

**Village/Town of Mount Kisco  
Zoning Board of Appeals  
Minutes of Tuesday, November 15, 2016**

Members Present: Don Rose  
Harold Boxer  
Kim Lapple  
Linda Greenberg

Members Absent: Barbara Richards  
Dan Guyder

Staff Present: Whitney Singleton, Board Counsel  
Peter J. Miley, Building Inspector  
Michelle Lailer, Secretary

Chairman Rose called the meeting to order at 7:37 p.m.

Chairman Rose stated okay, we'll open the Zoning Board of Appeals meeting for Tuesday, November 15, 2016...

- 1. Sally Stevens Lewicky  
199 Grove Street  
Mount Kisco, NY 10549  
(SBL) 80.34-3-19.1**

**Case# ZBA16-14**

Chairman Rose stated the first thing we'll do is open the new case. Sally Stevens Lewicky, Case ZBA16-14 to official open the public hearing and we have received a letter from them requesting an adjournment until January 2017. Just for the record this is I believe the second adjournment that they have requested...

The Secretary stated yes sir.

Chairman Rose stated I'm not sure what's going on but in any case, unless there's discussion, **I will entertain a motion to adjourn.**

**Ms. Lapple stated motion to adjourn. Mr. Boxer second the motion.**

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

Chairman Rose stated okay, the returning case, we will call Bagnato 205 Lexington Avenue Corporation, Case ZBA16-6.

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

**Case# ZBA16-6**

Mrs. Liz Crecco was present.

Mrs. Crecco stated good evening.

Chairman Rose stated and just for the record again, just state your name.

Mrs. Crecco stated sure, I'm sorry, Liz Crecco, owner of Bagnato 205 Lexington Corp., along with my husband, Anthony Crecco, who is not here tonight. Okay, so obviously, hopefully have all had a chance to read the latest application and if I may, I guess go through each point.

Chairman Rose stated let's just be clear so we're all on the same page. What you're actually appealing, we have an application for the appeal dated November 15<sup>th</sup> and you're seeking a variation of something and interpretation of something, see attached. Is the attached in the letter that you submitted?

Mrs. Crecco stated I'm just going through the application myself. I'm sorry, where are you seeing see attached, on the first page, on the application itself?

Chairman Rose stated on your actual application.

Mrs. Crecco stated see attached interpretation of section. Well on the ZBA, there's a second page that specifically asked for the clarification and then it goes on to describe the Village Code, 110-28 and this is in regards to the parking, this letter here gives the detail of specifically there's 4 items.

Chairman Rose stated I don't see that...

The Secretary stated this is my original...

Mr. Miley stated let me see if it matches the public notice.

The Secretary stated that didn't...

Mrs. Crecco stated its attached to the same copy that you have, it would be page...

Mr. Miley stated its not part of the package but it's exactly the same as the public notice, the language is identical.

Mrs. Crecco stated can I have a quick peek just to make sure, okay.

Mr. Miley stated yeah, sure, I just looked at it.

Mrs. Crecco stated yeah, that's it. Okay, so then we can all refer to the public notice...

Chairman Rose stated so we can refer to the public notice and...

Mrs. Crecco stated and there's 4 items basically.

Chairman Rose stated you're seeking interpretations and variances of the Building Inspector's memo of May 17, 2016.

Mrs. Crecco stated correct.

Chairman Rose stated and your application is dated November.

Mrs. Crecco stated correct.

Chairman Rose stated your application is dated November 15<sup>th</sup>, how could that be, that's today?

The Secretary stated the application is dated the date stamped. In the center there's a date stamp on it.

Chairman Rose stated okay, October 24<sup>th</sup>. Okay, so just, I think first of all, I think first of all, that seems to be, if there's any interpretation required that seems to me to be time barred, is that a correct determination?

Whitney Singleton stated if the applicant is appealing a determination from May, as indicated in the public notice May 17<sup>th</sup>, then yes its time barred, State law requires you appeal within 60 days. Specifically, 7-712 A 5 B states that an appeal shall be taken within 60 days of filing any order requiring a decision, interpretation or determination of the administrative official or Building Inspector. And that does not appear to have been done.

Chairman Rose stated okay, I guess that would open the question right away, no matter how we deal with the request, if we were to approve it or deny it, if we were to approve it, someone else other than the applicant could challenge, I would think, is that right?

Whitney Singleton stated what's that? I'm sorry, can you repeat that?

Chairman Rose stated do we even have the right to allow...

Whitney Singleton stated you're without jurisdiction to entertain it.

Mr. Boxer stated means you can't do it.

Chairman Rose stated we can't do it, I guess. Then it makes the whole thing moot.

Mrs. Crecco stated okay well, if I may speak, without having a calendar in front of me and I realize there's a new member tonight and I also realize that there's been some members here when I've been here for the last few meetings and some not, so it's not a full Board who has been following this for the last 22 months,

however, again without having a calendar in front of me, the meeting before the last meeting, actually it was the last meeting, where we let the Board know that we had done certain filings in Mount Kisco and asked for certain information which we were unable, we were not given certain information and just prior to that we were sent to the Planning Board and then the Planning Board kicked us back here. Then there was adjournments, there was a lot of things that happened that had nothing to do with me not following and trying to work with this Board, and with Peter every single day to things properly. And the way I've been following the advice of counsel here and Board members, so the fact that we're not talking about a new subject matter about a time delay in me questioning or asking for an interpretation on parking requirements has me more than a little concerned at this late hour because again I've been working with the Town to get clarification and with the help of the Town, I revised the application so that it could be better properly presented. And in the interim after Peter's letter came on that May 17<sup>th</sup> date, it took us, I don't know how long, a couple of weeks to track down the owner of a moving and storage company from the '60's who happens to be alive and put in writing that he indeed didn't use it as a storage facility, he used it as an office, we got that certified letter from him, like I had been following, I can't imagine the amount of time and energy we've put in to doing things the right way. I'm...

Chairman Rose stated Whitney, just as an aside, I think we all know that they have been doing a lot of work on the side but the, to try to resolve their situation, is it really the absence of a specific letter that creates the problem here?

Whitney Singleton stated it's the absence of an application within the statutory period. If she, if the applicant is seeking an appeal to which they've filed a timely. If the applicant is seeking an application to which they filed a timely appeal, that's fine, it appears as though this application was filed more than 150 days after the underlying determination from which its being appealed, so I don't know how your Board can entertain something that's 90 days too late. Now, I do, I don't know all the specifics of this, I do recall your Board entertaining another application, to determine an application for an interpretation way back when for the structure and we issued a determination with regard to that and that is the law of the land right now, that required the applicant to go to the Planning Board and get site plan approval. The Planning Board, the applicant has appeared before the Planning Board once with conceptual review and I don't, after that I'm a little at a loss as to what was filed when and from what appeal was taken. But we certainly can't entertain an application that was filed at the end of October for a determination that was made on May 17<sup>th</sup>.

Chairman Rose stated the May 17<sup>th</sup>...

Whitney Singleton stated I think the applicant would have to let us know, is there a specific application that is currently pending before this Board that they want you to entertain on. I assume that when they filed something else, it was in substitution of what was previously filed, replacement of it. I'd have to go back and look, I only have, you know I have all the files here from all the various meetings they've been before us but I've looked at the application that was here tonight and the determination from May 17<sup>th</sup> and the submissions and everything else and the Code as it relates to those items. I have no gone back and looked to see what the day there was a determination, what day there was a denial, what day there was an appeal, I haven't gone back and looked at that as to prior items.

Chairman Rose stated let's do this, to generously just take the position that maybe there is something that makes this okay, just to not take everybody's time, if it does come back but I'll invite Ms. Crecco to just go over the points very briefly for the record that you are seeking interpretations and variances on. And certainly we can't really take it beyond that until the counsel has determined for sure what the situation would be because if it turns out to be time barred, I don't think we can even entertain a resolution, is that correct?

Whitney Singleton stated correct, well I mean you have to determine, you'd make a determination that you can't entertain because its time barred.

Chairman Rose stated yup.

Mr. Boxer stated what would refileing do?

Whitney Singleton stated can't refile for the same application, for the same relief, they can bring an application for similar relief.

Mr. Boxer stated okay.

Mrs. Crecco stated so you're telling me that as I understand it, I cannot talk about seeking a clarification or an interpretation on that letter...

Whitney Singleton stated can I address it? I'm sorry to cut you off but...

Mrs. Crecco stated yes, please.

Whitney Singleton stated if there is an application that you're seeking to pursue, other than this one that is before us tonight, you need to let us know what that is and we'll need to confirm that it's not time barred. I do recall you being before us in the past, I don't recall specifically the relief that you were seeking, were you seeking just an interpretation, were you seeking a variance? If you were seeking a variance, from what were you seeking a variance? Those are not things that I have right here before me at my disposal, in other words it's something that the Board's reviewed in anticipation of tonight.

Mrs. Crecco stated okay, so...

Chairman Rose stated okay, let's just back up here, there is a memorandum of September 14, 2016, now is that different Peter, from the May memo? Did it just formalize what is going on?

Mr. Miley stated Chairman, I'm going to review it right now. You're referring to a September 14<sup>th</sup> memorandum?

Chairman Rose stated yes.

Mr. Miley stated do you have a copy of it?

Chairman Rose stated that's in the package.

Mr. Miley stated yeah, I do have it. What was the question?

Chairman Rose stated are they really seeking a, a variance and an interpretation based on those point made in September 14<sup>th</sup>?

Mr. Miley stated this is in addition to the May 17<sup>th</sup>, this is another memo to the Board. The original memo of May 17<sup>th</sup> includes the parking calculation and then September 14<sup>th</sup> was an analysis for additional, for the addition of an application which includes a survey and some other items. If you look, there's 1-7 here that highlights the additional point of the application. In total there are 3 memos starting in April and 2 applications. You have an application on June 27<sup>th</sup>, that we received, I'm not sure if that is in your packet. Is it in the packet?

Chairman Rose stated I'm sorry, an application...

The Secretary stated you received the June 27<sup>th</sup> application previously, it was heard at your August meeting. It was supposed to be heard at July, July was cancelled, and everything was moved to August.

Chairman Rose stated and was that in reference to the May memo?

Mr. Miley stated here's a copy for the Chair.

Chairman Rose stated variance for concrete structure at Maplewood Avenue and reconstruction of 20 Maplewood Avenue and parking Chapter 110-25 article 4, credit for Marshall Moving and Storage as an office space.

Whitney Singleton stated is there a submission for that?

The Secretary stated they made a full submission for that meeting.

Chairman Rose stated they made a full submission.

The Secretary stated but it's kind of all in there, been shuffled through quite a bit.

Chairman Rose stated well okay, it seems to me that that stopped clock on the matter because...

Whitney Singleton stated as to that application.

Chairman Rose stated yeah.

Whitney Singleton stated but that's what...

Mrs. Crecco stated well it is, it's part of this application, it's the same topic.

Whitney Singleton stated it's the same topic but I guess what I'm saying is what submissions were made at that time, I'm looking at a submission stated, and I'm looking at an application from the end of October challenging determinations from May.

Mrs. Crecco stated because meetings didn't happen and then I came to a meeting and I was told to revise it and a lot happened. So in that August, I did need clarification and it was advised that I streamline this application because we have been in so many different directions for 22 months in trying to resolve an issue that never goes this long. And again, being sent to the Planning Board and them saying to me, you need to be at Zoning, we don't know why you're here, we came back here and nothing could happen because we didn't have a quorum and I wasn't given access to specific codes by the Town and I went to Albany to get codes, that was the only way I could get them because my FOIL requests were not responded to. Talk about climbing mountains, I have climbed mountains for 22 months and I'm looking for the Board to help give me some relief tonight, get through some minor clarifications, see if the Building Inspector can clarify some things and get to a resolution here. We...

Chairman Rose stated well I think the...

Mrs. Crecco stated should go point by point in my...

Chairman Rose stated I think pending further discussion and legal, counsel clarification that we can assume that the current application perhaps was in a sense an amendment of the original...

Mrs. Crecco stated yes.

Chairman Rose stated June 27<sup>th</sup> application, hear what the applicant has to say and then we'll not be able to make a determination tonight.

Mrs. Crecco stated why not? Why?

Chairman Rose stated because we have need for further study on all of that, there's a lot going on with this site and the history of it.

Mrs. Crecco stated what's going on? What's going on? I don't understand.

Chairman Rose stated well just the, in addition to the things that were part of your original Zoning Board resolution which basically granted the rebuilding of the house, there were various things mentioned in that, I mean if you're going to challenge, they should have all be challenged in the June application. As I said, possibly, we can treat the current application as something that does happen from time to time, where a case expands without a further public notice and maybe that's a failing in some of those cases but I think it probably should have been treated as an amendment to the original application rather than the new one. But let's hear what you have to say because we would spend a lot of time discussing the various points and that may be for naught. So let's move on and hear what the actual points are that you have to make.

Mrs. Crecco stated okay, the reason, how we got to these 4 points tonight and go back a little bit in my memory here, 24 months again actually the house burned down, the initial Building Inspector determined that we could not rebuild the house because it was a nonconforming, preexisting use and he determined the cost to build it would be more than 50%, we disagreed, we hired an attorney, local, great attorney, paid him \$30,000 he had a solid case and only to get nowhere. I then came for myself, I said to Mr. Martabano, thanks for all of your help but apparently we can't rebuild it and then a new Building Inspector and disagreed and said actually, I think you probably could rebuild it, this Board agreed, they said you're right, we're not going to disagree with that, however you have violations on the property and we want you to work on those violations and after several, several meetings this Board did not want to make a decision yet, they said you know Liz, we want you to go to the Planning Board and get site plan approval. So we hired the architect, we got a site plan done, we had a meeting with the Planning Board, we met with the Building Inspector, the package was perfect, everybody agreed, we went to the Planning Board, the Planning Board shook their head in confusion, they said this property has been approved by this Planning Board in 1965, here's the approval. Unfortunately, in 1965 the details were somewhat scarce, and this Board was aware of that and we build a case this big, with as best we could evidence, we bought the property sometime in the, not that long ago. So the Planning Board said no what you really need is Liz, is you need a variance from the Zoning Board because you have one structure on the property which was no on the original site plan and you have a second structure, this concrete structure which wasn't on the site plan, so you need to go get a variance, so I came back to this Board, we had a nice conversation when it was 3 people here and Board members said you know Liz, enduring all this, take the deck down that was not part of the plan, take the concrete structure down and by the way we need to look at the parking calculation. So the Building Department is doing the parking calculation, we agreed to take the deck down, I asked the Board if it would

be okay if I could keep the structure up because after, it's been there for, probably since the, sometime in the '60's, our whole electrical room which feeds both structure is in that concrete structure, so to take that down, I would have to get all new electrical for the building. I don't need to remind the Board that this is a rental property, it's part of our monthly income, it was a burden when it burned down for many reasons, because obviously it's terrible that somebody's house burned down but in addition \$3,000 a month lost rent, that's a big deal to us, we've spent god knows upwards of \$80,000 already on attorneys, engineers, site plan people, architects, our time back and forth and again following the direction and suggestions of Zoning Board members. Going to Town Hall trying to get FOIL requests done, trying to answer and respond to letters that the Town put forward...

Whitney Singleton stated can I interrupt for a second?

Mrs. Crecco stated actually, if you don't mind because there's a Board Member here who's not familiar...

Whitney Singleton stated alright but you're mischaracterizing following the recommendations, the directions...

Mrs. Crecco stated I'm not mischaracterizing.

Whitney Singleton stated the only directions that the Zoning Board gave you are in their resolution of approval. Those are the only directions that the Zoning Board has given.

Mrs. Crecco stated well we've had feedback, I mean I've had dialogue with members here.

Whitney Singleton stated well they're directions.

Mrs. Crecco stated well its dialogue and I'm a layperson and I'm asking, I've been asking for the Town to work with me and the Town had suggested that certain things get done and I have been doing them, we had our inspection with the Fire Marshal, we had our inspection with Peter, we've hired the electrician, we have the sprinkler plan, we're getting sprinkler work done. We are doing everything, we are trying to make it right and we were strongly, it was suggested that the Town would work with us to get it done but albeit Liz, it's going to take some time, go to the Planning Board and while you're at the Planning Board, Liz, we will simultaneously work with you to make it happen but you have to go there. Only to find out that the Planning Board didn't want us there, so it's very difficult when you're in this situation to then come here tonight, fully prepared to just get some simple clarifications, only to be told that I didn't ask quick enough for the information.

Whitney Singleton stated that's the law, I didn't make up the law, that's State law.

Mrs. Crecco stated but in August we did, we specifically talked to the parking calculation, I mean this was going on all summer, the parking calculation with the architect, you know back and forth how many credits do we get, how many credits don't we get, I mean I'm not making this up. We've working with the Town all summer on this, there's not shocker here, this wasn't anything like that.

Whitney Singleton stated for the Board's benefit, I think I can characterize what happened before the Planning Board and it was not that they did not want to see you, they are required to see you for site plan approval for any modification to anything other than a single family home, they're required to entertain the application. They were confused over the fact that you didn't supply any parking, that there was no off-street parking proposed as part of your...

Mrs. Crecco stated I have an approved site plan from them. An approved parking site plan from the Board from 1965.

Whitney Singleton stated but you also were approved for different uses on that property. The uses that existed in 1965 were not the uses that are there now.

Mrs. Crecco stated we've been down this road though, we've discussed it.

Whitney Singleton stated the buildings that were existing in 1965 are not the buildings that are there now.

Mrs. Crecco stated right, this dog house by the way, is what we're talking about, one of the structures is a dog house, okay get rid of the dog house. The concrete structure which again, we bought the property maybe 10-15 years ago, this happened back in the '60's, this concrete structure. And when we discussed it the last meeting I was here I said if we have to take it down, I'm going to have to just chop it because that little tine room with all the electrical, I want to keep it, I'll take the rest down, I don't care. I need to get my rental income back on, I want to build the house will the Town work with me, like easy? A dog house

and a concrete piece of junk on the property that we don't need, I don't want, I mean, it would be nice to keep it but you know what, we're, as you know, desperate to get this house rebuilt, that's all we want to do. And we haven't stopped working to try and satisfy every aspect of what we think the Town would like to see, the Fire Marshall would like to see, the Building Marshall would like to see. I'm asking for some help here as this point in time, I don't know what more to do.

Whitney Singleton stated and the Board ask you to provide compliance with the zoning and to provide parking, and that hasn't happened.

Mrs. Crecco stated and in our opinion, if you read this, we do comply and at the last meeting when you were sitting there and I said to you, what about the fact that we didn't get 5 credits for the parking, you said well because it was a moving and storage company and I pulled out a letter and I said actually you're mistaken, it was an office. I tracked down the owner of Marshall's Moving & Storage, there storage facility was in Pleasantville, this was an office, I'm entitled to 5 parking credits, you kind of, you put it in your file list and you said I'll look into it. That was a big deal, that's what my first one is, can I get an interpretation because I disagree, I think we get 5 credits. I don't need more parking, I need...

Whitney Singleton stated that's not at all what I said, I did take your information, I acknowledged that you were correct.

Mrs. Crecco stated actually you said you'd get in touch with me and you never did, directly.

Whitney Singleton stated I acknowledged that you were correct in that regard but I also acknowledged at that meeting that I believe that the Building Inspector's interpretation as to the required parking was incorrect...

Mrs. Crecco stated but he hadn't seen that letter, he hadn't seen that letter.

Whitney Singleton stated for other reasons and I referenced that he was not at the meeting that night and I said I would talk to him and I have talked to him, so...

Mrs. Crecco stated so what's the answer?

Whitney Singleton stated I believe that you're woefully inadequate on parking.

Mrs. Crecco stated based on what though? Because now you're opening a whole new can of worms, that for 22 months I've never heard about.

Whitney Singleton stated the Building Inspector has calculated for you a scenario and in my estimation, he gave you 5 too many spaces credit. I think you're deficient in the vicinity of 12 spaces.

Mrs. Crecco stated well it's nice that you can just say that but we've spent a lot of time trying to get this straight and this is the first, and now you're throwing out something that's brand new.

Whitney Singleton stated it's not brand new.

Chairman Rose stated no.

Mrs. Crecco stated I've never heard that before.

Whitney Singleton stated you were told in your resolution that you needed to comply with all zoning regulations, the zoning regulations specifically called out including specifically parking...

Mrs. Crecco stated this has been...

Whitney Singleton stated rather than supply the parking to the Planning Board, you chose to waive all those requirements by going to the Zoning Board of Appeals.

Mrs. Crecco stated we came to the Zoning Board, everybody reviewed the application, our local architect who does a lot of work in this Town, met with Peter, they together came up with the parking calculations, based on zoning, the only thing that was great for me was that I got this letter from Marshall's that really should have given us 5 more credits. So I respect that you're saying what you're saying right now but this wasn't something I pulled out of the air, this was Peter Miley meeting with my architect, coming up with, based on Zoning, what it is. The only difference is I'm arguing the amount of credits but now for you to say that to me here and now, talk about a curve ball.

Chairman Rose stated now wait a minute, the May 17<sup>th</sup> memo that we're appealing from has a conclusion that 20 spaces are required and that credits of 8 could be applied.

Mrs. Crecco stated there's one after that.

Chairman Rose stated and that's only...

Mr. Miley stated there's a breakdown on the third page, based on the information I had, that's the best determination as far as efficiency as far as I could come up with.

Chairman Rose stated that credit of 8, includes a credit for all of the retail space, as if that were allowed at the time because if not or is that based on something else?

Mrs. Crecco stated okay, so I'm looking at May 17<sup>th</sup>, the memo from the Planning Board to Peter Miley, which goes through the total number of parking spaces and then on the second page, it goes down as the breakdown of what's required for my property and on page 2 it shows a parking deficiency of 7, do you see that? Okay, so I'm, doesn't the Planning Board determine...

Mr. Miley stated the Zoning Board would. You're requesting an interpretation of my interpretation, they could see it as accurate, they could see it as further deficient, they could see it as you need additional credit.

Mrs. Crecco stated so we don't go by this?

Mr. Miley stated no, no, this is a starting point, your application is based on determination, so I provided them with the information that I had available to me at the time, this is what I came up with as far as a parking deficiency and they would either agree, disagree, agree with you, they would have to make that make that interpretation.

Mrs. Crecco stated but they sent me back here.

Mr. Miley stated no, I'm talking about the Zoning Board, the Planning Board doesn't make that determination.

Chairman Rose stated you're appealing the...

Mrs. Crecco stated so I'm appealing here but I'm, it sounds like no is what I'm hearing, I don't know...

Chairman Rose stated well no...

Whitney Singleton stated the Building Inspector has made a determination that you're seeking to appeal.

Chairman Rose stated we're trying to clarify what you're appealing.

Mrs. Crecco stated but you said you didn't want to hear it tonight because of the timing thing. Are we talking about the thing or, I'm so confused right now.

Chairman Rose stated let's just go through the points that you are actually trying to appeal. The Building Inspector...

Mrs. Crecco stated I'm trying to say in essence we have an approved site plan, that's what we bought the property based on, we cannot at this hour possibly go through, again, all of the commercial space uses that we've already been through ad nauseam and how many parking [spaces] were for each. We are where we are and...

Chairman Rose stated well wait a minute, we haven't gone through parking ad nauseam because this is what part of your appeal is but you're claiming that there's only a deficiency of two spaces.

Mrs. Crecco stated well because I'm going based on what the Planning Board memo specifically says what I need.

Chairman Rose stated this is the Building Inspector's memo, its to the Planning Board from the Building Inspector, May 17<sup>th</sup>, is that what we're talking about.

Mrs. Crecco stated no, I'm looking at him here.



Mr. Miley stated I think she's requesting, Liz, if I may, both, I think she's requesting an interpretation of my memo and a variance for 2 spaces.

Whitney Singleton stated and when was that request submitted?

Mr. Miley stated the updated one we got October 24, 2016.

Chairman Rose stated did the August hearing, based on the earlier resolution discuss the parking spaces required, it should have.

Mr. Miley stated I'd have to go back to the minutes to confirm that. Do we have them?

The Secretary stated they're already approved and on the website.

Chairman Rose stated because that in itself is a huge disagreement, the Building Inspector claims 7 spaces and we don't, I don't see any reason why that's not right because it allows a credit for the uses that were there at some point, I don't know if there's a date, 4 spaces for 2 dwelling units, 1 visitor space and 3 spaces for the dental lab. So I don't know where an additional 5 credits come from.

Mrs. Crecco stated the Marshall Moving & Storage letter that I got after that was written.

Chairman Rose stated but isn't that the same space as the dental lab?

Mrs. Crecco stated no, its separate.

Chairman Rose stated where's the dental lab?

Mrs. Crecco stated I don't know, I was going to ask Peter.

Mr. Miley stated I believe it was, if you're looking at the property...

Mrs. Crecco stated it didn't get mentioned...

Mr. Miley stated on the right hand side.

Mrs. Crecco stated I know but...

Mr. Miley stated it used to be a church on the left hand side and a dental lab on the right corner. That retail space was once 2 spaces, the furthest to the right I believe was the dental space.

Chairman Rose stated I believe that the record would show that there was never an approval of changing the use from the church space to whatever.

Mrs. Crecco stated now we're getting into that whole change of use thing, which as you recall, I could not in my FOIL request, get when the change of use law was written because it supposedly, as I was instructed here, that's my job to try and find it, I would have to ask for every Town Code written since the beginning of time and go through them all. I'm not allowed to specifically say 'well can you give me a copy of when the law was written for the change of use' because we didn't change the use after the change of use law was in effect and I again, I'm sorry I don't have my charts here for the last 20 months...

Mr. Miley stated I don't think you need to focus on that and I'll tell you why...

Mrs. Crecco stated but I'm hearing change of use again...

Mr. Miley stated forget the change of use, you had a space that didn't have a C.O., and we have a retail space, so the determination is going to be based on what's presently there occupying the space.

Mrs. Crecco stated but if we're not talking about change of use, but we are talking about parking and we're talking about credits...

Mr. Miley stated well the parking would definitely be calculated based on your current and if you look at the calculation, it already accounted for the storage, you got that credit already.

Ms. Crecco stated where?

Mr. Miley stated if you look at the breakdown, okay, moving and storage occupancy...

Mrs. Crecco stated where are you right now?

Mr. Miley stated I'm on the memorandum, first page, total required spaces second paragraph, according to the tax records, the moving and storage occupancy, occupying approximately 1297...

The Secretary stated May 17<sup>th</sup>.

Mrs. Crecco stated I'm on the May 17<sup>th</sup>, of your letter?

Mr. Miley stated yeah, it's in there.

Mrs. Crecco stated but this is from us to you.

Mr. Miley stated no, this is from me to the Planning Board, the memorandum.

Mrs. Crecco stated okay, on the second paragraph, according to chapter 110...

Mr. Miley stated no, total required spaces, second paragraph.

Mrs. Crecco stated yeah, that's the same one.

The Secretary stated okay.

Mr. Miley stated that was built in, Liz. so whether it had...

Mrs. Crecco stated line 2 or 3, which one?

Mr. Miley stated it was based on square footage, so it's essentially 1 per 300 and today we have retail which is 1 per 150.

Mrs. Crecco stated okay.

Mr. Miley stated so it's an increase in intensification of the past use which you got a credit for whether it had a C.O. or approval, or not.

Mrs. Crecco stated so when we discussed this a month ago and how to put this thing...

Mr. Miley stated yeah, that was already in there that was built in. That use was already given credit, whatever the parking calculation at that time you were provided with. That's how I determined the 7 deficient spaces. That was calculated as part of that entire calculation.

Mrs. Crecco stated I'm just wondering then why we asked for an interpretation if at that time...

Mr. Miley stated you asked for an interpretation of everything in totality of my entire interpretation of what I see through the records, if it's accurate or not. That's what I think you're asking for.

Mrs. Crecco stated right because, but we only saw the different of two spaces, not...

Mr. Miley stated right and that's why you're requesting from the Board, if they look at my determination, if they say its wrong, its wrong, if they apply credit to it, great, if they don't, they could even say its further deficient by 12 spaces, as Whitney just indicated, there may be another 5 spaces that I didn't calculate. This is the calculation that I came up with the available records I had at the time.

Mrs. Crecco stated so you come up with that, the Planning Board comes up with this?

Mr. Miley stated no, the Planning Board doesn't come up with anything, the Planning Board defers to the Building Inspector and based on what I had as far as information and the moving and storage was made part of my calculation so you did get credit for it.

Mrs. Crecco stated I'm at a loss to be lost to be honest.

Whitney Singleton stated I could explain my position for the Board.

Chairman Rose stated yeah, for the record, let's have it.

Mrs. Crecco stated I don't know where, how...

Whitney Singleton stated for the Board's benefit, if somebody is a preexisting noncomplying building and their noncompliance, we're always trying to achieve compliance, work towards compliance, if somebody is pre-existing noncompliant to a building, and they become more compliant or less noncompliant, they're getting to where they need to be. If somebody is required to have 10 parking spaces, I'm just taking, these are not numbers other than for illustration purposes. If somebody is required to have 10 parking spaces by today's standard that they were not required to have way back when and so they have a credit of 10 or they are noncomplying to the extent of 10 spaces and they decide to build 8 spaces on their site. Now they're only noncompliant 2 spaces, it does not afford them the right to go ahead and start changing uses or mixtures of uses or size of buildings or number of units or anything else to such the degree to allow them to go back up to a 10 space deficiency. When they had 8 spaces they were only 2 deficient, that's it, you don't count the spaces they built and give them credit for those in addition to the amount that they pre-date, they're one in the same number. So when this property had 5 spaces built and 20 were required, fine, they had 5 spaces built, and they were preexisting nonconforming to the tune of 8 spaces. They don't get to add the 8 and 5, the 5 are part of the 8 and they're still deficient 12 spaces and if they need a variance from this Board to leave the site as is, forgetting the other variances, just as to the parking. My interpretation would be that it's a 12 space deficiency, not a 2 space deficiency or a 7 space deficiency. Just like if you build a building closer to a property line than what was previously there, the fact that the property line moves doesn't allow you to further encroach into the side yard setback or the front yard setback, once you become more compliant, it doesn't entitle you to then become less compliant in the future. That's I think a pretty simple and widely accepted Zoning interpretation.

Mrs. Crecco stated okay, so, again we can't go back and forth on what we did for the last 12 months to prove that we didn't do a change of use at all, after that law was enacted and that we are operating off of an approved 1965 site plan, there has never been an issue with parking there ever, not once, in fact, there's usually empty spots there, we know that.

Chairman Rose stated except that its using a non-approved method of parking and very frequently there are more than 3 vehicles parked in the parking area.

Mrs. Crecco stated okay, so what would the Board like me to do?

Chairman Rose stated well I can say without getting into further discussion that I know the Board members are not going to approve a variance on parking that is excessive, whether the deficiency is 7 spaces or 12 spaces in the counsels opinion or only 2 spaces in your opinion, its deficient. And even though it may not be much use of the parking right now, any variance that we grant for parking goes with the property, that means any change perhaps even a lessening of the intensity of the use, from the retail to something else, the something else might have more traffic with it. With the current use there may be more traffic 5 or 10 years from now if he people using that become more prosperous and have cars. And so parking in particular is something that the Board is very hesitant to let slide in that way and its on a busy road.

Mrs. Crecco stated I don't know where to go from here because we don't agree with the parking calculation, there's a disagreement in that.

Chairman Rose stated well even if we agreed that the variance is 2 and not 7 or 12, I don't think this Board is ready to grant that, its totally in adequate as it is, what was approved was the layout for 3 cars and...

Mrs. Crecco stated based on an approved site plan from the Planning Board on the use that's there now, as it was back in 1965, they approved 3 parking, a site plan with 3 spaces. I'll make it 3 spaces, I'll take the lines out and make it 3 spaces, back to what the Planning Board approved, I bought the property based on approved site plan.

Chairman Rose stated but you didn't buy it with a C of O on all...

Mrs. Crecco stated no, you're right but that's where Peter comes in, we're getting everything up to Code, we're investing money in the building to get the property C.O.'s, in fact at one of the meetings you even offered that, actually with today's standards, I could either do more apartments or it was, whatever but agreed that I need a C.O. on them.

Whitney Singleton stated I think what, I don't mean to speak for the Board but just to hurry things along, I think what the Board is saying is to just waive 12 spaces, 7 spaces, 2 spaces in a site that has such a deficit of parking right now, that's maybe a place that they're not willing to go. Your site plan doesn't show any proposed parking in addition to what's currently there and I think...

Mrs. Crecco stated we don't have, you know we don't have room for it, that's why.

Whitney Singleton stated well if you take out structures that aren't supposed to be there, you would.

Mrs. Crecco stated that would give us what, 1 space Peter?

Mr. Miley stated I don't know the calculations.

Mrs. Crecco stated I mean roughly...

Mr. Miley stated it would certainly improve parking, yeah.

Mrs. Crecco stated it would give me, maybe 1, I've eyeballed it.

Whitney Singleton stated I might also point out with regard to the sufficiency of your application...

Mrs. Crecco stated the what?

Whitney Singleton stated as far as I can see you haven't addressed any of the principal arguments that are required to be made by law.

Mrs. Crecco stated which principal arguments?

Whitney Singleton stated that's really, there are principal arguments that you need to make with regard to your application, there's a balancing test by statute that you're supposed to address, and you haven't addressed any of it.

Mrs. Crecco stated the attorney Martabano came up with like months and months of law, addressed everything, it cost us 30 plus thousand dollars. That man wrote the law in this Town that I had to go to Albany to get, he knows the law, I don't know what more to do.

Whitney Singleton stated your conflating applications though.

Mrs. Crecco stated I relied on the law, I asked the Town for help, I don't know what more I can do, I don't have the money anymore for a big time attorney to speak your language. I have relied on help, little bit here and there that you've given me or suggested which you have and I thought we were making progress here but as of tonight, I am nowhere. So for me, I quite frankly don't really, I don't even know where to go anymore because it has been the most painful experience of my life, I mean this is unheard of. I'm so confused because I met with you, we spent a lot of time, I've met with the Planning Board, I did what everybody suggested I do, I hired the professionals to draw the plans, I hired the big time attorney to put together a stack, this isn't any, that's not new though what's going...

Chairman Rose stated but there's nothing on parking in any of those discussion...

Mrs. Crecco stated because there doesn't need to be because based on what the approved site plan in 1965 and I didn't bring my charts with me, the moving and storage company, the dental lab, it was approved with apartments and a house for 3 parking spaces. Here we are in 2016, nothings changed except now it's called a gift shop and...

Chairman Rose stated did you say it was approved for 3 apartments?

Mrs. Crecco stated it's not clear actually, it's not clear.

Chairman Rose stated well I think it is because there was Zoning Board hearing in 1970, in which the owner was specifically asked to describe the property and it was described as a property with 3 apartments...

Whitney Singleton stated and 2 shops.

Chairman Rose stated 2 shops and a dental lab and I forget what the other one was.

Mrs. Crecco stated okay, so 1970...

Chairman Rose stated yup.

Mrs. Crecco stated I have to look into it, I have to look into the pile at home to see if I have knowledge or information about that. Otherwise, where do we go from here?

Whitney Singleton stated so just picking on where the Chairman left off, the uses that have migrated over time at that site, have doubled the required parking.

Mrs. Crecco stated I disagree,

Whitney Singleton stated okay, okay...

Mrs. Crecco stated okay.

Whitney Singleton stated but do we agree that it went to, do we agree that it went from whatever uses you're talking about to an antique store.

Mrs. Crecco stated oh yeah, to a what?

Whitney Singleton stated antique store, the whole space was an antique store.

Mrs. Crecco stated at one time there was an antique, I don't remember off the top of my head, I have to look back in the file...

Whitney Singleton stated okay, semantics...

Mrs. Crecco stated there was a dental lab, there was a church.

Whitney Singleton stated but the antique was the most recent, they're parking requirements are 1 space per 300 square feet, you're parking space for the whole building on the first floor is 1 space per 150 [square feet], you have doubled the level of intensity, just of the first floor. Not to mention the increase in the apartments.

Mrs. Crecco stated why is there a change of use from an antique store to a gift store.

Whitney Singleton stated because one of the things that trigger a change of use is where the associated parking requirements are increased. 110-38, is right in there.

Mrs. Crecco stated I don't remember when the antique store came in, if it was before or after your change of use, went into effect.

Whitney Singleton stated the change of use was applicable at all times.

Mrs. Crecco stated no.

Whitney Singleton stated yes it was.

Mrs. Crecco stated that code got written in this Town in the '80's.

Whitney Singleton stated the...

Mrs. Crecco stated yeah, the change of use code.

Whitney Singleton stated the antique store was in the 90's and the 2000's. it immediately proceeded, it was there 10 years ago, 15 years ago.

Chairman Rose stated did the antique store immediately follow the Marshall van and storage.

Whitney Singleton stated no.

Chairman Rose stated or was there something else in between.

Whitney Singleton stated yeah, and its just intensified over time.

Mrs. Crecco stated alright. So, according to the tax records in '54, well again we can't go on tax records here, I was told but the Apple Antiques is a retail store, and the current store is a retail store.

Whitney Singleton stated no, that's incorrect, Apple Antiques is a retail sale of bulk household items, dressers, furniture, rugs, they have a different parking requirement.

Mrs. Crecco stated not what I have here, its says retail, that's what we were taxed at.

Whitney Singleton stated retail sale of bulk household items.

Mrs. Crecco stated before the antique store it was typewriter store, sales and service, we definitely, retail since '69, it's been.

Chairman Rose stated what are you referring?

Mrs. Crecco stated the change of use was adopted in '84, the antique store went in, in 1979.

Whitney Singleton stated there's a big difference between Dollar Stores which are retail and piano stores which are retail.

Mrs. Crecco stated it wasn't a piano store.

Whitney Singleton stated what's that? The point is those are opposite ends of the spectrum. We have different parking requirements for high turnover, high traffic retail versus low turnover, big bulky items like antiques.

Chairman Rose stated and at some point, the 2 apartments in the main building became 4, that was never addressed in any site plan.

Whitney Singleton stated right.

Mrs. Crecco stated yes it was, to the Planning Board. We did all of the work for it, we had the architect put together...

Chairman Rose stated oh, you mean right now.

Mrs. Crecco stated no, this was in the spring and summer when this Board told me to go to the Planning Board, I hired an architect to redraw the entire building...

Whitney Singleton stated right but you need to show the parking for it which you're now showing.

Mrs. Crecco stated that's because the approved site plan said there were stores and apartments above, so they were already there.

Whitney Singleton stated different stores and different number of apartments.

Mrs. Crecco stated but that's not clear.

Whitney Singleton stated we're getting circular, what?

Mrs. Crecco stated its not clear on the Planning Board approval from 1965 and there has been confusion in the records as to exactly how many were there and when. This Town has not shown specifically evidence of how many in 1965 versus 1970 and the Planning Board approval just says apartments above retail, so.

Mr. Miley stated you're requesting clarification, number 2, Chair, I think that's number 2, about the previous site plan approval, for the tenants and owner.

Chairman Rose stated that's the only site plan that was found, is that correct?

Mr. Miley stated that is correct.

Chairman Rose stated hand drawn without any, not done by an engineer...

Mr. Miley stated it was approved by the Planning Board.

Chairman Rose stated but it doesn't show that concrete structure?

Mr. Miley stated I would have to look at it again, I don't recall.

Chairman Rose stated you don't recall.

Mr. Miley stated its actually in your packet, it illustrates the 3 parking spaces, if you don't have it...

Chairman Rose stated there's this parking plan, this is the only thing that's represented to be the site plan. It doesn't show the open land, I mean it shows open land where that concrete structure is, I don't know why there should be electrical equipment in there...

Mrs. Crecco stated show me where you're looking.

Chairman Rose stated right here, between the house and the building.

Mrs. Crecco stated the service must have been upgraded way back when because right here where that concrete structure is, that's, there's a whole room in there of services.

Chairman Rose stated underneath the terrace?

Mrs. Crecco stated correct.

Chairman Rose stated that may have been put in when this house was built, but the, it doesn't explain why there would be an additional concrete structure there.

Mrs. Crecco stated its actually, there's a door, you have to walk into the concrete structure, you turn and you open another door and there's a separate room.

Chairman Rose stated in any case, I think our point is that the sole site had lots of thing happen without any...

Mrs. Crecco stated I totally agree with you but we've down this road and we agreed with the Board, we'd take off the deck, we would take out this, we've been doing all the things that have been talked about and discussed. I agree with you, there was a lot but we've come do far, can't get to a, like okay guys check, check, check. Now where do we go? I'm not hearing that.

Whitney Singleton stated and one of those checks was to provide parking. That's what the resolution of approval states.

Mrs. Crecco stated I guess when our architect met with the Building Inspector and was you know, I told my architect whatever Peter asks for, let's get it right, we're trying to work here, so either he hugely missed something or...

Mr. Miley stated Liz, my job is to help them design so its to be submitted...

Mrs. Crecco stated in the right form. I'm not putting it on you that, I'm not putting it on you that way.

Mr. Miley stated okay, I can't, my interpretation is based on what's in the file, it's the Board's decision whether or grant the variance, I can't tell them how much parking you need, only what's required.

Mrs. Crecco stated no, I understand, I'm not suggesting you told him the wrong information. Again, I just rely on my professional who I pay...

Mr. Miley stated he actually prepared an application that's exactly what you're requesting as far as interpretation, based on the memo and the deficiency in parking and the request...

Mrs. Crecco stated so he put the parking on the plan...

Mr. Miley stated correct.

Mrs. Crecco stated but he just didn't put what 20 spaces...

Whitney Singleton stated correct.

Chairman Rose stated he put 3 spaces, well the 5 spaces because 2 were in the house and then 3 in the front.

Mrs. Crecco stated and at one of the last 2 meetings, one of the Board members said 'well Liz, can you put some parking over here?' and I said well first of all, this is like a retaining wall and you know, no but maybe we could put something on here but there's a utility pole, we couldn't do that, we did discuss this here as far as knowing not only that but from a feasibility standpoint. Coming up with the money to hire a sprinkler contractor to design a plan and then get it done, we're a loss here, we're at a big loss, 2 years into

it. I guess I'm asking for some relief, or work with me, or give me something, some good faith after 22 months I get rewarded for trying.

Chairman Rose stated we are giving you suggestions.

Mrs. Crecco stated I'm not getting anything though, as of today I have nothing.

Chairman Rose stated well we already told you...

Mrs. Crecco stated I really don't have anything.

Chairman Rose stated that the Board is not about to grant the relief requested for parking and we've discussed why, the site itself has a lot of space on it and it would be up to architect and engineer to determine what uses can be retained and supported, what modifications might have to be made, maybe the house in back needs to come out entirely to allow more parking to go in.

Mrs. Crecco stated entirely? I have a loan to the bank, I pay a mortgage on the burned down house. When I bought the land and title company did the search, none of this came up. I'm paying a mortgage on a burned down building, I can't not rebuild this building.

Chairman Rose stated that is not something that the ZBA can address. We're talking about whether the site as used and as drawn up is something that we can grant variances on. So I would...

Mrs. Crecco stated so, do I, what happens tonight?

Chairman Rose stated we're not making an formal determinations because we know that there are questions as to the timeliness, maybe we can work around that but there definitely a major question on the parking and...

Mrs. Crecco stated is there any other questions outstanding on this property besides the parking? I'm asking before I come back again, is there anything else outstanding besides the parking?

Whitney Singleton stated zoning related?

Mrs. Crecco stated for this Board to make a determination.

Whitney Singleton stated well if you're taking out the other building.

Mrs. Crecco stated the concrete structure?

Whitney Singleton stated that negates a couple of...

Mrs. Crecco stated they didn't seem to care the last time I was here, the one woman that was here, like this...

Whitney Singleton stated right but you've been storing mattresses in there.

Mrs. Crecco stated no, my tenant has and we agreed...

Whitney Singleton stated well that's your building.

Mrs. Crecco stated and we agreed at the last meeting I would put a pad lock on it, after my fire inspection work is done, I'm sprinkerling everything, I'm doing all sorts of work there, so we agreed we'd put a padlock on it, one of the Board members seemed quite open to that. We don't want him storing mattresses in there, so...

Whitney Singleton stated they have been since you were last here.

Mrs. Crecco stated okay but the padlock's not on, I've been in and out with contractors, the padlock is not in yet but we told the Board if, if we have to take it down, we'll take it down, if not, we'll padlock it but the fact that it happened in between, it did...

Whitney Singleton stated I think there's also errors in your application, I would go back and check your zoning calculations on your worksheet, I don't know how you could only have 190 square feet of impervious surface when you have a walking paths and parking areas. One parking space is 200 square feet. How does your zoning calculations show anything accurate...



Mrs. Crecco stated I mean honestly, that was over the summertime when the architect did the site plan, so off the top of my head to comment on...

Whitney Singleton stated I'm just saying I'd verify its accuracy. I would be happy to prepare for the Board an analysis of the submissions, I do think that the applicant timely submitted if that application was submitted in June as you state, the question is what relief was sought at that time. So long as the relief that was sought at that time is not different than the relief that's being sought in October, I don't see any time bar. I'll prepare a memo for.

Chairman Rose stated okay.

Mrs. Crecco stated so wait, let me just get this straight, so you're going to prepare an analysis...

Whitney Singleton stated in other words, if you asked for doughnuts and cookies in May, and now you're asking for doughnuts, cookies, you know, cider and sprite, I can't have the cider and sprite incorporated all the way back to your timely application. I have to look to see what your application was in June versus your application in October.

Mrs. Crecco stated well we had one in September.

Whitney Singleton stated no, you didn't. You have one in June.

Mrs. Crecco stated didn't we make one in September.

The Secretary stated you made...

Mrs. Crecco stated an application.

The Secretary stated you made an application in May and then you asked me to hold it, then you made another application in June for the July meeting which was...

Mrs. Crecco stated adjourned until August.

The Secretary stated adjourned until August because there was no quorum.

Mrs. Crecco stated came here for August...

The Secretary stated yup and the you missed September...

Mrs. Crecco stated I didn't miss September.

The Secretary stated you were at September?

Mrs. Crecco stated no...

The Secretary stated okay.

Mrs. Crecco stated I didn't become because the August meeting I came, we had a lovely discussion but I was told you maybe don't want to go to vote tonight because there's only 3 people here. And then in the interim the Fire Marshall and maybe Mr. Miley, wrote a letter to the Board, I hadn't seen it, I hadn't had time to respond to it, prepare for it and I was told when I went to the Town I couldn't get a copy of it, I had to wait.

Whitney Singleton stated you requested to be pulled from the agenda because you didn't have a chance to review, got it.

Mrs. Crecco stated right.

The Secretary stated and you weren't here last month because you were preparing your application.

Mrs. Crecco stated well, no, we missed September, October, right. I don't remember now but...

Chairman Rose stated okay, so counsel will prepare a memo as describe and I will ask Peter to take another look at what we do have, what they've submitted just to make sure there's nothing else.

Mr. Miley stated well if its different, this is an important question, if my calculation is now different, what would that require the applicant to do, refile another application? Asking for a determination or interpretation?

Whitney Singleton stated I think they're already...

Mr. Miley stated I want to be clear here what you're looking for.

Chairman Rose stated well for instance, apparently they have come up with a requirement of 18 spaces which differs from the 20 that you come up with...

Mr. Miley stated right.

Chairman Rose stated so that would be...

Mr. Miley stated that's what's being challenged.

Chairman Rose stated so, well, unless they can...

Whitney Singleton stated why don't Peter and I corroborate in writing to the Board, that would probably be best.

Chairman Rose stated they should ask, the architect maybe wants to speak to the Building Inspector to see why there's a difference.

Whitney Singleton stated in the interest and you can tell, you can obviously say no to me, in the interest of time, I personal don't have any, or professionally, I don't have any reservations about sharing that memorandum with the applicant.

Chairman Rose stated that would be fine.

Whitney Singleton stated okay.

Chairman Rose stated that would be absolutely fine.

Mrs. Crecco stated let me ask the Board a question, at the end of all this, God knows, the next month or two, you're asking me to add 15 spaces, something like that...

Mr. Miley stated I don't think they're asking you do anything, they can't request, the application was based on as-built, what's currently there and then your application was seeking clarification of a prior Planning Board approval and currently what's there and my determination based on the parking calculation. So really no improvements have been done, those are as-builts, what's there today, as you purchased it. Our determination, or my determination is based on the records in comparison to what the as-builts are and that's where the difference is, and that's where you're seeking, I believe you're seeking clarification and interpretation of what I prepared in my memo. In addition to highlighting some of the areas like the concrete structure and some of the other stuff that was...

Mrs. Crecco stated to come out, which we agreed to.

Mr. Miley stated I can't tell you to take it, I'm just going Liz, based on the application that submitted as as-builts, no improvements, that way it is today.

Mrs. Crecco stated so you haven't made your interpretation then?

Mr. Miley stated no, I did.

Mrs. Crecco stated okay, so then what more is there to do?

Mr. Miley stated that's what your application was based on, my interpretation, that's the essence of your application...

Mrs. Crecco stated and yet its asking for clarification.

Mr. Miley stated its asking for clarification on 2 things.

Mrs. Crecco stated right.

Mrs. Miley stated one is based on my calculations, whether I'm right, wrong, do I owe you credit, do you owe me credit, I don't know, this is my interpretation, you're asking the Board to clarify and/or make an interpretation on what I provided to the Board. Number 2, is the second part you asked for an interpretation or clarification of an ambiguous Planning Board approval as you see it.

Mrs. Crecco stated and so that...

Whitney Singleton stated and ultimately this Board will substitute its judgement for that of the Building Inspector. They will either say he was right on the mark, they agree with him substantially but disagree with him on this or her was crazy or whatever they happen to say in reviewing everything but their job is appellate so they are going to review what his interpretation is and either agree with or disagree with it.

Mrs. Crecco stated so what do I do next?

Whitney Singleton stated frankly that's not for us to tell you what to do.

Mrs. Crecco stated no, I mean if you're not making a decision tonight, do I reapply or do I want to hear back from somebody?

Whitney Singleton stated you will hear from Peter and me before the next meeting, hopefully substantial, I don't know when the next meeting is.

The Secretary stated the Chairman was talking about changing the meeting, currently is scheduled for December 20<sup>th</sup> but he had talked about changing it to a week earlier.

Whitney Singleton stated that would certainly help me.

Mr. Boxer stated I can't make it the 20<sup>th</sup>.

Chairman Rose stated I can't either.

The Secretary stated you had discussed potentially December 15<sup>th</sup>, which is a Thursday, as an option, if anybody is available.

Whitney Singleton stated that works for me.

Chairman Rose stated that works for me.

Ms. Lapple stated I'm up in the air, I have [inaudible] school, sometimes it gets cancelled.

The Secretary stated I know that Barbara is not available, so.

Chairman Rose stated she may or may not, I think.

The Secretary stated she wasn't when I sent the email. It's a Thursday, the calendar is behind Whitney.

Ms. Lapple stated Thursday.

Chairman Rose stated that would be 4 weeks from tonight. Would you be available?

Mrs. Greenberg stated not at 7:30 but I can come as soon as I can come.

Whitney Singleton stated do you have any other applications?

The Secretary stated I have 2 applications that have to notice, so I have to let them know as soon as possible so they can get their notice into the paper.

Mr. Boxer stated you're looking for the 15<sup>th</sup>?

The Secretary stated yes.

Mr. Boxer stated I'm okay for the 15<sup>th</sup>.

Chairman Rose stated is there another day of the week that works?

Ms. Lapple stated the 14<sup>th</sup> is fine, 13<sup>th</sup> is fine.

The Secretary stated unfortunately the 13<sup>th</sup> is Planning Board and the 14<sup>th</sup> is ARB.

Mr. Boxer stated yeah, I can't make it the 14<sup>th</sup> or the 12<sup>th</sup>.

The Secretary stated the 21<sup>st</sup> is ARB, otherwise you're looking at the following week and if we move it up, there's not enough time for notice to let people know to get it into me.

Chairman Rose stated what about the 14<sup>th</sup>.

The Secretary stated I'll have to check that there's nothing else.

Chairman Rose stated you can't do that but you can do the 15<sup>th</sup>.

Mrs. Boxer stated yes.

Mrs. Crecco stated so again, somebody is going to call me and contact me to let me know what I'm supposed to do next since nothing happened tonight, correct? Whether it means coming back here next month for whatever meeting you're talking about.

The Secretary stated somebody will be in contact with you, yes.

Chairman Rose stated well what certainly has happened we have determined that regardless of whether the count of 18 or 20 required and the number of credits is one thing or another, I know it would be fruitless to take a vote on that part because parking is just inadequate. The only ways to address that are to take a fresh look at the site and come up with more parking, so that if there's a variance needed that its less then what is needed now. Or to eliminate some uses that cause the increased parking load. Clearly the space requiring 1 parking per 150 square feet, is about as intense as it ever gets I think, under the parking code, of course that is what it is, other uses would involve reduced parking but other than that, it's a problem. Clearly the Planning Board is not going to approve anything unless we approve a given variance in the required parking. Personally, I'm not going to say one way or the other but it would seem to me that the nonconforming building is what should come out to make more room on the site, if you have to have the parking for the retail area.

Mrs. Crecco stated that's not a problem but I know its very tiny, as you mentioned there's some mattresses in there, figure a mattress up against a wall, it's a car.

Chairman Rose stated I don't mean that space, I mean the house which is also nonconforming.

Mrs. Crecco stated no, its impossible, it's not possible, it's just not possible. I owe too much money on that house, the house has to get built, I need the rental income, this can't be that you don't get to rebuild after 2 years and almost \$100,000 worth of excellent lawyering and cooperation from the Town, it can't be that it was for naught, its impossible.

Whitney Singleton stated you can take out apartments in the front building.

Mrs. Crecco stated I can take out apartments?

Whitney Singleton stated yeah.

Mrs. Crecco stated just like that, I can take out apartments?

Whitney Singleton stated to satisfy, like the Chairman said you can reduce...

Mrs. Crecco stated except the fact that for years and years the Town has agreed on tax records that we had apartments up there, at one point in time, just an FYI, the Town actually subsidized 4 apartments up there, that actually happened back in the '70's, so the Town acknowledged there are 4 apartments. But you can't look at that I know, and you can't look at tax records, we've built our case, we've shown there's been these apartments, its been this way forever but certain things I can't bring to this Board to talk about because they are not things the Board cares to talk about. Its my own investigative reporting but it doesn't hold any weight, so I'm screwed because I bought a property and I did all these things, the house burnt down, too bad, it doesn't seem right. I don't want to talk about taking the house down, I want to talk about how can we rebuild the house, what do we really need to do, I just want to hear it, tell me what I need to do to rebuild the house, specifically.

Chairman Rose stated we did tell you, it was all, it was in the...

Mrs. Crecco stated so you want me to give you a site plan showing parking, I mean...

Chairman Rose stated it was in the ZBA resolution.

Mr. Miley stated I think you're asking the Board for something they really can't recommend Liz. I think what you should do is come see me and I can show you, obviously I can't prepare the application for you but I can show you areas of improvement to help reduce the variances, I can help you with that...

Mrs. Crecco stated including, meaning parking.

Mr. Miley stated take out the concrete structure and that will reduce 2 variances, I can help you in that manner.

Mrs. Crecco stated okay, so but parking you mean.

Mr. Miley stated the Board can't. In totality, your whole application.

Mrs. Crecco stated right but the biggest thing for me is parking.

Mr. Miley stated correct, but there's certain ways, like the concrete structure, it may be you one spot but its one spot you don't have.

Mrs. Crecco stated yeah, I agree with you but I mean we're talking about trying to get it to 20.

Mr. Miley stated but you're asking the Board to tell you exactly what they want, which is not...

Mrs. Crecco stated inappropriate, I understand, I'm sorry my frustration has come across, it's been a long 2 years.

Mr. Miley stated but I'd be happy to sit with you and go over it and I can help you prepare the site plan and this, I'm not going to speak on behalf of the Board but they're not talking action until you improve something.

Mrs. Crecco stated okay...

Ms. Lapple stated you also realize that we don't...

Mrs. Crecco stated the Board should know that I have been trying to improve.

Ms. Lapple stated we know that.

Mrs. Crecco stated I really have.

Ms. Lapple stated we know that, it's hard not to be able to help in other ways, we understand, we have our own constraints, so know that.

Mrs. Crecco stated thank you.

Mr. Miley stated the building code issues and the fire marshal stuff, they don't have to be concerned about, that's stuff that I work out.

Mrs. Crecco stated no, that I know they don't care about but yet it has come up here because you know, it comes up in conversation, well Liz, its dangerous you had a fire, well I know but we're doing everything we can to prevent it.

Mr. Miley stated they don't even need to opine...

Mrs. Crecco stated hear about it.

Mr. Miley stated I just, its my responsibility to make sure the building is safe, so.

Mrs. Crecco stated alright, thank you.

The Secretary stated Liz, your coat. You have minutes from October.

**Minutes**

Chairman Rose stated we have minutes from October 18<sup>th</sup>, there are 3 of use here. Kim and Harold.

**Ms. Lapple stated motion to approve the minutes from October.**

**Chairman Rose stated October 18<sup>th</sup>.**

**Mr. Boxer seconded the motion.**

**Chairman Rose asked for all in favor. The motion carried by a vote of 3 to 0. Mrs. Greenberg is abstained.**

Chairman Rose stated and do we need to make a motion, we will, I guess you better poll the Board for December 15<sup>th</sup>...

The Secretary stated I will send another e-mail.

Chairman Rose stated we know that at least 2 of us can't be here on the 20<sup>th</sup>.

Mr. Miley stated I'm available any day, so.

Chairman Rose stated thank you.

Ms. Lapple stated the 15<sup>th</sup> is the only day I can't be here.

Whitney Singleton stated I won't be available any time after the following week. I'm going to Australia to visit my daughter.

Chairman Rose stated after the 15<sup>th</sup> you mean.

Whitney Singleton stated I'm leaving the 18<sup>th</sup>, so the 14<sup>th</sup> or 15<sup>th</sup> are fine with me.

Chairman Rose stated 14<sup>th</sup> or 15<sup>th</sup> would work for some of us but not everyone.

The Secretary stated and you have our 2017 meeting schedule, if everybody could just review that, in hopes of movement next month.

Ms. Lapple stated can we close this?

Whitney Singleton stated for purposes, go ahead.

Ms. Lapple stated can I say it?

Chairman Rose stated yes.

Ms. Lapple stated motion to close the meeting. Mr. Boxer second the motion.

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

The meeting adjourned at 9:02 p.m.