

**Village/Town of Mount Kisco
Zoning Board of Appeals
Minutes of Tuesday, April 18, 2017**

Members Present: Chairman Harold Boxer
Donald Rose
Barbara Richards
Linda Greenberg
Kim Lapple
Dan Guyder

Staff Present: Peter J. Miley, Building Inspector
Michelle Lailer, Secretary
Whitney Singleton, Board Counsel
Les Maron, Special Counsel for Zoning Board of Appeals

Chairman Boxer stated we are opening the meeting of the Zoning Board on April 18th, it's now 7:05 pm and the meeting is now in session. First order of business is approval of the minutes from the last meeting. Does anybody have any changes?

Ms. Lapple made a motion to approve the minutes from the last meeting. Ms. Richards seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

- | | |
|---|--|
| 1. Bagnato 205 Lexington Avenue Corp.
205 (215) Lexington Avenue
Mount Kisco, NY 10549
(SBL) 80.32-4-6 | Case# ZBA16-6
Area Variance |
|---|--|

The applicant did not appear.

Chairman Boxer stated we'll call the first case, the first case is ZBA16-6, Bagnato 205 Lexington Avenue Corp, is there anybody here for this? Okay, I think what we should do on this one, we still have an open public hearing which we can close and that will take care of it. If anybody wants to, any discussions from the audience on Bagnato? Okay...

Mr. Rose stated has there been any discussion with Bagnato on...?

Mr. Miley stated nothing additional has been submitted.

Mr. Rose stated I thought they were working on some kind of a...

Mr. Miley stated they indicated that they were going to work on a new plan or a new site plan but we haven't received anything.

Chairman Boxer stated they can reapply then. Okay, do I have a motion to close the public hearing on Bagnato?

Ms. Richards made a motion to close the public hearing. Ms. Lapple seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, so I think at this point we can ask Whitney to draft a resolution on Bagnato.

Whitney Singleton stated to draft a resolution, okay.

Chairman Boxer stated and hopefully, that's it.

Whitney Singleton stated I'll draft it consistent with our earlier discussions.

Chairman Boxer stated okay. Second case, ZBA 16-6 Gas 21 Realty Inc.

Whitney Singleton stated you want them to go first?

Chairman Boxer stated is that yours?

Whitney Singleton stated that's Les' case.

Chairman Boxer stated never mind, back it up, sorry. We have one quick thing before that, we'll call.

Whitney Singleton stated I think the next case is going to be pretty quick also.

**2. Marguerite Ormond
41 Mountain Avenue
Mount Kisco, NY 10549
(SBL) 69.64-4-2**

**Case# ZBA17-1
Interpretation**

The applicant did not appear.

Chairman Boxer stated yes, ZBA17-1 Marguerite Ormond, I think we all, did you send it to everybody, your memo?

Whitney Singleton stated no, just to you and to Peter.

Chairman Boxer stated would you like to brief us on it.

Whitney Singleton stated sure, we did a lot of research to figure out the path. As you may recall, she kind of couldn't understand, came in, she got a building permit, she got a C of O, why is it not a two-family? While the zoning map said it was established in 1987, there were four amendments to the map subsequent to 1987 but it still referred to as the '87 zoning map. So in collaboration with the Building Inspector, we went back and checked the map changes and sure enough one of the map changes that was done in approximately a year from the date the original '87 map was done, to change her zoning district from RT-6 to RS-12. So she did in fact qualify with regard to the filing of the building permit application on time and so what we thought would be appropriate was to rather than go through voting and interpretations and everything else, I believe that the Building Inspector has reached out to her and corresponded with her about withdrawing her application. Although she has not formally withdrawn yet, it would probably be advisable then just to keep the public hearing open for another month just to make sure that she's withdrawing.

Chairman Boxer stated okay.

Ms. Richards stated okay.

Whitney Singleton stated so that would require a so moved.

Chairman Boxer stated okay, we'll try again. **Any motion to keep the public hearing open on Ormond?**

Mr. Rose stated so moved. Ms. Richards seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated now we're down to Gas 21, you're turn.

Whitney Singleton stated nope, next one, 333 Lexington Avenue.

Chairman Boxer stated that's now? That wasn't adjourned.

Ms. Richards stated what?

Chairman Boxer stated I thought that was, okay, 333 Lexington, anybody here on 333 Lexington Avenue.

**3. Tony Catalano
333 Lexington Avenue
Mount Kisco, NY 10549
(SBL) 80.48-4-1**

**Case# ZBA17-2
Interpretation**

The applicant did not appear.

Whitney Singleton stated notwithstanding Michelle cracking the whip at me to get things done on time, I was a little tardy in getting a memo out to your Board, I believe it went out to you all electronically. I don't know if you have a copy with you this evening. Or, did it go in the package?

The Secretary stated yes.

Whitney Singleton stated okay, so it's in your...

The Secretary stated it did, it did not have its own folder, it was just kind of in there.

Whitney Singleton stated Peter and I convened, Peter and I met and we discussed, we discussed with given the various uses in different zoning districts, given what other similar uses have been issued Certificates of Occupancy for and building permits for, there was no rhyme or reason to what was done with other landscaping businesses. As far as it being a service industry use, or whether it was retail use or an office use or an office with apartment use, there was really no commercial use, there was no consistency to give us some sort of precedent as to how these were interpreted in the past but given the fact that our only industrial district and some of our commercial districts have service commercial in them and if, service industries in them and given the fact that within those districts that have service establishments as a permitted use, we thought it would be within a realm, within a reasonable interpretation that a landscaping business/tree service business could fall within the definition of a service establishment even though there's no specific definition. No definition in the Code, there's no definition in Webster's International Dictionary and there's no precedent to really guide us, so we suggested to you that it was a reasonable interpretation, however there is also a provision in your Code says any use that's not expressly permitted, shall be deemed prohibited but that would mean that all landscaping businesses in Mount Kisco would be prohibited and I don't know that that's a fair interpretation either, so we kind of left it to your Board's discretion, however there are some caveats with that, as set out in the first page of the memorandum, the existing use is clearly delineated as a retail use, so it will require at a minimum a Change of Use permit and more likely a Site Plan Amendment and there's also back from the 1977 case, it does require the demolition of the two-family house on the lot that was supposed to be done in no later than 1982 and we're here 40 years later and it's still there so that would have to come down. And then on top of that for this particular zone, as opposed to other industrial zones, when you have a service industry, it requires a minimum lot size of 20,000 square feet and this lot is approximately 11,000, a long skinny lot adjacent to a residential district, so it was suggested to your Board that you, one render a determination as to whether or not you concur that this is a service establishment, this proposed use and secondly, whether or not instead of the applicant coming back with architectural plans, site plan, engineering whatever needs to be done, whether you wish to convey some sort of sentiment to the applicant, that 11,000 square foot lot adjacent to a residential neighborhood is not something or is something, depending on what your perspective is, as to whether or not you would view that favorably, an application for a variance from the minimum lot size.

Ms. Richards stated the same owner as when the original variance was issued, is that correct?

Whitney Singleton stated correct, so he's derived a benefit of 40 years of an illegal use.

Ms. Richards stated I understand that, which doesn't sit well with me.

Chairman Boxer stated okay, anymore discussion about the proposed use, the definition?

Mr. Rose stated well I would just note, I mean I didn't study it in detail but the nature of the proposed business would involve mixing some chemical and presumably there could be some smoke or fumes. That kind of activity is mentioned in the Code in regards to one of the industrial zone, where you can have such activities going on and they have to be contained and controlled. As opposed to this site which first of all is less 20,000 square feet, has an existing and continuing nonconforming use with the second building. I just don't think it's the right place, even if you broadened the definition to have landscaping, if they're selling Christmas trees it's a little different than having chemicals there all the time that are being mixed.

Ms. Richards stated chemicals, backing up on a residential area because it backs onto a residential area, I agree with that.

Whitney Singleton stated and presumably there would be fleet vehicles for this business that other businesses may not have, so. What I could do is your Board could take a vote on this and direct me to draft a resolution interpreting and conveying your sentiment regarding any future applications that would have to have, in your estimation perhaps minimal impacts on the residential neighborhood given the long skinny lot given the proximity to a residential neighborhood.

Ms. Richards stated can we require that before they bring in any applications they take the illegal house down?

Whitney Singleton stated oh absolutely, that's required to come down irrespective.

Mr. Rose stated sure, yeah I think that would be a given, no five years.

Ms. Richards stated but what I mean is they could come back and not have done it.

Mr. Miley stated its enforceable.

Chairman Boxer stated its enforceable.

Mr. Miley stated even today without any application.

Ms. Richards stated right, okay.

Mr. Rose stated I would say given the possibility that a proposed use might be one that requires 20,000 square feet, they'd have to get a variance and we would have to see, I guess what the intended use is. I would rather see it be a use that doesn't require a variance.

Chairman Boxer stated well we don't want to establish a 50% variance in an industrial district and you can let them know that. We don't think that the application would be looked on favorably because of the size of the lot and use of the chemicals.

Mr. Rose stated well there are other...

Mr. Guyder stated a commercial business as well.

Mr. Rose stated yup, there are other uses permitted in the CL zone that don't require the 20,000 square feet.

Whitney Singleton stated okay, so I guess there would be two components to this. One, your Board would adopt a resolution concurring with the recommendation of the Building Inspector and myself as to service establishment being the designated use for this proposed type of business. Secondly, some feedback that you'd like to see something with less impacts adjacent to a residential neighborhood...

Chairman Boxer stated yup.

Whitney Singleton stated without fleet vehicles, without chemicals, without noises, stuff like that or a permitted use.

Mr. Guyder stated beyond this case Whitney, is there any implication of changing the definition as we're suggesting here to encompass a landscaping business in terms of what it might mean for that front of road down Lexington. So in other words if you say that the definition now includes landscaping business, does that have any other unintended consequence here where you've now opened up Lexington Avenue to...

Whitney Singleton stated once you define something, I...

Mr. Guyder stated I guess my question is given the sentiment of the Board on the other issue, is it necessary, in other words if you just convey the sentiment of the Board about the application generally without addressing the question of this interpretation, can you do that?

Whitney Singleton stated well the application was for an interpretation and quite frankly I don't think that they should have been. I think if the Building Inspector wants that question answered, that's fine. I don't think the applicant should have been allowed to ask that question.

Mr. Guyder stated okay.

Whitney Singleton stated I think I can do, I think I know what your Board wants, I think its clear enough from what was said here and I think I can draft something that the Chairman can review before its signed and if the whole Board would like to see it before it's signed, that's fine too.

Chairman Boxer stated yeah, I've been sending out memos that come to me that I send them out to the rest of them.

Whitney Singleton stated I would essentially take the memo that I previously prepared for you and turn it into a resolution.

Ms. Richards stated that's fine.

Whitney Singleton stated okay.

Chairman Boxer stated yup.

Whitney Singleton stated okay but I do need to show a motion, a second and a vote.

Ms. Richards made the motion for Village Attorney to draft a resolution, Ms. Lapple seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

**4. Gas 21 Realty, Inc.
192 North Bedford Road
Mount Kisco, NY 10549
(SBL) 69.58-4-2**

**Case# ZBA16-16
Use Variance**

Mr. Paul Berté of Petruccelli Engineering, Mr. Tony Singh, Mr. Inder Singh and Mr. Sam Adaken

Chairman Boxer stated okay, ZBA 16-16, Gas 21 Realty Inc, now it's your turn.

Mr. Berte stated now its our turn. Good evening.

Whitney Singleton stated the A Team is coming up now.

Mr. Berte stated good evening, Paul Berte, Puetruccelli Engineering, representing the owners.

Chairman Boxer stated could you all give your names to the Secretary, please.

Mr. Singh stated Tony Singh...

The Secretary stated if you can say it loud enough for the record, please.

Mr. Singh stated Tony Singh.

Mr. Singh stated Inder Singh.

Mr. Berte stated Paul Berte.

Mr. Adaken stated Sam Adaken.

The Secretary stated thank you.

Chairman Boxer stated okay.

Mr. Berte stated we were last before in February and we revised, we provided some additional information which included, well let me just back up a little bit in terms of what we're doing. We're here before you to seek the approval to construct a convenience store located in this zone. Subsequent with staff meetings, we're also here before you to discuss a variance in the aisle width of an existing parking lot on the site. All of the other variances that were discussed previously are, were existing conditions and deemed grandfathered and not require a variance from...

Chairman Boxer stated do you have anything on, for the use variance with the profit and loss?

Mr. Berte stated we do.

Chairman Boxer stated okay, I don't think we saw it.

Mr. Rose stated we haven't seen and figures.

Ms. Richards stated no.

Chairman Boxer stated the figures from last time, they, we don't think they were enough information in them but we'll be glad to look quickly but I don't think we can actually say yes or no tonight.

Mr. Berte stated okay, so...

Chairman Boxer stated what I'm looking for is something from an accountant that would give the profit/loss for last year and what your project it would be. The extra income would be with the convenience

store to show that if you are running at a loss, that you do need a convenience store to keep the business going. I think the best thing to do with that is get a, it doesn't have to be certified by an accountant but just prepared by an accountant.

Mr. Berte stated okay, what we provided was the comparison between two gas stations over by the owners, sales based on a 12 month period, you saw that.

Chairman Boxer stated yeah, we saw that but I think the thing is we have to satisfy that, this property as it currently stands without the convenience store is not profitable, which is one of the requirements for a use variance to show it would be profitable if the convenience store was added and I think you already have a gas station with a convenience store...

Mr. Berte stated that was the comparison.

Chairman Boxer stated there's no problem use those receipts from that convenient store as an estimate for the profit for this site here.

Mr. Berte stated okay.

Chairman Boxer stated so I mean we can go on, we can look at the rest of things for now but as I said we can't...

Mr. Berte stated right, that was, that's really...

Chairman Boxer stated that's the big hump we have to get over.

Ms. Richards stated and I thought we had asked for that at the last meeting.

Mr. Rose stated we did.

Mr. Berte stated for the accountant?

Ms. Richards stated to show...

Mr. Adaken stated we did show...

Mr. Berte stated what we gave you then wasn't enough for what...

Mr. Adaken stated what we have is just a comparison.

Mr. Berte stated we did a comparison between gas stations, one had the convenience store and the sales from that versus what, we didn't, I understand what you're asking for, you're asking for profit and loss.

Mr. Adaken stated you're looking for a profit and loss.

Ms. Richards stated but also you need to put in the package so we have time to look at it prior to the meeting.

Mr. Berte stated of course, we'll do that. I'm assuming though you did see the original one.

Ms. Richards stated in the original package.

Mr. Berte stated we'll come back with you, with a, and submit it on time so you have time to look at it.

Mr. Miley stated Chairman, may I interject for a second also?

Chairman Boxer stated yes.

Mr. Miley stated Paul, with respect there is a new use being established, a change from the office space to now what is proposed as a restaurant, you just want to form the Board on what those changes are?

Mr. Berte stated so we have a potential tenant for this space, which is a restaurant space and Inder you might, you're better off describing what the use would be.

Mr. Singh stated it's going to be like a fast food, it's not a sit down. [inaudible] people are going to sit down, that's about it.

Mr. Berte stated so it's a fast food, limited space for seating and we would be able to provide the parking required for that but it would be a different use from the office use that it was previously, when it was Enterprise.

Chairman Boxer stated okay.

Mr. Miley stated Paul, just for me, just for clarification on because there is a difference between food retail and fast food...

Mr. Berte stated yes.

Mr. Miley stated because it's proposed as food retail, just propose, excuse me, provide a business plan or a business model, if you don't have the exact tenant in place. I see you did the parking calculation and that's accurate in respect to the food retail. And on the propose dining area, although it's not going to affect parking because it's going to be greater with respect to the square footage, as proposed how many seats, if there's going to be a minimum of four seats, it's not going to have any affect on parking but you know just having that on the plan so the Board has an understanding of exactly what's being proposed.

Mr. Berte stated I mean we did identify areas of what these but you want to see if we can also...

Mr. Miley stated I think for the Board, they're going to want a business plan and...

Mr. Berte stated sure.

Mr. Miley stated and now it's a Change of Use and the Planning Board is going to require a business plan, so rather than you spin your wheels and waste another month, I'd rather have everything upfront.

Mr. Berte stated okay.

Chairman Boxer stated the restaurant that may come in, do they have an existing restaurant? So we can get some idea?

Mr. Adaken stated they had one.

Chairman Boxer stated they had one. One of the things we're going to be looking at is the impact of how many people are going to be there at what time, it's kind of really bad intersection there because you got the Mavis people have a blinking light and everybody else you have two main roads and this one kind of comes in the middle of nowhere, so we would kind of like to get an estimate of what the busy time would be and during the busy time and how many...

Mr. Adaken stated the traffic.

Chairman Boxer stated what the traffic would look like.

Mr. Berte stated right I think if, we'll piece that together with how many seats we're providing...

Ms. Richards stated is not going to have a drive through.

Mr. Berte stated no, just servicing from the existing doors.

Chairman Boxer stated I think if we, we'll take a look because Les, if I'm not mistaken we could ask for a parking survey...

Mr. Maron stated yes, you can.

Chairman Boxer stated from an official, traffic...

Ms. Richards stated you mean traffic.

Chairman Boxer stated well a traffic survey to count what's there now and also you would put in your estimates what it would be raised to get an idea whether or not we feel that intersection would be adversely affected by the restaurant.

Mr. Berte stated I can do that, we can based on the use and number of seats, we can provide a trip generation for that restaurant, a peak.

Chairman Boxer stated you have to understand though, I assume they're going to be using...

Mr. Berte stated they'll be coming here, passing the, they won't interfere with the gas, they'll come in here, park in this upper area and then exit...

Chairman Boxer stated they'll exit the same place that the gas people exit. So we'll have to know how many cars you expect to be going in and out from the gas also.

Mr. Berte stated yeah, we can do that some and the entry into the facility.

Chairman Boxer stated okay. I also forgot you have the big hill that comes down just next to you, there's a lot of curb cuts over there and I've seen people trying to cross and they have no idea who's light is what and you just kind of run real fast.

Mr. Singh stated it used to be a Kentucky Fried Chicken, so it was the same flow, same kind of flow, you know...

Chairman Boxer stated we'd like to have current numbers.

Mr. Singh stated I'm just saying it used to be...

Mr. Berte stated okay.

Chairman Boxer stated okay, do you want to do that or do you want to kind of give us an overview of what you're proposing for the buildings and stuff, while you're here.

Mr. Berte stated yeah, so we have rendering of what we're proposing for the convenience store, it would be sitting, let me give you the existing conditions right now, so right now we have the canopy and we have the gas pumps and we have a single kiosk that has minimal sundries or whatever, there's retaining wall here approximately two feet high which defines this area from here, there's existing parking here, there's 21 spaces on the site but we'd be looking to just maintain those spaces, we're providing the required handicap two dimension. We are short in the total width for 18'5" space and a 24 foot aisle width, right now we can provide 58 1/2 feet, so we're 2 1/2 feet short on the overall dimension of the parking facility. We have a significant grade change on this edge of the property, there's a retaining wall here, so there's not much room to modify, we can bring this closer but then we'd limit the availability to do some landscaping along here which, ideally we'd rather just keep that. This can function as one in and one way out, so we really don't feel that there's a condition that would be prohibitive for anyone to use that parking lot.

Chairman Boxer stated can I ask you a question?

Mr. Berte stated sure.

Chairman Boxer stated these lines there, not the plants but these other lines, what are they?

Mr. Berte stated this on here.

Chairman Boxer stated yeah.

Mr. Berte stated that's just a large tree, yeah.

Chairman Boxer stated just making sure, I thought it was.

Mr. Berte stated and we're looking to replace the underground storage tanks with new ones, new tanks all code compliant, a DEC permit will be pulled for the removal if there's any contamination from those tanks, we don't expect there to be but we'll follow all the regulations that the State requires to pull the tanks pull the tanks and put new ones in.

Chairman Boxer stated any other questions?

Ms. Richards stated so you're going to need a use variance and you're going to need a variance for...

Mr. Berte stated we need a use variance and I think its table 110A.1, it's the parking facility standards table.

Ms. Richards stated is that it?

Mr. Berte stated that will be it, it was based on our...

Mr. Miley stated there was a number of variances if you recall...

Ms. Richards stated right.

Mr. Miley stated they have significantly reduced the number of variances that they requested, they worked with us as far as, there's a number of conditions that were legally nonconforming as far as distance from residential district. The entryway that's been preexisting, they moved the pumps to a location where it now no longer needs a variance with respect to the front yard setback.

Chairman Boxer stated okay.

Mr. Miley stated it started about 5 or 6 variances.

Mr. Berte stated right.

Mr. Rose stated is the canopy being rebuilt or is it just going to...

Mr. Singh stated it's the same kind of thing, it's going to be under the...

Mr. Rose stated will it be moved though or...?

Mr. Berte stated we're not moving it, we're going to relocate the columns, so we will do some structural changes but we're leaving because of the existing nonconformity, the idea is and we do need to move the column locations so they within the new pump location so they'll be some structural modifications to that so that you know, still maintain that existing canopy but also bring it up to Code.

Chairman Boxer stated it will be a standalone canopy, it won't be attached to the store?

Mr. Berte stated correct, it will be standalone. Another comment that was discussed from with the Town professionals is that coming down Knowlton, you might be able to see the top of this so we talked about cleaning up any piping, painting that so that it's as you're coming down you're not looking at something that's an eyesore.

Mr. Adaken stated we had a meeting with Peter.

Chairman Boxer stated Peter, do you suggest they paint it black because that tends to make everything fade. I'm serious.

Mr. Miley stated well I'm not an expert in design but I would say having it blend into what's existing, fairly new would look better than what's there, the rusted pipes.

Chairman Boxer stated oh I agree, I see it when I come down the hill.

Mr. Miley stated yeah.

Mr. Berte stated that would be part of the program as well.

Chairman Boxer stated do a quick investigation because when I was on the Architectural Review Board, we always tried to get them to put roof equipment painted black because when you look at it, you see, if it's black you don't see it, if it's a light color and the sun hits you don't see it.

Mr. Adaken stated right.

Mr. Miley stated well you can make a recommendation Chairman, I mean...

Mr. Berte stated okay.

Chairman Boxer stated take a look, any ideas on that, black, white?

Ms. Richards stated as long as is neat looking, I don't think tis a big concern.

Chairman Boxer stated it has to be such a way that someone like me won't look over and hit the car in front of then, which I haven't done yet.

Ms. Richards stated which you're not supposed to do.

Mr. Rose stated so you're not going to let them put a billboard on top of that, are you?

Chairman Boxer stated no billboard.

Mr. Berte stated no cell towers.

Chairman Boxer stated no flashing lights, maybe a laser show?

Mr. Adaken stated I've been to that, I can design that.

Mr. Berte stated that's the program, is there any other questions that you guys have for us to...?

Chairman Boxer stated nope.

Ms. Richards nope.

Mr. Adaken stated so the key is to get the stuff from the accountant to show the profit and loss.

Mr. Maron stated if I may Mr. Chairman, gentlemen, make sure you look at the language in the State law and the five test, it doesn't really say profit and loss even though that's what's commonly referred to. My recollection is that it talks about reasonable return, so you just have to remember what you're looking at and what you're trying to prove to this Board.

Mr. Rose stated as a matter of fact I think it says you have to establish that you can't make a reasonable return with any other permitted use which is really a much deeper challenge.

Mr. Berte stated right.

Chairman Boxer stated are you increasing the number of...

Mr. Maron stated and that's not in the statutes, at least in the case law.

Chairman Boxer stated you currently have 4 pumps there now?

Mr. Singh stated we have 8 and we are changing to 6.

Mr. Berte stated and we'll reflect that in the parking generation.

Mr. Boxer stated okay, anything else? We'll continue to hold the public meeting open, can I have a motion?

Mr. Adaken stated and I guess everybody wants to see this new building up there, right?

Chairman Boxer stated its nice looking.

Ms. Richards stated it is nice looking and it's a lot nice than what's there.

Mr. Adaken stated we hope its going to be...

Chairman Boxer stated where did all the trees come from?

Mr. Adaken stated we're going to get them. All we need is that okay.

Mr. Rose stated you do realize that people have to make a choice, they're either going to go to the restaurant or go to the gas pump but not both.

Ms. Richards stated but its not going to be Kentucky Fried Chicken, is it?

Mr. Adaken stated do you want us to go back to Kentucky?

Ms. Richards stated no.

[Off topic conversation].

Ms. Richards stated what's it going to be?

Chairman Boxer stated do we have a motion to hold the public hearing open?

Ms. Richards made a motion to hold the public hearing open. Mr. Rose seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, thank you.

Mr. Berte stated thank you very much.

Chairman Boxer stated there might be a change in the date of the next meeting but we'll give you enough time, it would be later, not earlier.

Mr. Adaken stated I think earlier is better.

Chairman Boxer stated okay, it will be earlier.

Ms. Richards stated we don't know yet.

Mr. Berte stated thank you very much.

Mr. Adaken stated thank you.

Mr. Rose stated there's a person in the audience for something.

Chairman Boxer stated what have you come here for?

Unknown Speaker stated no, I just stopped by to see how it's working.

Chairman Boxer stated today is a slow day, next time will be more fun. Okay then, if that's the case...

The Secretary stated do you want to talk very briefly about changing your meeting?

Chairman Boxer stated if we can look at the dates.

The Secretary stated so there's a calendar to everybody's left, May is in the center.

Chairman Boxer stated the next meeting is schedule for the 23rd.

The Secretary stated your meeting currently is scheduled for the 16th, the 23rd is Planning Board and the 17th is Architectural Review Board. So you're options potentially could be the 18th, the 24th and I won't be here the 25th.

Ms. Richards stated I can't be here from the 16th through the end of that week, so the 18th doesn't work for me.

Chairman Boxer stated the next week is out.

Ms. Richards stated yeah, I'm okay for the next week but you can't do the next week.

The Secretary stated that following Thursday, unless you want to be without a Secretary, I'll be on vacation.

Chairman Boxer stated well do you have a stand-in, we've had that before.

The Secretary stated I'm sure I could get a stand-in.

Ms. Richards stated but you said the 24th is okay?

The Secretary stated the 24th, as long as there's nothing else going on, I'll have to check with Paula, the 24th should be okay.

Mr. Rose stated I can't make the 24th.

Ms. Richards stated okay.

Chairman Boxer stated so we might as well just leave it where it is.

The Secretary stated you want to leave it, okay.

Ms. Lapple stated what's the date?

The Secretary stated the 16th.

Chairman Boxer stated and of course, anybody that comes give them the option of putting it over since there's not a full Board.

The Secretary stated well if only one person isn't available and we have Dan, then you have a full Board.

Chairman Boxer stated correct. Okay. Anything else? Anybody want to bring anything else up?

Mr. Miley stated do we have to adopt a schedule? The proposed schedule for the Lexington Avenue properties?

Chairman Boxer stated okay.

Mr. Maron stated I was going to, Mr. Chairman I would recommend that they, I've had some correspondence about threatened litigation and I would respectfully request that the Board move to go into Executive Session to discuss that litigation and in connections with that, we could discuss the schedule that Mr. Miley is referring to and after the Executive Session, you could come out, because you can't vote during Executive Session, after Executive Session you can come out and back into your public meeting again and announce what you're going to do as far as the schedule that he's talking about which I have information on.

Chairman Boxer stated so do I have a motion to go into Executive meeting.

Mr. Rose stated so moved. Ms. Richards second the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

The Zoning Board of Appeals entered into Executive Session at 7:35 p.m.

The Zoning Board of Appeals exited Executive Session at 8:30 p.m.

Chairman Boxer stated so then can I have a motion to adjourn the meeting?

Mr. Rose stated do we need to set the schedule, should that be part of the meeting?

Mr. Maron stated I'm going to send Michelle an e-mail with those dates that you had discussed and she's going to put them in the minutes.

Chairman Boxer stated okay.

Mr. Maron stated it will be easier so we don't lose them.

Ms. Richards stated I make a motion to adjourn the meeting. Mr. Rose seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

The meeting adjourned at 8:30 p.m.

The following schedule was proposed by agreement between the attorneys for the Building Inspector, Zoning Board and applicants for the 100 Maple, 46 Maple and 20 Stewart agenda items and approved by the Zoning Board:

Due by April 24, 2017: Building Inspector's submissions on 100 Maple

Due by May 5, 2017: Applicant's responses on 100 Maple

Due by April 24, 2017: Applicants' submissions on 46 Maple & 20 Stewart

Due by May 5, 2017: Building Inspector's responses on 46 Maple & 20 Stewart

After the meeting, but before the approval of the minutes, the Zoning Board was informed that that

- 1. The Building Inspector requested that the 100 Maple application be adjourned to the June 20, 2017 Zoning Board meeting, and*
- 2. The attorneys for the Building Inspector, Zoning Board & applicants for the 46 Maple and 20 Stewart agenda items agreed to change the submission & response dates to May 5, 2017 and May 11, 2017 due to scheduling issues.*