stated right.

Ms. Richards stated they have the same thing, a few offices with a big huge space, what is that classified as?

Whitney Singleton stated professional offices.

Mr. Martabano sated I'll go back to Peter and see what he says.

Mr. Miley stated I would definitely have to re-review it Charlie. I was under the impression, I did not hear therapeutic language at all, I don't disagree with the physical training aspect of it but the Code specificity is either in class of individual format and I did make that determination of a physical training studio...

Mr. Martabano stated right.

Mr. Miley stated however when I heard therapeutic and insurance, the same question was raised, it's the first thing I wrote down to look into the application again. And I'm not here to bash or hurt your application but I definitely, certainly, want to make sure that it does fit the...

Whitney Singleton stated perhaps we can circle back to [inaudible] regardless of how its couched, the question might still come back to the Board, is this something that you would look favorably upon. Whether its technically an office or whether its technically a physical training studio, in certain parameters.

Chairman Rose stated my concern right away in looking at the intended use as its planned and going to be used by this young lady and her partner is terrific but what's to prevent this space from then turning over and a more traditional medical use comes in where they argue well its really not a change from what its been, it's the same thing.

Mr. Martabano stated we would be willing to impose that as a condition of the Change of Use, that's simple. Our business plan, our business model, our layout as part of the Change of Use, and if it changed, it would have to come in and get approval.

Ms. Richards stated yeah but the question is the definition of that change, in a way if it was considered professional office/physical therapy and then the Planning Board did something related to the parking, it would be better off.

Whitney Singleton stated I'm not saying it would be better off or worse off, what I'm saying is you establish a precedent as to what type of use this is for the next applicant that comes in with a different application.

Ms. Richards stated that's my concern.

Mr. Grandberg stated I'd like to bring up a Building Code issue, this is designed for a very low occupancy. Number of toilets, egress, all of that, if another use came in, the building wouldn't even comply with the Code in that regard.

Whitney Singleton stated I think you're missing my point, Ira.

Mr. Grandberg stated I wasn't challenging your point, I'm just saying that it's designed for that low occupancy, nothing more than that.

Whitney Singleton stated what happens in another location in Town where somebody comes along and says that they are a physical training studio and they're essentially an alter ego of the Mount Kisco Medical Group and they're going to jam 1,000 people into 12 square feet, like I experienced today. So along those lines somebody could make the point well you treated this place a physical training studio, why don't you treat our place as a physical training studio.

Mr. Grandberg stated why can't you deal with occupancy? If this is an established occupancy of 4 people and its self-limiting to 4 people.

Mr. Martabano stated and that's exactly what point we're making, we're willing to agree to our business plan being imposed as conditions, it's an extraordinarily different use than what you're talking about, its one on one.

Ms. Richards stated can we tie the occupancy to this, meaning you can have no more.

Whitney Singleton stated there's no doubt about it that if you approved it, you would impose conditions which would limit the size of the occupancy. That doesn't negate the question of whether or not the Building Inspector has interpreted the use as a physical training studio or as a professional office.

Ms. Richards stated okay.

Whitney Singleton stated so when the next guy comes along, it doesn't matter how many people are in this building, it doesn't matter how many parking spaces they have, the question is how is the use determined?

Mr. Martabano stated the problem with that is that if you go and call it an office, okay and you apply that parking standard to it, then he's way over his credit, he's not going to do it and he's not going to rehabilitate the building and that is the other issue that we get into.

Whitney Singleton stated Charlie, that's why I'm asking the Board whether they go to the Planning Board and say the Zoning Board did not feel comfortable with the use designation but they were entirely comfortable with the use itself, we need to know whether the Planning Board would determine a parking requirement for this and would the Zoning Board waive it, or would the Planning Board see this use as unique and issue a TBD by the Planning Board to be a parking requirement of two cars or five cars of whatever...

Mr. Miley stated that's a good point.

Mr. Martabano stated what you're suggesting is that, and actually Peter we had this discussion that it could get into a TBD.

Mr. Miley stated what's the lesser of the two evils, we have a parking requirement that's established for a professional use but that's also a permitted use in that district.

Whitney Singleton stated correct.

Mr. Miley stated establishing it as a unique use because, it is unique in the way it operations and then essentially dictate the number of parking spaces and there is no need for a variance at that point.

Mr. Martabano stated what you're saying is that it would have end up that we don't characterize it either as physical training or physical therapy, you would have to call it something different...

Mr. Miley stated professional office.

Ms. Richards stated no, something unique.

Mr. Martabano stated no, that's not going to work.

Whitney Singleton stated why?

Mr. Martabano stated professional office, because professional office has parking applicable to it.

Whitney Singleton stated right but they would determine it as a unique professional office. A unique professional...

Mr. Martabano stated in my opinion, I think you'd have to come up with a little bit of a hybrid so it really is a TBD.

Whitney Singleton stated that's fine.

Mr. Martabano stated so if you want to do that, we can do that at the Planning Board level, I don't know if we can do it on the 28th...

Whitney Singleton stated I don't see why not.

Mr. Martabano stated okay great, so that's the way to approach it, we'd have to come up with a different categorization present it to the Board, ask them to do a TBD, in which we don't need a variance. The ZBA in the meantime you could express your thoughts regarding this use. If you really think we can do this by the 28th, that would be great.

Whitney Singleton stated let me confer with the Building Inspector.

Mr. Miley stated I can expedite it, it's not an issue. I can pay attention to the application...

Mr. Martabano stated what did he just say?

Mr. Miley stated I just want to make sure, pay attention to the application.

Mr. Boxer stated look at it for the first time.

Mr. Martabano stated okay, okay...

Mr. Miley stated no, we did go over this extensively but the therapeutic word, in all honesty if you brought it up, I did not hear that.

Mr. Martabano stated because I did and then I put it into our submission for Planning Board.

Mr. Miley stated I was focused on the physical training studio and how the tenant was going to operate and I thought it did fit the category of physical training studio the way it was described but a couple of the trigger words like therapeutic, insurance, now starts...

Mr. Martabano stated I don't think I ever used the word insurance but I most definitely used physical therapy.

Mr. Miley stated Charlie, the intent here is not to hurt the applicant, the intent here is to ensure that the applicant's fit into a category that meets the Code.

Mr. Martabano stated someone once asked me at a ZBA meeting, do you care which way you get relief and my answer was no. So long as I get the relief and I get them to operate.

Ms. Richards stated so the thing is, my concern would be as it stand now that once you're gone or if you're gone there is an issue and it's a precedent that we can't then control, so if you can go the other way, I think it's a much better way to go.

Chairman Rose stated that's much better, if we don't have to grant a variance then we haven't set a precedent that's typical down the road.

Ms. Richards stated right.

Mr. Martabano stated understood.

Mr. Tynan stated so then are we back in front of you then asking for a parking variance?

Mr. Martabano stated no, no, because we're going to get a unique standard based upon our use, so it's a TBD to be determined by the Planning Board based on her use specifically. It's an easier way that they can avoid the precedent.

Ms. Richards stated right.

Mr. Grandberg stated if they ask, is there a vehicle where the Zoning Board could give their concurrence that they feel sympathetic to the parameters that were...

Whitney Singleton stated you didn't bring any Burger King tonight, did you Ira?

Mr. Grandberg stated if that does it, I'll run out.

Whitney Singleton stated I can convey that.

Mr. Martabano stated so if we, Whitney can convey the sentiments of the ZBA, and we can work with Peter and Whitney to come up with a category and try to do a TBD.

Whitney Singleton stated when are the packets going out for the Planning Board.

The Secretary stated Thursday.

Whitney Singleton stated two days from now.

Mr. Martabano stated in the hands of lesser people I would be concerned but I know we can get this done.

The Secretary stated packets will go out.

Whitney Singleton stated if I didn't have a meeting tomorrow morning, I could probably get it done.

Mr. Martabano stated we're not cancelling that meeting.

Ms. Richards stated I'm more comfortable with that, aren't you?

Chairman Rose stated yes.

Whitney Singleton stated do we want to stay the application anticipating, stay the application to the next meeting, anticipating that it will be withdrawn.

Mr. Martabano stated I think that's fine I think also what would be good is since I happen to be meeting with you at 10:30 tomorrow, probably can take a little bit of time after to resolve this as well.

Mr. Miley stated sure.

Whitney Singleton stated so this going to be adjourned to the July meeting.

The Secretary stated July 19th, unless something changes, we haven't gotten there yet.

Whitney Singleton stated in the interim it may be withdrawn.

Mr. Martabano stated okay, alright excellent.

Mrs. Tynan stated thank you.

Mr. Martabano stated thank you so much.

Mr. Boxer stated you guys are here all the time. If we could get rid of you, we'd have no problems.

Mr. Martabano stated the you is Ira, I don't think that's very respectful on your part, come on now.

Mr. Boxer stated you know what I'm talking about.

Ms. Richards stated did he just buy that building.

Mr. Martabano stated actually in March of 2015, and he got Planning Board approval in June of 2015 and hopefully its going to be a really good use.

Mr. Boxer stated do we get to see the deed.

Mr. Martabano stated the deed was given to you.

Chairman Rose stated do you think he could buy some of the others?

Mr. Martabano stated look at what we're doing here, you want to see an example that really needs help.

Ms. Richards stated before we go into this one, is there a need to re-notice.

Mr. Martabano stated Hudson Riley, no.

The Secretary stated no, EK Construction.

Ms. Richards stated no, not Hudson Riley.

**6. Elliot Kracko/35 & 39 Kiskon Road, LLC
35 & 39 Kiskon Road
Mount Kisco, NY 10549
(SBL) 80.48-5-1 & 11**

Case# ZBA16-8

Mr. Charles V. Martabano, Esq, Mr. Ira Grandberg of Grandberg & Associates, and Mrs. Jamie LoGiudice of Insite Engineering were present.

Mr. Martabano stated on EK, there certainly is as I explained in a separate letter. Subsequent to our submission, may I take this back. This application pertains to 35 39 Kiskon Road, 39 Kiskon is the former location of Whalen's Moving and Storage, its been there since probably 1965, at one point in time, it had I would say 40 tractor trailers in constant operation from that location, this client Elliot Kracko, who is the current owner of Modern Building products, which is over at 105 Kisco Avenue, in other words the old LB Richards, he is now operating there, that facility is going to close and he wants to move to this location. He is a contract vendee of 39 Kiskon Road, he is the owner of 35 Kiskon Road which is presently undeveloped. The best thing to do I think is to take it from the beginning and show you existing conditions and then we're going to show you what our plan changes are for the building.

Ms. Richards stated just wait one second though, I just wanted to know, do you have re-notice this?

Mr. Martabano stated I will go into that right now, we will have to re-notice this only because subsequent to the submission of plans to you, we made one minor change I'm going to go over now, an addition that was going to be an addition and a mezzanine context in the building, has now decided to be added on to the addition to the building itself, so it's a second story addition which we're going to show you. That increased our square footage by I think 274 square feet, therefore our variance where we ask you for a variance of the size of a permitted lumber yard from 20,000 to 22,000 and change, it's going to be 23,000 and change. So that is the only difference between the two applications.

Ms. Richards stated so you have to come back?

Mr. Martabano stated we definitely have to come back as to that one issue.

Ms. Richards stated now before you start, we have a number of members that are not here. So you have choices, you can present the whole case but you can't present it all again the next time.

Mr. Martabano stated what?

Mr. Boxer stated we're trying to save ourselves.

Ms. Richards stated we're trying to save, I mean come on.

Mr. Martabano stated save you from moi?

Ms. Richards stated yes, actually very specifically. So the question is if you want to go through...

Mr. Martabano stated well you know what the other thing of course is that there are, there might be some people here who are here for the application, we'd like to show them at least some of the principal points, perhaps I don't have to go into each and every argument so you don't have to listen to me twice.

Ms. Richards stated its your choice okay, whether you want to go through it all now or not but, if you do go through it all now, you're not going through it all again.

Mr. Boxer stated don't worry, he'll figure out a way to do it.

Ms. Richards stated that's what I'm saying, it's your decision but I just wanted to mention that.

Mr. Martabano stated well that's a very difficult choice.

Mr. Boxer stated you know, when new people show up, they need to know. It's not something we can legally do.

Ms. Richards stated I'm just saying.

Mr. Boxer stated while he's talking, we can go and take a snooze.

Mr. Martabano stated you can get a break, saying I've heard this before.

Ms. Richards stated maybe you can do it more briefly.

Mr. Martabano stated I'll do, how about a condensed version.

Chairman Rose stated we can use the stop watch method.

Ms. Richards stated that works.

Mr. Martabano stated let's show you first the existing conditions.

Ms. Richards I went by there on my way here.

Mr. Martabano stated everybody, this is Jamie, would you like to introduce yourself?

Mrs. LoGiudice stated Jamie LoGiudice from Insite Engineering, Surveying, and Landscape Architecture.

Ms. Richards stated what's with the little house across the street that's for sale, you can't see it, it's on the other side, it's like this house that, what is that?

Whitney Singleton stated the one that says for sale?

Ms. Richards stated yes.

Whitney Singleton stated I don't know anything about it.

Mr. Martabano stated you don't?

Ms. Richards stated its kind of creepy, right?

Whitney Singleton stated it's my father's.

Mr. Martabano stated I thought you knew that, I thought you were breaking his stones.

Ms. Richards stated I had no idea, how would I know that.

Chairman Rose stated where is that?

Ms. Richards stated did anyone ever live there?

Whitney Singleton stated it's the house he grew up in.

Mr. Martabano stated yes, that's right.

Ms. Richards stated really, before all this was here?

Mr. Martabano stated I can show it to you on the area map, if you'd like.

Whitney Singleton stated his family rented it for 30 years and several years ago he decided out of nostalgia to buy it.

Mr. Martabano stated that's the house.

Ms. Richards stated yes.

Mr. Martabano stated in any event, talking about existing conditions, this is the building at 39 [Kiscona] this is the former Whalen's building that you probably are all familiar with. Constructed originally in 1965, expanded on the side at a time where there was a zero foot setback on that, in 1978 and then improved to the extent of what it shows as 40 parking spaces. Quite frankly, back then there couldn't have been any of the regulations regarding landscaping et cetera because the site as it presently exists, it is approximately 97% impervious surface, the little bit of grass you see isn't on the property, its in the street. So, it's a situation where basically you see it here, it's all hardscape surfaces, there's certain parking that was going on that's not even legal, it's certainly a situation where that property hasn't really been upgraded or attended to, much like what we were talking about with the Hudson Riley property. What we are looking to do is to move, as I mentioned to you, the business that's located at 105 Kisco Avenue, to this area but what is different, what is unique about this area, although these buildings, lumber yards, et cetera are permitted in the SC district, outside storage is not permitted in the district. So primarily one of our biggest variances is that we're going to exceed...

Whitney Singleton stated that's not a true statement, Charlie.

Mr. Martabano stated okay.

Whitney Singleton stated there is no prohibition against outside storage.

Mr. Martabano stated we couldn't find it.

Whitney Singleton stated show me where it says that.

Mr. Martabano stated Peter?

Mr. Miley stated let me look, keep going, I'll find it.

Mr. Martabano stated well in any event what we were looking to do is to have all of our storage inside the building in any event because quite frankly, if you have an opportunity and it may be easier for you to have outside storage but if you're looking to protect the area inside storage is a much better way to go, this building with its high ceiling, et cetera, is uniquely suited to that purpose so that's one of the reasons why we wanted to do that and to substantially renovate the building. We acquired 35 Kiscona which is presently vacant and we wanted to add that to bring the site plan into, when I say conformance, obviously we need variances for site development coverage that's because we're taking a big site with 97% site development coverage and we're trying to bring that number down. Do we bring it down to 70%, we bring it down to 83% by adding this and we'd like to give you an idea of what the site plan would look like...

Ms. Richards stated just which building, which is 39 and which is 35?

Mr. Martabano stated there's not building at 35, this is all 39.

Ms. Richards stated that's what I was trying to figure out today.

Mr. Martabano stated we can take you through those elevations if you'd like about which side you're looking at.

Ms. Richards stated no, it's just that I drove through there and now I understand.

Mr. Martabano stated so there's not building at 35 and there'll be a small...

Ms. Richards stated its just a lot.

Mr. Martabano stated yes, there will be a small storage building it and Jamie will take us through the site plan.

Mrs. LoGiudice stated so the site plan that you had before, there's the colored up version of it just for a little clarity of viewing. This itself is the 39 lot and then this is the 35. We are proposing the addition on the existing building here and then the propose storage building on the 35 lot. Basically, we've reconfigured the existing parking on site which was originally here, we have included it additionally on the 35 lot, eliminating the entrance on to Kiskon Road and adding one on to Lincoln Place...

Mr. Martabano stated and I'm going to just interrupt Jamie for one second there. We had originally developed a slightly different concept and we did have, as you know, Whalen's presently has access onto Kiskon, we had proposed another access onto Kiskon here as well. It was brought to our attention that truck traffic should not be traversing on Kiskon and even though it is the SC area, there are preexisting, legal, nonconforming residential structures, there's also a dip in the road there, so we listened and we changed our site plan dramatically to eliminate all access onto Kiskon. So all truck traffic is going to be on Lincoln and Columbus. In point of fact, we're looking into changing the address of the building to try to get a Columbus Avenue address for it, to again, remove the thought that we're on Kiskon. All of these things were discussed with the Planning Board and that's been part of the evolution of the site plan you see before you tonight. Sorry Jamie, go ahead.

Mrs. LoGiudice stated no problem. As you see with the green areas, we've increased the amount of green space within the lot 39 with landscaping along the streets along through here. We are eliminating asphalt along Lincoln, where currently cars usually park along the building, so we are including additional green space there. We are redesigning the Columbus Avenue side of the building, also to include additional green space. The property currently does not have any stormwater management on site, we are proposing some stormwater management on site, in the effect of detention pipes underneath the pavement in these area. So that is a great benefit.

Mr. Martabano stated just, while we're looking at this, let's just talk about the variance quickly, not in any detail, okay.

Ms. Richards stated good for you.

Mr. Martabano stated one of the variances that we already discussed is site development coverage. The standard in the district is 70%, we're at 83% because basically you're adding this on to bring this at 97% down to the 83%. So by adding this property here, you have a greenspace throughout the entire property, as Jamie just pointed out, so although we do still need a variance, it's a situation where we're improving conditions greatly over existing.

Ms. Richards stated yeah, it's pretty ugly now, I will give you that.

Mr. Martabano stated right and we're going to show you how it's not going to be.

Ms. Richards stated why does it say, when I drove by there, on the all the garages and stuff is says parking for Neighbors' Link.

Mr. Martabano stated I don't know, Mike would you call it a charity, what would you call Neighbors' Link.

Mike stated well trying to be a good neighbor, we let them park on the lot while it was vacant, we've since terminated that relationship.

Ms. Richards stated okay, so those signs, even though the signs are there, they don't park there.

Mr. Martabano stated there's no longer any parking there because the building's in contract to Mr. Kracko. So that was something that they did trying to help out...

Ms. Richards stated that's my question was what's going to happen to that...

Mr. Martabano stated yeah because as you'll see, when we start looking at the area I mean, there's not a lot of places that provide parking and there's not a lot landscaping and what not, so they were trying to just help out but that has ceased now.

Ms. Richards stated got it.

Mr. Martabano stated in terms of the, obviously the size of the structure as we've pointed out, since we're going to bring all of our services indoor, obviously we need to add on to it. The addition is in this limited area and talking about the actual side yard setback variance we need, the fact is its very, very tiny. This was all constructed half a foot off the property line back in 1978, okay. This part is the addition we are adding, so in terms of the area that we need the variance, we wanted to continue the line of the existing

building, we acquired this property here, it technically is a side yard here but its not really because the property goes this way, I mean its technically but for all intents and purposes, it's not, we have all this greenspace side yard but apparently it wraps around the way that its configured. So the area that we're talking about for the side yard setback is nothing more than where my finger is tracing right there, that's the only bit that it is and again it helps us keep the building in a continuous flow. The other, the last variance and simply because this is a prior legal, noncomplying building, because it was built this way back in '78 when it was legal, we're expanding a prior legal noncomplying building, so we need that separate variance for it. Now that's really in a nutshell, that was small, right.

Ms. Richards stated for you it was brief but it wasn't that brief.

Whitney Singleton stated so Charlie, that building is actually, while its going to be encroachment into whatever yard it happens to be.

Mr. Martabano stated right.

Whitney Singleton stated it's actually going to be on a different lot.

Mr. Martabano stated that's correct, a different lot, we're going to merge these lots. I should have said that, we're going to merge 35 and 39.

Ms. Richards stated I think you said it somewhere it in the paperwork.

Mr. Martabano stated oh I did, you're right.

Chairman Rose stated so that becomes one tax lot.

Mr. Martabano stated so to give you an idea now of what this is going to look like, if we get the relief from you...

Ms. Richards stated that's what it looks like now.

Mr. Grandberg stated that's existing.

Mr. Martabano stated this is what it's going to look like. This is definitely [inaudible] isn't it. Ira, do you want to take us through that, please?

Mr. Grandberg stated well basically we're going to stucco and redo the whole outside of the building on all four sides. The client is going to use the whole front for similar uses to what he's got now in Town, for household windows and doors and hardware and stuff like that. His offices will be up here, that's remainder of the rectangular area you see. Basically, it's simply putting a skin and store front on the building and raising up the cornice line to cover the mechanical equipment that's presently on the roof and up with a refreshed building.

Ms. Richards stated and all that planting of course, is not really there now.

Mr. Martabano stated there's nothing there now.

Ms. Richards stated I know, I was there today.

Mr. Martabano stated and I'm glad, I did ask that you go take a look at it because if so, let me just take a look at some of the uses in close proximity to the building. If you were there, obviously, you got an idea. There is, this I believe is the location of transfer station I believe is closing in July, I think, right Whit?

Whitney Singleton stated its closed.

Mr. Martabano stated its closed now. This is the Village DPW here, these are some of the adjoining properties and to give you an idea, let me see the aerial, I got it, okay, so you see the nature of development that's been there, this is obviously the landfill or the dump, as we used to call it. This is the transfer station here, this is the Village DPW here, this is the former location for those of us that have been around a long time of Hammond Electric used to be there, I think that's where Neighbors' Link might be now. This is our site here, okay, this is the CL zone here and this has been recently redeveloped, which I don't think is reflected on the map and its interesting because if you look at it, its been redeveloped with the actual same site development coverage that we're talking about, they do have more landscaping here. But everything else in the area as you see is essentially devoid of landscaping, devoid of parking in many respects whereas this is going to be a good example of the redevelopment of that area, if its approved, of course.

Ms. Richards stated the big trucks that were going through there that had restrictions was that going to the transfer station, not the Whalen's trucks, the other big, huge ones that you see going through Town.

Whitney Singleton stated that was for the transfer station.

Ms. Richards stated so that's eliminated.

Mr. Martabano stated that's eliminated and the Whalen's, as I said, at one point had 40 tractor trailers at this location.

Ms. Richards stated right and that's gone.

Mr. Martabano stated that's eliminated. What we have in terms of trucks for this business, two trucks and a van, it also does get deliveries every once and a while from tractor trailers that I think maybe...

Ms. Richards stated but they'll have to come up Columbus.

Mr. Martabano stated without a doubt.

Mr. Grandberg stated if you're in the building, the entire truck can go inside the building, it's not a sidewalk.

Whitney Singleton stated is that how you're going to do deliveries, within the building.

Mr. Martabano stated within the building, it's big and its designed for that specific purpose, so we're fortunate that way.

Whitney Singleton stated because they don't otherwise fit on the property.

Mr. Martabano stated no, they don't and it was never intended to. And again, remember that's just, if you look at the submission you'll also see, 75% of the business that they conduct is contractor business, sometimes the contractor doesn't even come into the building, sometimes he just faxes his order in...

Ms. Richards stated and they deliver it.

Mr. Martabano stated 60% is not even delivered from here, 60% of business is delivered direct from the manufacturers to the job site. So, it's truly a very different situation on traffic, a very beneficial situation.

Chairman Rose stated will there be a need for a traffic light out there?

Mr. Martabano stated I really wouldn't...

Chairman Rose stated will there be much increase in traffic?

Mr. Grandberg stated the owner made comments that he is expecting very limited private use, like you or I going in.

Ms. Richards stated if he wanted that, he probably wouldn't put there, because he's more visible where he is.

Mr. Grandberg stated this is more of a warehouse.

Mr. Martabano stated its so funny you say that, we questioned the same thing, you don't have street visibility, we don't need street visibility.

Ms. Richards stated yeah, nobody's going there.

Mr. Martabano stated and as we said, if you look at the LB Richards having been there for 60 whatever years, they've always had a tiny parking lot and the reason for that is they don't have a lot of drive in traffic. That's why we think it's a perfect use for this area...

Ms. Richards stated what's going to happen to that other building?

Mr. Martabano stated whatever, he doesn't own it, a lot people are looking at it but the site has some issues I'm sure you're aware of...

Mr. Boxer stated it will be before us, don't worry.

Ms. Richards stated I know but I'm just saying there's another big empty building.

Mr. Boxer stated first they have to get rid of the radium that's buried underneath.

Mr. Martabano stated yes.

Mr. Boxer stated it was part of the Manhattan Project, yes.

Chairman Rose stated is that next to the plutonium barrels?

Mr. Martabano stated he's not joking.

Mr. Boxer stated there really was a plant there...

Ms. Richards stated yeah, I heard that.

Mr. Boxer stated and they started to try and mitigate it a little bit but they didn't take it out, they covered it or something.

Mr. Martabano stated I think Whitney knows more about that than I do.

Whitney Singleton stated but Charlie has a more interesting story. Charlie, can tell you about the women who painted the dials on watches?

Mr. Martabano stated the radium ladies.

Mr. Boxer stated they all got cancer.

Whitney Singleton stated worse than that.

Mr. Martabano stated it was worse than that.

Whitney Singleton stated tell them.

The Secretary stated on the record?

Whitney Singleton stated you can turn it off for a second.

Mr. Martabano tells the story of the Radium Ladies, off the record.

Mr. Martabano stated Peter, what did we find out about the outside storage.

Mr. Miley stated I see it as indoor storage only, it's not indicated as being allowed, so if its not expressly permitted, it's prohibited.

Mr. Martabano stated and that's the way that we looked at it, that's what we talked about with you when we first met, so we went on that position and actually figured out that it works better for everybody that we don't have the outside storage, not everybody, my client would like it but we're willing to work with the way it is. So we can conclude our abbreviated presentation tonight subject too...

Ms. Richards stated yeah, right. You should try that whole time, the abbreviated version on you know whatever else you have.

Whitney Singleton stated so you'll be coming back.

Mr. Martabano stated we'll be coming back but what we'd like to do though, obviously the client is anxious to because he's a contract vendee as to 39, he'd like to get a sense of, because we need each and every one of these variances for this to work otherwise he's not going to open this business. And I'm not saying that from any point of view but it's just logistically it will not work for him. So we wanted to get a sense of what the Board thought about the application, we're hopefully that you see the benefits of it and in terms of detriment, thinking about what it replaces, thinking about an area, I think its all positives but I want to get an idea of what you think as well. There might be public that want to speak.

Chairman Rose stated yeah, why don't we hear from the member of the public that signed up to speak to this, Tony Giardina.

Mr. Martabano stated see you made it back.

Ms. Richards stated you sent us a letter.

Chairman Rose stated you sent a letter.

Mr. Giardina stated thank you for hearing me. I didn't think I was going to make it tonight but I got back early enough to make, fortunately this was the last thing on the agenda which helped me also. Subsequent to my letter, I spoke with Charlie about the site plan and he showed me the new layout and the new site plan and the plantings that are going to be provided on the Kiskon Road side, and the fact that he's not going to have any access on Kiskon, which makes me feel a lot better. I have a building on Kiskon Road, I'm an old time resident, I lived on Kiskon Road when I was a child, I don't live there now but I still have property and we've had as my letter said, we had so many problems with this transfer station and I think that what I've seen so far is going to be an asset, not a detriment. And I hope that the Board agrees with that and lets this go through because its going to be an asset to the Village and thank you for hearing.

Ms. Richards stated no problem.

Mr. Martabano stated thank you, Tony.

Mr. Giardina stated thank you.

Ms. Richards stated if you, just one quick question, if you weren't building the addition, that little addition, would you still need all these variances?

Mr. Miley stated the size of the space.

Whitney Singleton stated they'd be different variances.

Mr. Martabano stated they'd be different variances, we still need the variances yes.

Whitney Singleton stated because they're building an accessory building.

Ms. Richards stated okay, got it. I mean, I think its an improvement.

Chairman Rose stated certainly, my feeling is certainly favorable, its such a hard looking area back there.

Ms. Richards stated oh my god, its terrible.

Mr. Martabano stated and this will significantly soften it.

Ms. Richards stated I had never been back there.

Mr. Martabano stated a lot of people haven't and it's a little bit of shock when you see it.

Ms. Richards stated there are some little corners of this Village, that are you know, similar.

Mr. Martabano stated but its going to work uniquely well for this applicant, if he does go there and we are going to do everything to try to get it to the Columbus side. I don't know if the Post Office will agree with us but we're going to try to do that.

Ms. Richards stated right but even the address isn't, as long as your entrance is on Kiskon, it still serves the same prupose.

Mr. Martabano stated we've taken it off, the Planning Board wanted it, we did it, I think they liked it a lot as well.

Ms. Richards stated right.

Mr. Grandberg stated and then the limited times that we've met the owner as this developed, if you looked at what he has in Town, he runs a very nice operation and he wants to do that. He made it very clear to us.

Ms. Richards stated right.

Mr. Martabano stated he's acquired a number of other stores you might know in the area as well, in Katonah, Katonah Feed and Hardware, one in Cross River, he's really expanded a lot and he bring quality to each of his locations, that's the only way he does things. He's also in the construction business, so what I liked about it is that we keep saying well you know, let's try to give them this, okay, just make it work, let's make it work.

Mr. Boxer stated Whitney, is this site unique enough so that in order for someone else to come back and say we want that, they would have to have a site similar to this or are there any sites left in Town that would want to do what they're doing here.

Whitney Singleton stated that's a little too vague for me to answer.

Chairman Rose stated yeah.

Whitney Singleton stated like every application, it stands on its own two feet.

Mr. Boxer stated okay.

Whitney Singleton stated its, you know, the variances are significant but they are in the overall scheme of things, they are all area variances and there's some ameliorating aspects of the application, not only are they going to improve the façade of the building, they're going to supplement the total area of the building and I believe the development coverage is going down, correct?

Mr. Martabano stated significantly.

Whitney Singleton stated while it may still require a variance, the net is going down, although it is taking a virgin space and developing it but then again, it is an industrial zone.

Ms. Richards stated that space is not very...

Whitney Singleton stated it's an industrial zone, it's already, so it's up to your Board to decide. I know that this is going to go to the Planning Board before it comes back to your Board, so you will most likely be having some feedback from them.

Mr. Martabano stated we're going to be on, on the 28th as a matter of fact, we'll have some more feedback because the addition has also been resubmitted to them.

Chairman Rose stated okay.

Mr. Martabano stated this is will be the beginning of our presentation, we'll continue at the next meeting. You guys can go out and eat the Burger King or whatever. Thank you very much for your attention. We'll see you either at the 19th or the 26th, you'll let us know.

The Secretary stated I will be in touch.

Mr. Martabano stated and I will do the re-noticing in the meantime.

Chairman Rose stated very good.

Mr. Boxer stated good night.

Ms. Richards stated Whitney, who are the people in the very back, do you know?

Whitney Singleton stated the owners of the property, they're trying to sell it.

Ms. Richards stated the property we were just talking about?

Whitney Singleton stated yes, one's the buyer and one's the seller.

ms. Richards stated got it, we have to close the meeting, right.

The Secretary stated yes.

Mr. Boxer stated do we have keep the public meeting open.

Chairman Rose stated yes.

Whitney Singleton stated where did Charlie go, is he still here?

Ms. Richards stated he's right there.

Whitney Singleton stated Charlie, before you leave do you want to broach the issue of SEQRA.

Mr. Martabano stated and this is on Hudson Riley, okay, the Planning Board is not going to be doing SEQRA, it's just simply a Change of Use, they've determined its Type II, so they're not going to do SEQRA, so we're going to ask your Board...

Whitney Singleton stated if it has to come back.

Mr. Martabano stated if it has to come back, I submitted to you a SEAF, a short environmental assessment form and a suggested Type II for you to do. So if it does come back to you, we're going to ask the Board to do their own SEQRA on it, I think you will all determine that there are not environmental impacts, it actually works the opposite. I think Whitney for bringing it up because if we come back to you one, we will have to ask you to do your own separate SEQRA on it. Thank you Whit, I'll see you tomorrow.

Chairman Rose stated okay, so we will have cases returning, I think we will keep the public hearing open, certainly and I think our next meeting will be kept as on the calendar now, July 19th.

The Secretary stated okay.

Chairman Rose stated I think we have a better chance of having a full or almost full Board then. I may be back and there are at least three others that say they can be there, at least there's a quorum available.

Ms. Richards stated okay.

Mr. Boxer stated okay.

Chairman Rose stated alright, so if there's no other new business.

Mr. Boxer stated I make a motion to close the meeting. 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.