

Village/Town of Mount Kisco
Zoning Board of Appeals
Minutes of September 22, 2016

Members Present: Don Rose
Harold Boxer
Barbara Richards
Kim Lapple

Members Absent: Dan Guyder

Staff Present: Alex Salvato, Board Counsel
Peter J. Miley, Building Inspector
Michelle Lailer, Secretary

Chairman Rose called the meeting to order at 7:35 p.m.

Chairman Rose stated good evening ladies and gentlemen, small audience, not too much opposition. The agenda if you have printed is actually much longer than the evening will be because we have two cases requested adjournments. First on the list is approval of some past minutes...

The Secretary stated it should be July 28, 2015.

Chairman Rose stated 2015 yes, I was going to mention that. February 25, 2015, July 28, 2015 and August 16, 2016. Michelle has gotten us up to date and just filling in a couple of gaps, I think.

The Secretary stated you're up to date.

Chairman Rose stated just about done.

The Secretary stated you are done.

Chairman Rose stated that does it.

Mr. Boxer stated so we should not have any more meetings, so she won't have any more minutes.

Mrs. Lapple stated good idea.

Ms. Richards stated that's okay for us but not for everybody else.

Chairman Rose stated let's do them as group unless there are changes or additions that anyone...

Mr. Boxer stated we can't do them as a group because I have to abstain because I was out for one. Then do we have a quorum?

Ms. Lapple stated I was out for two...

Ms. Richards stated I can't vote on the Timber Ridge one.

Mr. Boxer stated I was not there for February 2015 and Kim was absent was July...

Ms. Lapple stated and August.

Mr. Boxer stated and August, that's right, you have summers off.

Ms. Lapple stated ha ha, stop.

Chairman Rose stated we have a quorum for the 25th, let's do them one at time then. Motion for the minutes of February 25, 2015.

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

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

Chairman Rose stated and now July 28, 2015.

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

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

Ms. Richards stated and last month.

Chairman Rose stated and August 16, 2016, which we got as an e-mail and I guess there are hard copies.

The Secretary stated yes.

Chairman Rose stated is there a motion?

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

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

Chairman Rose stated okay, we will now proceed with the returning case, Eugene and Stacey Mun, 11 Parkview Place, Case ZBA16-10.

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

Case# ZBA16-10

Mr. & Mrs. Mun were present.

Mrs. Richards stated it's the approved site plan, right...

Chairman Rose stated yeah.

Ms. Richards stated oh and the title.

Mr. Martabano stated that's your attorney.

Ms. Lapple stated that's a ploy for...

Ms. Richards stated that's not fair.

Mrs. Mun stated no babysitter, sorry.

Mr. Martabano stated you better let me borrow him.

Ms. Richards stated oh my god.

Chairman Rose stated there's no bartering here.

Mrs. Mun stated you can take him.

Mr. Boxer stated I'm sure, I'll trade you him for my granddaughter.

Mrs. Mun stated why?

Ms. Richards stated oh m god, he's so cute.

Ms. Lapple stated is this going in the minutes?

The Secretary stated oh yeah, it'll be in the minutes.

Chairman Rose stated I think we had covered most everything.

Ms. Richards stated is this for that?

Chairman Rose stated we actually have a draft resolution...

Mr. Boxer stated it was just a question of what the easement covered.

Chairman Rose stated subject to things and thank you for providing the full plans because that's what we need to have a point of reference for granting the variance which just to refresh people's memory is...

Ms. Richards stated to demolish the existing garage, front porch and rear deck and build a new addition.

Chairman Rose stated in the letter is said 8 feet 2 inches, it actually, there is an 8 foot easement, I'm sorry. The building is 10 feet, or 8 feet 2 inches from the lot line and so the requirement is 10 feet, therefore the variance is 1 foot 10 inches, which is in this condition with no neighbor to the north side is really not an issue. The issue that you should be aware of is the easement which apparently is to the New York State Parkway Authority so...

Mr. Boxer stated if they wanted to put a new entrance in, they can come by but it's been around for so long, I don't think they're going to do anything.

Chairman Rose stated probably not, I mean but...

Mr. Boxer stated how close are you to the parkway?

Mrs. Mun stated it's in our backyard.

Mr. Boxer stated but the entrance is not anywhere near...

Mr. Mun stated no.

Chairman Rose stated the entrance is up the street, the one entrance is up the street, other is on the other side of 133. So, other than that I believe that you had already been to the Architectural Review Board, or has that not been done yet?

Mr. Mun stated that has not been done yet.

Chairman Rose stated that has not been done, okay. I suspect that they might be waiting for us. Does anyone have a question?

Ms. Richards stated I think its fine.

Chairman Rose stated Kim, you weren't here.

Ms. Lapple stated no.

Chairman Rose stated and I do have one comment and Peter, you might like to comment on this too. I guess with the existing garage and with the reconfiguration, you probably have to back cars out onto the street, is that right or do you back on to the lawn and make a K-turn.

Mr. Mun stated I usually just back into the driveway.

Chairman Rose stated oh okay.

Ms. Richards stated so you can pull out straight.

Mr. Miley stated it is a pre-existing condition prior to our zoning code establishing the requirement to no longer be able to back in and out.

Chairman Rose stated does that technically require a variance?

Mr. Miley stated on a pre-existing condition, no, they had a garage there that would...

Chairman Rose stated even though the garage would be moved and brought closer to the street?

Mr. Miley stated that's a good question.

Chairman Rose stated I don't think we have any trouble granting it as if it were...

Mr. Miley stated preexisting condition was there prior to, the enlargement of the garage I don't think triggers the requirement to change the entire driveway.

Chairman Rose stated okay.

Mrs. Mun stated what is the requirement?

Ms. Richards stated you're not allowed to back out...

Chairman Rose stated the general requirement is that you're not allowed to have a situation where you have to back across a public sidewalk or into a public street.

Mrs. Mun stated that's everybody?

Ms. Richards stated yeah, now.

Mr. Boxer stated I do that all the time.

Mr. Miley stated I do it at my own my house too.

Chairman Rose stated if this were presented as a brand new house on this lot then...

Ms. Richards stated you'd have to provide some kind of turn around...

Mrs. Mun stated oh okay.

Chairman Rose stated you'd have to do something with the driveway to make a turn around area and its very tight, I don't think you, you don't have the room unless you start going into the front yard.

Ms. Richards stated yeah because those that are already there.

Chairman Rose stated has anyone looked at the condition in the draft? There might be just the standard...

Ms. Richards stated there are no conditions but we already do have all the five factors because I think we went through them last time. Only for the plans, no increase in the nonconforming rear yard...

Chairman Rose stated is that a nonconforming rear yard or is that referring to the wrong setback.

Ms. Richards stated side yard, it should say.

Chairman Rose stated I think so.

Ms. Richards stated I think, he just...

Chairman Rose stated I think he borrowed from another source. That happens.

Ms. Richards stated alright, we'll have it change, we'll have him change that. Did you hear that?

Mr. Salvato stated yes.

Laughter

Ms. Richards stated but I think its fine.

Chairman Rose stated we'll have to determine from the minutes, perhaps...

Ms. Richards stated did we actually...

Chairman Rose stated did we actually vote?

Ms. Richards stated Harold, do you remember, did we actually vote?

Chairman Rose stated I think we didn't because we really couldn't refer...

Ms. Richards stated I don't think we voted but we did go through everything up to that point, I believe.

Mr. Boxer stated yeah, that's why its blank next to the votes.

Chairman Rose stated yeah and just for the record, Alex, the resolution should refer to this set of...

Mr. Salvato stated the side yard instead of rear yard, I got it.

Chairman Rose stated but it should also refer specifically to these plans, identify the actual drawing.

Mr. Salvato stated those were the ones that were submitted for this meeting?

Chairman Rose stated yes.

Mr. Salvato stated yes, they'll be integrated.

Chairman Rose stated and otherwise I think there's no other landscaping or kind of...

Ms. Richards stated no, everything I think is fine. I make a motion to approve it as per this resolution with the correction to read side yard.

Ms. Lapple stated I second it.

Chairman Rose stated and referring to the...

Ms. Richards stated referring to the current drawing.

The Secretary stated did you close the public hearing?

Ms. Richards stated what?

The Secretary stated did you close the public hearing?

Ms. Richards stated oh, sorry.

Mr. Boxer stated I move to close the public hearing.

Ms. Richards stated I make a motion to accept it as per the resolution...

Mr. Boxer stated no, no, we have to vote on that first.

Chairman Rose stated we have to vote on that.

Mr. Boxer stated you have to second my motion.

Ms. Richards stated okay, second.

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

Mrs. Mun stated yay.

Ms. Richards stated now...

Mr. Boxer stated now the resolution.

Ms. Richards stated as I said before, I make a motion to accept the resolution with the correction as to the side yard setback and noting the current new drawing including, do you have the drawing number? It just says A-1.

Chairman Rose stated drawing dated September 9, 2016.

Ms. Lapple stated second.

Chairman Rose stated by the architect.

Ms. Richards stated okay.

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

Mr. Boxer stated you got it. Have another set of plans.

Ms. Richards stated is this the same plan? Is that it, there you go. You might need them.

Mr. Mun stated thank you.

Mrs. Mun stated thank you so much.

Ms. Richards stated can I borrow that baby?

Ms. Lapple stated what's his name?

Mrs. Mun stated Mattias.

Mr. Boxer stated nothing can help you, Charlie.

Chairman Rose stated the baby could be a mascot.

Ms. Richards stated the baby is so cute.

Chairman Rose stated what would think of having the baby as a mascot because that can sooth...

Ms. Richards stated hi baby.

Mr. Martabano stated when you guys approve it, he was smiling, he was laughing, it was perfect.

Mr. Boxer stated I'll bring my grand daughters, I'll soon have two of them, we can put them here.

Ms. Richards stated how old?

Mrs. Mun stated he's six months now.

Ms. Lapple stated its past bedtime, huh?

Mr. Mun stated yeah, he's tired.

Mrs. Mun stated thank you for putting us first.

The Secretary stated no problem, have a good night.

Chairman Rose stated make it smaller?

Ms. Richards stated yeah.

Chairman Rose stated that is pretty small.

Ms. Richards stated make it just a little smaller so you don't need a variance.

Mr. Boxer stated I have no idea.

Ms. Richards stated is that next or is that the other one?

Chairman Rose stated the next item on the agenda is returning case Elliot Kracko, 35 and 39 Kisona Road.

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

Case# ZBA16-8

Mr. Charles Martabano, Esq. and Mr. Scott Blakely were present.

Mr. Martabano stated pretend I'm holding a really cute baby.

Ms. Richards stated nope, sorry, nope.

Ms. Lapple stated it will help.

Ms. Richards stated no babies for you.

Mr. Martabano stated okay.

Ms. Richards stated she, I think is a neighbor of this.

Mr. Martabano stated what's that?

Ms. Richards stated never mind.

Mr. Martabano stated she's actually one of the building owners.

Ms. Richards stated oh, of Kiskonca?

Mr. Martabano stated Mr. Carbone is also from Kiskonca as well.

Ms. Richards stated okay.

Mr. Martabano stated okay, just by way really quick review, we appeared before you and gave a full presentation on June 21st, at that time though, you couldn't act because the plans that we reviewed with you were actually slightly different than the plans that had been filed with you. So we had to re-notice the meeting, which we did for August 6th but unfortunately, it was August 16th, but unfortunately the Reporter Dispatch did not properly publish the notice so we adjourned and while we were adjourning, Peter made a different determination with respect to the storage building, so we revised the plan again. So we're really coming to you now with a plan that is now our final plan, which we're going to review in detail with you, there's not a lot of changes but there are a couple of really important changes on it. In terms of the factors for the variances, they've pretty much remained the same, one change is that now the site development coverage which was previously requested at 83%, is now at 85% for the reasons we're going to show you. So we'll ask Scott to just show you the changes between what we reviewed with you previously and now, and then we can discuss the specifics.

Mr. Blakely stated Scott Blakely...

Ms. Richards stated you know where this is.

Mr. Martabano stated oh, were you here, because if not...

Ms. Lapple stated I think I was here in June, I was here in June, I'm working really hard to remember because I did go by it.

Mr. Blakely stated Scott Blakely with Insite Engineering. As Charlie mentioned when we were before you last this was the plan that was presented which includes the existing building which is located here. The previous proposed building addition which was an infill on this corner and then we had a free standing storage building...

Mr. Martabano stated these are the existing conditions.

Ms. Richards stated okay.

Mr. Martabano stated go ahead, sorry.

Mr. Blakely stated the modifications that we've made to the plan based on stipulation in the Code, under your supplementary regs...

Mr. Miley stated yes.

Mr. Blakely stated that states that this Zoning Code does not permit an accessory building in this zone, so the modifications that we made based on the determination from the Building Inspector, was to change the shape of this building. This free standing building and attach it to the proposed addition which is this. Same square footage, 2,000 square feet, we're created an L-shape, and we have a 10 foot connection from this two story addition to this one-story storage building. And I think as the Board's aware, the SC zone does not permit outdoor storage for this type of use and the storage will be totally contained within the large building and this will be used for bulk items, bagged concrete, mulch and peat moss and things here, that's very easy for a customer to come over and pick up.

Ms. Richards stated so...

Mr. Martabano stated now, I'm sorry.

Ms. Richards stated is this hardware, is that going to be hardware?

Mr. Martabano stated it will be hardware.

Mr. Blakely stated its going to be paint hardware and lumber, their current business is located at 105 Kisco Avenue.

Mr. Martabano stated the old LB Richards building, that's theirs...

Ms. Richards stated yeah, yeah, I know where it is, yeah.

Mr. Martabano stated and they're moving that business over to here but while there they're able to store outdoors. Here they have to store entirely indoors which is one of the reasons why we need the variance in terms of the size of the building because that's the restriction under the Code about 20,000 square feet because all of our storage, even though they allow this use, they don't allow outside storage. It's a very unusual and perhaps even an oversight.

Mr. Blakely stated one of the other modifications that we've made was to work with the Planning Board to create a one way access system...

Mr. Martabano stated right.

Mr. Blakely stated into the property where the larger delivery trucks would pull in and be able to load here and then be able to pull out and come out this way. We've also reconfigured the access points into the site and leaving this site to reconfigure these curbs to not allow that left turn movement.

Ms. Richards stated oh okay.

Mr. Blakely stated we also have no left turn lanes here so as to keep all traffic off Kiskonna Avenue.

Ms. Richards stated just show me on this where the houses are that are already existing.

Mr. Blakely stated there's an existing house to the east, here...

Ms. Richards stated that's not the empty, old one?

Mr. Martabano stated no, no, this is an occupied two-family residence occupied by the original family member, he's still there, as well as one other tenant.

Mr. Blakely stated Cary Place intersection is right here, Kiskonna and Cary, there is a vacant...

Ms. Richards that's the one, okay, right.

Mr. Martabano stated right there and there's another here, and then its Mr. Carbone's house.

Mr. Richards stated that is not vacant.

Mr. Martabano stated its not vacant, right?

Mr. Carbone stated no.

Mr. Martabano stated well its vacant now because he's here.

Ms. Richards stated no but he lives there, got it.

Mr. Martabano stated exactly.

Mr. Blakely stated the transfer station is across the street...

Ms. Richards stated I know that.

Mr. Blakely stated and there's a number of auto body repair places along Columbus Ave.

Ms. Richards stated and then back in that corner is the Village something, right?

Chairman Rose stated yeah, the DPW.

Mr. Martabano stated some of the surrounding uses are shown here, the transfer station, DPW, et cetera. And one of the recurring themes that Scott was bringing up was that the Planning Board, even though this is the SC zone and its all zoned Service Commercial, they had a very keen interest in making sure that the existing residents here were protected. Our original plan had shown access on to Kiskonca, we closed those off and then we had two way traffic coming in here and again they asked us could you consider one way traffic and curb cuts that don't allow a left hand turn. So we've done everything that they wanted to do and they were supposed to look at this on, the 13th, I think it was but that meeting got cancelled but this is designed to implement all the suggestions they have.

Mr. Blakely stated and there's, we've prepared an extensive landscape plan...

Ms. Richards stated right.

Mr. Blakely stated if you're familiar with the site, this is a totally paved area, so we're cutting off those curb cuts, landscaping, the frontage, this is all paved right up to the building currently, so we're going to remove the pavement from this location, about 15-20 feet and we're going to landscape this and then the planter areas you see here are all paved now, so we're going to cut out that pavement add some planting along Columbus Avenue.

Ms. Richards stated so your development coverage is reducing, right?

Mr. Martabano stated well if you look at it in an overall context the current development coverage on 39 [Kiskonca] before we added 35 [Kiskonca] is 97% and now we add 35 [Kiskonca] now we're putting, obviously structures on 35 [Kiskonca] but overall site development coverage now goes down to 85%, it was 83% originally but this is now 85% because of this area which we provided for the loading, so there is absolutely no landscaping around the site at all now and we're adding all of this to it.

Chairman Rose stated isn't the parking area considered part of development coverage?

Mr. Martabano stated its all site development coverage.

Mr. Blakely stated it is, parking and building.

Ms. Richards stated but I think because it's all paved that's why its...

Mr. Martabano stated right now it is all paved.

Chairman Rose stated its all paved?

Mr. Martabano stated I'm sorry if I wasn't clear, right now is, when I said 97% I think I was counting in the Village right of way, I think I was counting what grass was in the right of way. So it could be 100%.

Ms. Richards stated now you were counting that little grass over there.

Mr. Martabano stated that is the right of way.

Ms. Richards stated oh is it?

Mr. Blakely stated I think the only piece that is not paved is what's currently underneath this building which is just a rough, very rough vegetated area in here because this lot currently does this.

Ms. Richards stated right.

Chairman Rose stated and you'll be trying to change the address to Columbus Avenue, that's up to the Post Office, I guess.

Mr. Martabano stated that's correct and its good because Mike Whalen found, I don't know if it was an old water bill, he found some bill that came to a Columbus address, so we're going to try to use that to get into that. Again, all of it is to try to project this being, coming out to Columbus as opposed to going down Kiskonca and we've done everything we can to prevent it.

Ms. Richards stated yeah, well they shouldn't...

Mr. Martabano stated and you've seen I think, the rendering that I showed you, the only difference with that and what we've done tonight is that this is actually going to connect at this point in time and that is to comply with the Zoning Code.

Ms. Richards stated right.

Mr. Martabano stated in terms of the variance for the side yard, please remember that it's only this little area right here that we're talking about. All of this is preexisting, we're just trying to continue the line of the building, so we need it for this little spot right here, where my finger is. In terms of where we are with SEQRA, originally I thought your Board might do their own SERQ but the Planning Board instead took lead agency status, had the meeting taken place on the 13th, we would have hopefully had because we have a negative dec now but now we have to amend it because we made this change to the plans subsequent to their approval of the negative dec, they approved that on August 9th. So what we're hopeful of, you know, tonight, obviously we've been delayed for a couple of different factors, we're looking, we know that you can't take formal action tonight but I'm hopeful of if your favor of granting the variances then this can go forward, we're trying to close this by the end of October, with the meetings and all that so if you could have resolution available for your October meeting, that would be very helpful for us.

Ms. Richards stated so you need three variances.

Mr. Martabano stated I think its four.

Ms. Richards stated oh right, I'm sorry.

Mr. Martabano stated one is kind of like related to because it says you're expanding a noncomplying building, the building is only noncomplying because of this and we're expanding it obviously.

Ms. Richards stated right.

Mr. Martabano stated it would be Peter's August denial letter, if I remember correctly.

Mr. Miley stated August 29th, correct.

Mr. Martabano stated thank you. All of the legal arguments in favor, obviously you've had then since our initial submission and none of those have changed.

Chairman Rose stated I don't see anything in these that is troublesome, I guess there's always the general question of does it, is it unique enough that we're not going to have ten other...

Ms. Richards stated right, its ugly enough.

Chairman Rose stated it's hard to match...

Mr. Martabano stated is ugly a uniqueness? I think so. One of the significant things is that we're trying to take a property that's existing since 1960 and has not been improved since and trying to really improve it and the general area. Especially in terms of parking it now conforms, landscaping that didn't exist at all, he's investing a great deal of money, you've seen the façade improvements as well, so I think it's very unique in that respect.

Chairman Rose stated it's a really nice thing to do and I would mention in that sense that we were just out in Seattle for a week and in the areas that are being developed, even the big box stores sometimes can't be seen from the road because they've got screening with major vegetation and is...

Mr. Martabano stated oh yeah and look at, we're doing it all over the site that is hardscape now.

Chairman Rose stated it's a very nice thing for the public to do that.

Mr. Martabano stated Mr. Kracko is an interesting individual, as I mentioned before, he's bought a number of these store in Katonah and Cross River, et cetera and he looks to do what he needs to do to do right by the municipality. You know every suggestion we keep making, he keeps saying yes to, we're hoping that this continues...

Ms. Richards stated I just want to make sure I'm right that there's only two houses occupied...

Mr. Martabano stated there's more here, in other words if you go down Kiskon, one of the reasons why we turn into Kiskon is there's a couple more, there's one that's right here, then there's a what looks like a commercial building and then there's an apartment building by Lexington, Mr. Carbone, oh he's not here. So there's other residences on this side of the street which is why even though they're all nonconforming, because this is the Service Commercial district, we did everything to protect them and that's what the Planning Board did as well, and again Mr. Kracko said yes to everything.

Ms. Richards stated so there would certainly be conditions of keeping up the landscaping...

Mr. Martabano stated of course.

Ms. Richards stated is there any concern if they move out of the building and something else goes in there?

Mr. Martabano stated a Change of Use, if it changes then it has to go to Pete.

Mr. Miley stated they come back to the Board.

Mr. Martabano stated yeah.

Ms. Richards stated right.

Mr. Martabano stated and this is for this type of use, it's a special permit use I believe as well, right?

Mr. Miley stated correct.

Chairman Rose stated yeah, it's a really nice solution.

Mr. Martabano stated we thought it was unique, we really did.

Ms. Richards stated any, have you heard from any neighbors at all or?

Mr. Martabano stated I met with Tony Giradina, he was here at the meeting on June 21st and he put in a letter just saying that he's in support of it and he just wants to see what could be done to protect the residents.

Ms. Richards stated right.

Mr. Martabano stated and that was with our initial plan showing access on Kiskon before we made all these changes and I've kept him up to date, he's come to another meeting as well before the Planning Board. So I think he, and I just spoke to Mr. Carbone as well, I think these types of improvements they look forward to. As you remember from the June 21st meeting, when Whalen's was fully operational they had 40 tractor trailers coming in all day.

Ms. Richards stated yeah, I think that was before I moved here. Oh no it wasn't. I think it's a nice building, with a few conditions, I'm okay with it.

Mr. Martabano stated excellent.

Chairman Rose stated I don't see any issues.

Mr. Martabano stated right, as I said you can't take formal action tonight...

Ms. Richards stated no, that's fine.

Mr. Martabano stated but if you could advise your attorney to draft that resolution for the next meeting, that would be fantastic and by then we'll have the revised negative declaration.

Ms. Richards stated you got that?

Mr. Martabano stated thank you.

Ms. Richards stated but there has to be conditions for landscaping, keeping up landscaping, you know.

Mr. Salvato stated I got them.

Chairman Rose stated and so then I guess we need to keep the public hearing open until...

Mr. Martabano stated well actually you can close the public hearing, you can just take action, you can close it.

Chairman Rose stated could there be other changes, I mean just in case.

Mr. Martabano stated if there's any more changes, I'm going to personally...

Ms. Richards stated no, but let's leave it open, just in case, its not a big deal.

Chairman Rose stated it will take five seconds to close.

Ms. Richards stated right, exactly.

Mr. Martabano stated you know what, that's absolutely fine, thank you for consideration and hopefully see you next month.

Mr. Boxer stated you want some more plans.

Mr. Martabano stated that's Annie...

Mr. Blakely stated sure.

Chairman Rose stated do you wish to say anything about this one or not?

Ms. Whalen stated no.

Chairman Rose stated okay, so until next time.

Mr. Martabano stated thank you so much.

Ms. Richards okay.

**3. 461 Lexington Ave, LLC
461 Lexington Avenue
Mount Kisco, NY 10549
(SBL) 80.64-2-15**

Case# ZBA16-15

Mr. Charles Martabano, Esq. and Mr. Scott Blakely of Insite Engineering were present.

Chairman Rose stated okay, now we have the pleasure of Mr. Martabano...

Mr. Boxer stated which one are we doing now? Oh that one.

Ms. Richards stated can we restrict you to one case per meeting? I think that's a great idea.

Mr. Martabano stated Harold, will you come to my defense over here, come on?

Mr. Boxer stated no. I'm not allowed to be an attorney while I'm on the Board.

Mr. Martabano stated oh, there you go.

Chairman Cosentino stated one new case being opened tonight, 461 Lexington Avenue, ZBA 16-15.

Mr. Blakely stated both of us again.

Mr. Martabano stated I noticed you didn't say a single word about whether you could restrict him to one matter, did you?

Ms. Richards stated he's okay.

Mr. Boxer stated you should take it personal.

Mr. Blakely stated I've been quiet so far.

Ms. Lapple stated is this vacant piece of property, is it torn down.

Mr. Martabano stated its torn down.

Ms. Richards stated it was beautiful, why did you tear it down? Next to Mardino's...

Mr. Martabano stated exactly correct, along the same line as this application, a couple of others lately have come before you like 179 East Main Street and other applications, properties are finally getting redeveloped and this one is very, very unique as well. Another client who really wants to do the right thing. This is the prior building at 461, it was called colloquially the Varco building, I think it had a residential structure in the front, it had a motor vehicle repair facility, it had no stormwater measures, it had no antipollution measures...

Ms. Richards stated no one lived there, right?

Ms. Lapple stated someone lived there for a while.

Mr. Martabano stated I think someone died there, as I understand it someone died there. And it did get sold and these individuals purchased it, they have obviously removed this, they have remediated the property. And they're looking to take their business which is a Mount Kisco business and move it to a new building, I think I gave you the architectural plans as well.

Chairman Rose stated yes.

Mr. Martabano stated to building a two-story brick office building to replace this lovely building, I'm sure you were sad to see it go...

Ms. Richards stated where's the plan, maybe I gave it back to you.

Mr. Martabano stated do you have the architecturals...?

Ms. Richards stated that's alright, because we'll just open one.

Ms. Lapple stated oh I have that, want to share.

Ms. Richards stated Don's going to open one.

Mr. Boxer stated what's the business that's moving there?

Mr. Martabano stated that business is Polaner Selections which is a wine exporting...

Mr. Blakely stated wine distributor.

Mr. Martabano stated I'm sorry, they distribute wine, no I will tell you what I told the Village Board and the Planning Board, I didn't bring any samples, okay.

Ms. Richards stated but it's not a liquor store?

Mr. Boxer stated it's a wholesaler.

Mr. Blakely stated it's strictly their office for their distribution. They have a 60,000 case warehouse somewhere in Jersey.

Mr. Boxer stated are they wholesalers?

Mr. Blakely stated wholesale and distributors.

Mr. Boxer stated then they're not allowed to sell to the public.

Ms. Richards stated right.

Mr. Martabano stated they're administrative offices are presently at 19 North Moger and now they're going to be putting them here.

Ms. Richards stated that's what I wondering.

Mr. Martabano stated and they've designed a unique plan, Scott has taken it through the Planning Board, I wasn't really involved. But one of the things I would just like you take note of as we mentioned in the submission, is the extremely unique configuration of this lot because here, it's got wide frontage of about 150 feet but when property owned by the Village of Mount Kisco, we, when I saw we, the Village of Mount Kisco purchased this in 1985 from the City of New York for water protection purposes for most of the lots, a couple them were able to be sold. And they had restrictions on them that they can't sold and the Village zoned them PD, the idea was Preservation District but unfortunately Preservation District is classified, even though you can't have a residence in it, it is classified as a residential district. Which then says because this is in the GR zoning district where you don't have to have any side yard setback, if you do provide it you only have to provide six feet except when you adjacent to a residential district. So Lexington Avenue is all General Retail, the Village property sneaks up here to this point on their property and it's a residential district in quotes.

Ms. Richards stated how bizarre.

Mr. Martabano stated it is...

Ms. Richards stated because there's no residences, well actually that's not true, there are some.

Mr. Martabano stated yeah but you can't have a residence in the PD district unless its part of a golf club where you need 25 acres.

Ms. Richards stated right.

Mr. Martabano stated you can't make this stuff up but if you remember, the same thing happened with Timber Ridge because that was next to a PD district where you can't have residences. Whatever, its still classified as a PD district, as a residential district, forgive me, so we have to have a 30 foot side yard but it serves absolutely no purpose because we're not distancing ourselves from a residential use, we have a sliver of property here before Mardino's which is right there. So, yes we do need a variance but I think its pretty obvious that the variance really doesn't, I'm sorry, that the setback doesn't serve any purposes. Now what's unique and I'm going to let Scott give you some more background on it, is that this site plan was designed to have a tree preservation aspect to it because there's some significant trees here, these people want to save and one is a 36 inch catalpa...

Mr. Blakely stated that's located right here.

Mr. Martabano stated as Scott will tell you also, the conservation advisory committee has been consulted by on an affirmative basis to see what they think about what we're doing and they are in favor of what we're doing including saving this tree and also requested of possibility saving a tree that's over here, Scott.

Mr. Blakely stated yeah, its back here.

Mr. Martabano stated what's also important, and Scott will talk about it in detail, is now you will have because this property for the Village is for water protective purposes. Now you clean up the site in the first instance, we're going to have all sorts of stormwater measures there that will protect this area where previously there was none and most of the developed properties there are now. So why don't you give them a little bit more detail?

Mr. Blakely stated we also submitted a copy of an overlay plan, I don't know if you've had a chance to take a look at that. When our clients first approached the Village with the site plan, they had envisioned setting the building in the back with the parking in front because they were looking to save that tree but when they met with Staff, they were advised that the Planning Board likes to see the parking behind so its not visible. So they modified the site plan to move the building up front which is the layout that was shown in red here, and this proposed building required the removal of a couple of dominant trees in the front. We moved forward with an initial submission to the Planning Board, the Planning Board liked the project, our client still wasn't happy because she wanted to save those trees, she had a conversation with powers that be in the Village and talked about saving these trees and moving the building and she got sort of a positive nudge to move forward with the redesign which required us to take this building and slide it over. As Charlie mentioned, we have a 30 foot required side yard and we've got, we're proposing a 10 foot side yard on this side.

Mr. Martabano stated now one of the things I just want to mention to you, this plan ultimately is dependent upon the Village granting an easement. See what's unusual is the Village's property nowhere touches Lexington Avenue so if the Village wants to go in to maintain it, it has no access. Similarly, we wanted to move the building over so we own this, the Village owns this, so we said here this is what we'll do, we'll grant you and easement to get to your property, okay and then we get an easement over your property and

that is pending before the Village Board right now, we just made a presentation last week on it and they're considering that. So this is dependent upon them giving us the easement which we think will be granted and it makes everything, in our opinion, work so much better. The Planning Board, I think Scott will tell you, has had a very positive view of this plan and the Conservation Board I think put it in writing that they're also in favor of it as well.

Mr. Blakely stated that's correct and Charlie had mentioned the provision of stormwater improvements on the property and we're in the New York City Watershed, we're in a Designated Main Street, so we're required to prepare a stormwater pollution prevention plan in accordance with their regulations and also the Town regulations. So what we're designed is a stormwater system of pervious pavement so the rainfall will percolate through the pavement, there's an underground gravel storage area beneath this which the voids before the gravel make up your storage volume and then there is an under drain for difference storm events that allow that to drain out but the majority of the water percs in the ground. We've also provided a wetland mitigation area in the back, we've got a stormwater pond back here which is designed to handle the runoff from the building and then we, as I mentioned, we have created a planted area in the back which has currently been disturbed as part of the previous use of the property and then as part of the cleanup. So we're going to reestablish this area from the property line to the rear of the parking area, we're going to reestablish the vegetation in there. As part of beautification of the site, Tina Fischer, who's the owner, also is proposing to replace this existing fence along the side which is a chain link with...

Ms. Richards stated yeah, yeah...

Mr. Martabano stated I know you like it but I'm sorry its going to go.

Ms. Lapple stated that's a gem.

Mr. Martabano stated well we can have it brought to your house if you'd like.

Chairman Rose stated they're almost transparent.

Ms. Richards stated and what are you going to put there?

Mr. Blakely stated she's going to put a decorative, I'm assuming she's going to put a decorative either wood or a vinyl or some type of decorative fence along here. For her improvement and also the existing fence would come down and it would serve a positive for Mardino's also.

Ms. Richards stated right.

Mr. Blakely stated she's got a, some of the fence is on Mardino's property, they actually have a license agreement with the Village for this portion of the fence and their parking lot in the back...

Ms. Richards stated Mardino's does?

Mr. Martabano stated Mardino's does, that property is Village property in the back.

Ms. Richards stated where they park?

Mr. Blakely stated correct.

Ms. Richards stated okay.

Mr. Martabano stated in the back, yeah.

Mr. Blakely stated actually the Village property is this area here in the back.

Ms. Richards stated oh okay, but not, is it part of their building?

Mr. Blakely stated I think its just the parking area.

Ms. Richards stated yeah.

Mr. Martabano stated yeah.

Mr. Blakely stated so we're proposing stormwater improvements where none exist, we're proposing landscaping improvements we're also proposing some planting on the Village property, we're proposing to screen this parking area with plantings here, the, we have a, we're showing some parking in reserve which

the Planning Board allows, that we show the parking, we don't need it for her use if it ever needed to be developed, we show it here to be developed, but it's never going to be needed for her use. She intends on being here for a quite a long...

Ms. Richards stated would there ever be any issue with putting parking there?

Mr. Blakely stated no, no...

Ms. Richards stated okay.

Mr. Blakely stated there's a number of trees that we can save...

Ms. Richards stated okay.

Mr. Blakely stated by not adding those three spaces in there, so the root systems of these trees that exist along this property can be protected by us not constructing those.

Chairman Rose stated how many employees will work in that building?

Mr. Blakely stated she has a total of 15 employees, but a number of them are on the road all the time as salespeople, she anticipates 8 people in the building majority of the time. There are times when everybody might get together for a meeting, so we're providing 15 parking spaces. Its more than she anticipates ever needing.

Mr. Martabano stated and honestly more than the Planning Board thought they would need as well with the waiver.

Mr. Blakely stated she doesn't have visitors come to the site, her people go out and its all done on the phone.

Chairman Rose stated I think there's a hitch in the parking requirement for a building under 5,000 square feet, you have to compute the larger of the number of employees, one space per car or one space for 275 square feet plus 5.

Mr. Blakely stated and that was our original thought, original way we designed the parking but there is space in a basement level, there's about, I think there's 1,500 square feet of storage space in the basement, so when you add the 1,500 to the 3,900 square feet, its over 5,000, because we originally had 23 spaces and when we went with Peter and Jan, we went through that and they said well you can include that 1,500 square feet in the basement.

Chairman Rose stated okay.

Mr. Miley stated plus we did calculate parking for that 1,000 square feet, excuse me 1,551...

Mr. Blakely stated at 1 per 1,000.

Mr. Miley stated we did obligate parking for it, yes.

Mr. Blakey stated at 1 per 1,000.

Mr. Boxer stated just out of curiosity, what's the surface going to be for the parking area?

Mr. Blakely stated it's a porous asphalt, so really it's a graded, if you're familiar with top coat or binder, the top course of the porous asphalt looks more like a binder.

Mr. Boxer stated okay.

Mr. Blakely stated its got larger gravel in it which allows the water to perc through the voids...

Mr. Boxer stated and the back complies with the New York City DEP rules?

Mr. Blakely stated it does, we've submitted out stormwater pollution prevention plan to the city, we're waiting for...

Mr. Boxer stated they have better rules than we do.

Mr. Martabano stated and especially for this property which borders right on it. This is another example of the client, like we talked about on the prior application, you keep asking her and she says yes, let's do this, let's make it whatever. We went to the Village Board meeting the other night and some questions were arisen, the Conservation Board wants you to save the tree, we'll do it, what if we wanted to be able to use your parking lot on weekends in case people want to go on the walking trails, I don't care, that's fine. She just, she wants to do right by the Village, its such a pleasure to see especially with replacing this.

Chairman Rose stated sure.

Ms. Richards stated I have a question, when you did, remember Timber Ridge, there was a question of a buffer, when its on, I don't know why they required some kind of buffer, does any of that apply here?

Mr. Martabano stated I don't think so. Other than the 30 feet, that's the buffer here and going back...

Chairman Rose stated that is the buffer.

Ms. Richards stated that is the buffer, okay.

Mr. Martabano stated going back to the question, is this unique, this one is about as unique as you can get. In terms of trying to preserve trees but this Village property jutting out into here and injecting into a General Retail area with a PD district designation...

Ms. Richards stated technically the Village can't go in there right now because they have to access.

Mr. Martabano stated they have no access.

Mr. Blakely stated not through this property.

Mr. Martabano stated they have access down here by Green Street, I think they said they have access or something of that nature and there's an access way up on...

Mr. Blakely stated there's access by the bank...

Mr. Martabano stated by the bank right by Timber Ridge.

Mr. Blakely stated on the corner.

Ms. Richards stated oh that bank, okay.

Mr. Blakely stated and there's access where the culvert goes underneath Lexington Avenue...

Mr. Martabano stated right, this would allow them to go in to do maintenance as opposed to the situation...

Ms. Richards stated right.

Mr. Martabano stated I think that works out very well, of course again its subject to the Village Board, one other point on this is the same thing, the Planning Board has to issue its negative dec. it was prepared, that will be on the 27th as well...

Ms. Richards stated so we can't really vote...

Mr. Martabano stated so theoretically you can't vote tonight in a binding fashion but we'd like again the same thing, hopefully is that if you feel it has merit, you can perhaps talk to your attorney about having a resolution for the October meeting, that would be really helpful to us.

Mr. Boxer stated why don't you talk to him.

Mr. Salvato stated well just one thing, there's a lot of moving pieces in this one and we feel that it would beneficial for the Board to seek out from the Village Board, the CAC, Historical Review and the Planning Board any comments that they have on this or any conditions that they would like for us to incorporate, that would probably be a good idea.

Mr. Boxer stated that's fine.

Chairman Rose stated that's fine.

Mr. Martabano stated it makes perfect sense and it would be enough time between now and then.

Ms. Richards stated okay.

Chairman Rose stated everyone will be on the same page.

Mr. Martabano stated exactly, we'll send you the CAC letter that we have, its an e-mail actually but I think Alex has a good point there.

Ms. Richards stated so you'll get us that for the next meeting.

Chairman Rose stated and when do we need to submit our addresses to the Polaner company?

Ms. Richards stated for the delivery of our wine.

Mr. Martabano stated what you really want is to bring samples for the next meeting. You never got them for Jersey Mike's at the Planning Board...

Ms. Richards stated what kind of wine? Anything?

Mr. Blakely stated I think its anything.

Chairman Rose stated I think I've seen...

Ms. Richards stated well can you get some brand names next time?

Mr. Martabano stated yeah.

Mr. Blakely stated you might be able to find it on their website.

Ms. Richards stated oh, I never thought of that.

Mr. Martabano stated next time we'll bring Tina, we'll ask her to bring some samples.

Mr. Blakely stated or at least a list.

Mr. Martabano stated provided that they remain undisturbed until you get home.

Chairman Rose stated out of curiosity, how durable is porous asphalt compared to normal asphalt, whatever that might be.

Mr. Blakely stated it requires additional maintenance...

Mr. Martabano stated maintenance, vacuums.

Mr. Blakely stated than a standard asphalt. The, you really have to get in and vacuum and use blowers to get that and we recommend not using a sand in the winter because it will clog the pores if you don't continuously vacuum it. So there's a maintenance program that we put together for our sites that...

Ms. Richards stated use that.

Mr. Blakely stated where the porous asphalt gets installed.

Mr. Martabano stated but it is much better for the water protection purposes but it does require maintenance.

Chairman Rose stated yeah...

Mr. Blakely stated and one of the things that the DEC and the DEP look for is infiltration, you know as one of your initial practices.

Chairman Rose stated I think it would be wise in the resolution to make that a...

Ms. Richards stated requirement, yeah.

Chairman Rose stated specific condition because that will go with the property in case someone else takes it over at another date.

Mr. Martabano stated my guess is they'll probably include that in the site plan as well but that's a reasonable condition.

Mr. Blakely stated yeah, the site plan and the DEP.

Ms. Richards stated and the landscaping of course.

Mr. Martabano stated absolutely.

Mr. Miley stated yeah, those are all conditions of site plan approval.

Ms. Richards stated right.

Mr. Martabano stated okay, unless we can answer any other questions you have but otherwise, that's our presentation.

Chairman Rose stated very hard thing to see two positive developments in the same...

Ms. Richards stated something in that space, oh my god.

Mr. Martabano stated right and the one that hasn't come to you, we don't have a variance, Win Development one, that's another one...

Ms. Richards stated what's that?

Mr. Martabano stated Win Development, the property Eduardo's, we're talking about a beautiful new development there as well.

Ms. Richards stated they're building a restaurant there? I read something about this one...

Mr. Martabano stated right, its for an office building for Charles Schwab and it hasn't come to you because we haven't, we don't need a variance at this stage of the game but it is an exciting building.

Ms. Richards stated so it's not going to come to us?

Mr. Blakely stated not yet.

Mr. Martabano stated you never know, I might need a parking space variance, if your so inclined.

Ms. Richards stated yeah, no.

Mr. Martabano stated then I'm not coming to you.

Ms. Richards stated no parking spaces.

Mr. Blakely stated then I guess we just have to pay for it.

Mr. Martabano stated when you see that, tis amazing the applications that are coming in and transforming the Village.

Ms. Richards stated yeah but I like that little corner that way.

Mr. Boxer stated is that a glass building?

Ms. Lapple stated they can make another corner, find another corner.

Mr. Martabano stated its not glass, its actually, its funny you say that, the material on Win, what do you call that, zinc, its zinc.

Mr. Boxer stated because I've seen that before.

Chairman Rose stated very modern.

Overlapping conversation.

Mr. Martabano stated the original one that they wanted was all glass and then we transformed it through Ira Grandberg and we turned it to a zinc with some glass elements and it is unique. So if you want to grant me a parking variance, I'll come to you guys.

Ms. Richards stated no parking, none.

Mr. Boxer stated not until we get the wine. That's off the record.

The Secretary stated did you adjourn?

Mr. Boxer stated yes.

The Secretary stated you did?

Chairman Rose stated this woman...

Ms. Whalen stated I don't like that building.

Mr. Martabano stated its not on tonight, don't worry about it.

Chairman Rose stated no comment...

Ms. Whalen stated too modern for the Village.

Overlapping conversation.

Chairman Rose stated oakt everybody.

Mr. Martabano stated thank you all very much.

Mr. Blakely stated thank you very much.

Chairman Rose stated until next time and...

Mr. Martabano stated good evening. Cut it out Annie.

Chairman Rose stated if there's any, if there's no further business, anything else.

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

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

The meeting adjourned at 8:25 p.m.