

Minutes of the **Regular Meeting** of the Planning Board of the Village/Town of Mount Kisco held on **Tuesday, August 11, 2020 at 7:33 pm** via Zoom Teleconference

Members Present: Douglas Hertz, Chairman  
Ralph Vigliotti  
Michael Bonforte  
John Hochstein

Members Absent: John Bainlardi, Vice Chair  
Crystal Pickard  
William Polese

Staff Present: Anthony Oliveri, Village Engineer  
Peter J. Miley, Building Inspector  
Whitney Singleton, Village Attorney

Staff Absent: Jan K. Johannessen, Village Planner

Chairman Hertz stated okay, alright, so let's open this meeting. Welcome everyone, this is the Mount Kisco Planning Board for Tuesday, August 11<sup>th</sup>. We have concluded our work session and this is our regular meeting. The first item on the agenda are the minutes from July 14, 2020. We are a little bit short today with only four members but we do have a quorum from that meeting. **So I will make a motion that we approve the minutes from July 1, 2020.**

**Mr. Vigliotti stated I'll second that.**

**Chairman Hertz stated thank you, any questions? Michelle, would you poll the Board?**

**UPON ROLL CALL VOTE:**

<b>Chairman Hertz</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Mr. Hochstein</b>	-	<b>aye</b>

**The motion carried by a vote of 4 to 0.**

Chairman Hertz stated the, we now are going to move into a series of public hearings, there is a telephone number for public comment which is 914-420-0383, you can also, if you, I believe you can be live at Village Hall and then we are monitoring the Facebook chat function and Mr. Miley are there any other methods of communication?

Mr. Miley stated those are all the methods, Chairman, thank you.

Chairman Hertz stated the first item on the agenda is SCS Sarles Street. I am recused from that so Mr. Vigliotti will handle this motion.

**A. SCS Sarles Street – 180 South Bedford Road  
PB2020-0395, SBL 80.44-1-1  
Site Plan  
Continued Public Hearing**

Mr. Vigliotti stated okay, so on the first item on the agenda is the Sunrise Community Solar hearing, public hearing. We received a memo from William Null who is the attorney for Sunrise Community Solar asking that tonight's public hearing be adjourned to September. And I believe we are adjourning it to September 8<sup>th</sup>, that's their request.

Mr. Miley stated September 22<sup>nd</sup>.

Whitney Singleton stated September 22<sup>nd</sup>, we asked for clarification on that and they indicated that they wanted the 22<sup>nd</sup>.

Mr. Vigliotti stated so gentlemen what we have is an adjournment request by Counsel for Sunrise Community Solar for September 22<sup>nd</sup>. So tonight's meeting is adjourned and we need to discuss that. I don't see a problem with it, just a formality.

Whitney Singleton stated I think that they've requested it Ralph and it's been the practice of your Board to adjourn to the requested date unless there's a problem that the Board...

Mr. Vigliotti stated yes.

Whitney Singleton stated it's not something we usually have any debate over or motion.

Mr. Vigliotti stated absolutely. So at this point, I'd like to move it along that we move on the adjournment for the Sunrise Community Solar public hearing to September 22<sup>nd</sup>.

Chairman Hertz stated thank you very much Mr. Vigliotti. So the next item on the agenda is The Park, which is the ShopRite expansion, 333 North Bedford Road. They are a continued, a very continued public hearing. They are on for site plan, special use permit, change of use, subdivision and steep slopes. I believe I see Steve Spina here, Steve, if you'd like to give us an update. Steve, I will make the comment that we are a little bit on members and one staff members, so if you could give us the, give us an update on where you stand and I believe you were also going to show us some images sorry, of the retaining walls and some of that.

**B. The Park (ShopRite Expansion) – 333 North Bedford Road  
PB2018-0365, SBL 69.50-2-1  
Site Plan, Special Use Permit, Change of Use, Subdivision, Steep Slopes  
Continued Public Hearing**

Mr. Stephen Spina of JMC was present.

Mr. Spina stated yes, hi, good evening everyone Steve Spina from JMC and yes, just an update on the project. Since our last meeting last month, we did go to the Mount Kisco Zoning Board of Appeals, we gave them a pretty long presentation and went through all the variances, I believe we need 19 variances and the meeting went well, I think everything was pretty well received, they started to comment more on the traffic than the variances themselves but there's a couple of applications, we needed to get them signed by the other owners of the other two properties along North Bedford Road and I think overall they just kind of wanted to digest the application and they adjourned it to come back into September. And they also were interested to see the retaining wall, basically what we were going to present to you guys tonight because they did have some questions about that as well because we do need a variance for the retaining wall length. So they had a few questions about how that would look. So the next meeting is September we would go back to them and present sort of what we will be presenting tonight and hopefully we will receive a favorable decision then.

Whitney Singleton stated Steve, can I supplement on thing, as long as you brought up the Zoning Board...

Mr. Spina stated yes.

Whitney Singleton stated and as long as Anthony is on the Zoom meeting. There was another concern that the Zoning Board asked for some inquiry on, specifically they were asking either from the Village Engineer or the Village's traffic consulting engineering with regard to turns into and out of the site. There was some concern, one that as you enter the site particularly on the northern entrance that the trucks and vehicles would be coming within inches of the proposed building and they wanted to make sure that the Planning Board was comfortable with that and there was also some concerns as to the ability of trucks to make turns into going north bound into the southern access point in light of the fact that it essentially requires the vehicles to...

Mr. Bonforte stated cross over...

Whitney Singleton stated cross over into the right lane to make the left hand turn and they wanted to make sure that the Planning Board and the traffic consultants were very comfortable with those turning mechanisms. So they've asked for some feedback in that regard, I have not been able to put it in the form of a memorandum to the Village Engineer or BJJ.

Anthony Oliveri stated we did bring that up with the cross over using the far lane to make the turning movements for the trucks. Apparently, DOT was okay with it, I think Georges can probably speak to that, he was in those meetings with the DOT but I believe they were okay with those types of turning movements. It was a concern we had early on but if the DOT, its an acceptable practice, we'd be willing to go along with it.

Mr. Bonforte stated in addition to the turning movement Steve, also the signage, if Whitney didn't mention that or Anthony. How are we, how that signage is going to work for the truckers?

Mr. Spina stated I guess the first point was the turning movements themselves, we did sort of end up going through some of those plans during the Zoning Board meeting and you know, they had the same comments you guys had, you know that they weren't necessarily thrilled to see trucks entering the site making a left from the through lane, sort of not using the turn lane from the northbound southern driveway. And then similarly on the northbound northern driveway. And we tried to explain to them that our original design of the driveways was done with the trucks turning from the left turn lanes and essentially staying in their lands but it resulted in very wide driveways and the DOT was really emphatic about narrowing the driveways for pedestrian crossings and things like that and they guided us in this direction, in terms of how to show the trucks making it in the site and out of the site and to minimize the width of the driveway, I tried to explain that to the Zoning Board, I hope I did a good job at that and I think I've explained that to you guys as well. You know, it's definitely not ideal in certain areas you know but, you know that we're basically, you know dictated to by the DOT, we don't really have much of a choice and the other, there is a silver lining, is most of those deliveries with the large trucks will be coming in the morning and off peak hours and things like that, you know we did get into that a little bit with Bedford's Planning Board, a little bit with the Zoning Board and now there's, there's not a lot of [inaudible] trucks that would have to do these maneuvers entering and exiting the site per day, I think it was like maybe two or three times per day and they were in the morning, you know most of them pretty early in the morning, so we're hoping that wouldn't coincide with peak time, well we know it doesn't based on our traffic study, the peak hours. But that is what the DOT lead us to do and we don't...

Chairman Hertz stated Steve, we certainly understand that, I think we've all voiced dissatisfaction, I mean not all, a few of us have voiced dissatisfaction. We thought the earlier layout made a great deal more sense from a truck turning perspective also, given, you know what we know and what we've seen with regards to actual pedestrian use on that side of the road but clearly DOT is going to dictate on this. While we're talking about traffic, we have Georges Jacquemart, our traffic consultant and Georges, there was a meeting earlier this week or last week with DOT, would you just summarize where we stand and what the latest is with DOT? As long as they're on the...

Mr. Jacquemart stated yes, good evening. Before getting, I just want to add on this question of the truck making the turn out of the through lane, it was DOT that recommended that and I think, yes, it's not ideal but on the other hand it allows us to design an intersection that's compact and that where the pedestrian crossings are shorter. So there is a plus side to that full pedestrian circulation and I think the overall safety of that intersection, the more intersections compact, the more cars are forced to slow down. So that's I think the reasoning to DOT and I think there's some truth behind that. The meeting that we had on Monday morning, conference call, video meeting with DOT was to basically address the question that was raised by Bedford's traffic consultant, they wanted to see if traffic control system at the intersection of Green Lane and DOT did not want to see that kind of control system for just one intersection, they didn't feel it was worthwhile doing that, so there was a conclusion by Bedford that they will not make request and that we will stick with the original proposal by the applicant to coordinate the traffic signals, you know the ones that are in the Town of Mount Kisco. So that was the conclusion of that meeting, it was to strictly talk about Bedford's desire to install that adaptive traffic control system.

Chairman Hertz stated and the conclusion was that it would not be...

Mr. Jacquemart stated effective.

Chairman Hertz stated effective in only that one intersection.

Mr. Jacquemart stated yes.

Chairman Hertz stated okay, thank you. Okay, Mr. Spina, or does anyone while we have Georges, while we are on the topic of traffic and the intersections, does anyone have any questions or feedback?

Mr. Hochstein stated I have one question.

Chairman Hertz stated sure.

Mr. Hochstein stated if the exiting lane, if the stop bars were pushed back into the driveway five or ten feet, would that alleviate the tractor trailers having to go into the through lane because now the trailer isn't crossing over into that oncoming lane because I think earlier drawings had that lane I think back, five or ten feet or something, would that help at all or does that kind of screw up your queuing down the line into the driveway?

Mr. Spina stated it does help with the trucks in terms of the maneuverability, our original design did have the stop bars set back you know, a little bit more from the intersection, that was not approvable in terms of what DOT wants to see. So they had us move the stop bars closer to the intersection...

Mr. Hochstein stated okay.

Mr. Spina stated but you're right, it would help but they just wouldn't let us do it. And the latest comment memo from Bedford's traffic consultant, he did have a comment about possibly trying to move the crosswalks farther into the site and down the driveway a little bit about for our five feet, so the DOT was going to look at that and see if they would be okay with that because then it would force us to kind of move the stop bars back a little bit too, I mean we're talking just a few feet but we're hoping the DOT would allow that because it would be a little better for pedestrians. It would shorten the crosswalk a little bit but it would also kind of get pedestrians away from the main travel way.

Mr. Vigliotti stated now, they did something similar to what we're discussing now, down at the Northern Westchester Hospital Center, as you come in from 172 at that traffic light, that's kind of an oversized intersection that has pedestrian crosswalks. At the hospital entrance, they do have the cross walk setback from 117 and it appears to be working. Maybe the thought of setting it back on this particular site would work also.

Mr. Spina stated yeah, I think the entrance into the hospital, right?

Mr. Vigliotti stated yes.

Mr. Spina stated right. Yeah, I think why they had to do that was that is so wide there, they didn't want to cross because you have kind of a striped triangle at one point heading [inaudible] bound. I mean, we're not opposed to it but again, we were following the recommendations of what DOT wanted to see.

Mr. Jacquemart stated I think there was also question of the grade of the crosswalk, the sideward grade has to be 2% or less so that's another factor that they will look into.

Mr. Spina stated that's a good point, the southern driveway is very steep, so you know if you push, you know we have the crosswalk at the top of it because when you get to the top, it levels out. You know, if you push it farther down the hill, then you start having a very steep cross slope. The northern driveway is probably more doable, I think that's something that we're going to wait to hear back from the DOT if they'd allow us to push the crosswalk back and we'll have that conversation with them and try to refine those details. So know the locations of them may shift a little bit.

Chairman Hertz stated alright, great.

Mr. Spina stated I just wanted to go back to the question before from Michael, with the truck signage on the site. We do have signage on the interior of the site, shown on the truck turning lanes, I know those were recently submitted, you know we put directional signage on there, so when trucks approach some of the internal intersections and T-intersections and such, it says all trucks you know, this direction and no trucks, we tried to put those kind of signs in the site to direct the trucks.

Mr. Bonforte stated okay, I mean I'll take a closer look at that, I wasn't able to print out the latest diagrams but that's what I'll need to do it. I'm working off a laptop Steve, so it's kind of hard to blow it up and make it work...

Mr. Spina stated right.

Mr. Bonforte stated yeah, I'll look into that further, thank you.

Mr. Spina stated sure and if there's any comments on that, if we need additional signage or different kinds of signs, we can add that but we did work on that in terms of guiding the trucks to the correct driveways that we want them to exit from which is really the northern driveway.

Chairman Hertz stated and Mike, while we have gone to digital packages, there is a full printed package that is sitting at Village Hall that can always be referenced. We can get additional ones printed and get them to you. Steve...

Mr. Spina stated we can print plans, even if you just want half scale plans, which is a little more manageable for a desk and deliver them to your house or more to Town Hall, whatever you guys want.

Mr. Miley stated we can't fit them, they're the size of 4 by 8 sheet of plywood.

Mr. Spina stated I know, you and Jan and Anthony have been saying that forever, our plans are too big. Sorry.

Chairman Hertz stated alright, Steve, can you present, the one thing we were looking to take a look at are the visuals on the wall. Are you prepared to show us that tonight?

Mr. Spina stated yes. Okay, so um, I guess I'll speed through the presentation, you guys saw this last time, this just shows the changes we made, red is the old version of the layout, stop me if anybody has any questions. We didn't change this, we made the minor changes here to the right in, right out driveway, a couple of small adjustments here, we were just trying to show the comparison, we went through this last meeting. So at your request we prepared a 3D model at all different angles looking at that retaining wall, so the next few slides, this just shows the locations of the photos, we modeled the wall, we have a chain link fence along the back of it, we put some landscaping in front and on top that would kind of grow down and over the wall to help soften the wall and help breakup the size of it. This is based on the latest grade, so this is the first arrow, arrowed of photo direction, so this is kind of the ShopRite building is to the right, let me go back real quick, so just right here and it's just looking at the wall looking up and we added this landscaping here in front of the wall, so this is where it's about 14 feet here and it tapers down and it goes back up on the right. We tried to attack kind of from the ground and then from on top of the wall by planting some Boston ivy that would grow up the wall and then these either [inaudible] hydrangeas or clematises which would grow through the fence, we'd like to put them on the back side of the fence so nobody has to go up there to maintain anything between the fence and that wall, these would kind of weep down a little bit and these are just weed grasses that would just grow two or three feet high along the swale there, on the backside of the slope up against the wall. The second picture here, is along the wall, you see the little swale we have and you can see we kind of have the landscaping up against the wall there. This picture, sorry go ahead...

Mr. Vigliotti stated Stephen, what's the height of the wall where your arrow is?

Mr. Spina stated going back to picture two?

Mr. Vigliotti stated I have the picture in front of me, I'm just trying to get a sense of the height of wall with the height of the landscaping the picture you're showing.

Mr. Spina stated so the wall, at its highest point, like down here and kind of right here where we are, I think it was 12 feet or 14 feet...

Mr. Vigliotti stated okay.

Mr. Spina stated and then it sort of goes down to about to 8 to 10 feet here where it was previously the highest point, I think it was 23 feet before. It kind of goes down there, we pulled the wall back, planned view, and then it goes back up and then tapers back down. There's a few more photos that will hopefully help, this is the left side, so again, if your back is to the ShopRite building, you're kind of look towards where that large water tower is over here, we don't have that modeled but it's about there where the pump house is. The wall just kind of tapers down to nothing there.

Mr. Vigliotti stated okay.

Mr. Spina stated this is, you know another view I guess looking north, I guess North Bedford Road up here...

Mr. Bonforte stated hey Steve, to put it in perspective, given the dimensions you just stated, knowing, having been to the site, those dimensions are about 1/3 the total slope, would you agree? Not of the entire but at the steep points, about 1/3, the wall would be about 1/3 the total height of the slope, would that be fair to say?

Mr. Spina stated yeah, I think so, I think the, I think there's probably 35 or low thirties in the number feet of grade change.

Mr. Bonforte stated before it was a higher wall, correct? Now...

Mr. Spina stated yes.

Mr. Bonforte stated okay.

Mr. Spina stated yes, it was at one point at its worst location in terms of the height, it was like 23 feet or something like that and now I think its 14 feet is the highest portion of the wall.

Chairman Hertz stated yea, so I mean, this looks like a significant improvement compared to where we started at. Steve, can I just ask you the material that you're using as a render, is, are we, are you expecting that that's fairly accurate to what the final material is going to look like? The block?

Mr. Spina stated I think so, what we're envisioning was, let me skip ahead, I have a slide we had shown it before to you guys. It was something like this, like a ready rock type wall where each concrete piece is about two feet high by four feet long and they just, there's a slight stagger and there's a texture to them, something like that is what we're envisioning, so we kind of tried to make it look like this.

Chairman Hertz stated thank you.

Mr. Spina stated you're welcome. So back to where we were, these are some more slides to show you know the landscaping as we try to soften that wall up. This is kind of looking kind of at the ShopRite loading dock behind us on the east side of the building, kind of looking up towards North Bedford Road, past the buildings on the road. And then this is, the next, there is one picture kind of way over here to the right, just kind of looking down along, so ShopRite is here. I mean I hope that helps and we can provide the PDF's of this presentation to everybody.

Chairman Hertz stated yeah I think that's very, well Steve, just for reference, off of the right side of the image that we're looking at currently, which looks to be, how much further does the wall go? Right from where your number one is...

Mr. Spina stated seven here, it's probably another hundred feet, it's a long wall, it's like 1,200 feet total, it goes basically all the way down to, I don't know if I have a plan. Wait a minute, I have a plan, I can bring up a plan but I believe it's got to be another, this is the jog here, maybe another 200 feet past this and it basically tapers down to nothing.

Chairman Hertz stated right.

Mr. Spina stated and we really didn't change much on the right side there, what we really did is we jogged it in here and then worked it back, you know if we go back and look at that, we did have that plan, sorry, this here. Yeah, you can see it goes a good way past the job here, so we didn't really change this part on the left, we jogged it in and then it started to improve itself, where the worst spot used to be here in terms of the height, now the higher portions that are remaining, the higher portions are over here and over here because we're still kind of into the slope there.

Chairman Hertz stated okay, great, thank you.

Mr. Spina stated these are just pictures of plants, I don't know if anybody wanted to see what the plants were, we just put a little palette of plants. So I mean, you know, if there's any questions or you know comments, we would love your feedback on this.

Mr. Vigliotti stated this was very helpful.

Chairman Hertz stated I'll second that. I think the visual is very important for us, I would love the wall to be fewer thousand feet but you know I think you've made some really good improvements and just confirm that because you were able to keep the same parking counts.

Mr. Spina stated yup.

Chairman Hertz stated alright, good. Okay, I don't want to, I understand, I don't want to go too deep into this because we don't have the rest of members and we don't have the rest of our consultants here but this is a public hearing. Pete, do you have someone who is wanting to speak on this matter tonight.

Mr. Miley stated we have nobody on Facebook, nobody has called, let me just look, there is nobody here in person and what about the participants and no raised hands, so, nobody is here to speak on this application Doug.

Chairman Hertz stated alright, thank you very much. Again, just let me reiterate for all the public hearings tonight, the phone number is 914-420-0383, you can call in. Alright, so we are going to, I think that gives us a good overview of where we are, you still have a great deal of work to do with regards work before the Zoning Board, you have quite a number of things to work through with regards to DOT and the rest of it. So, if there's nothing else from you tonight we are going to, I am going to suggest that we continue the

public hearing to the next meeting. Will you be ready to present new material at the next meeting which is September or do you want to be pushed past that?

Mr. Spina stated I don't know, I guess I was going to ask your opinion, should we go to the Zoning Board first and see how that goes and then return to this Board? Because I think the Zoning Board meeting is after, I forget when it is but it's after September 8<sup>th</sup>.

Chairman Hertz stated so, that's really up to you, my general suggestion with something of this scale is that the Zoning Board is likely going to ask for input from our Board with regards to our opinions on some this. So I don't think there's any negatives in terms of going to the Zoning Board to continue to present and answer their questions, I would expect that we would get a request from the Zoning Board for an opinion before they act. Whitney, can you, would you comment on that please? Excuse me, can everyone mute themselves if they're not currently on.

Whitney Singleton stated the Zoning Board obviously, there's a number of applications and a number of requested variances before the Zoning Board of Appeals, I think that the Chairman is 100% correct. I think that the Zoning Board is going to be very reticent to act until or at least even get feed back as to whether they're, as to which particular way their leaning until they had further input from the Planning Board and obviously they can't act until the lead agency makes a determination of significance, so they're not going to be acting any time soon and they'll continue to plow through the material but the fact of the matter is at their last meeting, they had several large applications on and they entertained this and they had some questions which we can provide feedback for but I do believe it's just going to be continued, you know adjourning of the public hearing until such time as your Board acts and there's some feedback one way or the other as to your Board's position on the requested variances.

Chairman Hertz stated so in short, I think if you have, if they requested some answers from you, you can certainly provide those but I think we still have a little bit of work to do here, to get to a point where we can make a recommendation to the Zoning Board and typically we wouldn't so that unsolicited.

Mr. Spina stated I just have two questions, I thought the Zoning Board could act if they wanted to because we have a SEQRA determination.

Whitney Singleton stated Chairman, my recollection is that your Board has not acted.

Chairman Hertz stated we're lead agency but I don't believe we've had a SEQRA finding yet.

Whitney Singleton stated no, I don't think, I could be wrong...

Mr. Spina stated yeah, we have the negative declaration and the findings statement.

Whitney Singleton stated Steve, if that is in fact the case, then the Zoning Board can act but whether they can or they can't I can assure you they're going to be reluctant to without some sort of feedback from the Planning Board.

Mr. Spina stated understood.

Whitney Singleton stated particularly given the 19 variances being requested.

Mr. Spina stated totally understood, I had to ask that because I thought that they could act, not that they would...

Chairman Hertz stated Stephen you might be...

Whitney Singleton stated and if that's the case Steve, I apologize because I advised the Planning [Zoning] Board couldn't act until the Planning Board made a determination of Significance. So that escaped my memory.

Mr. Spina stated sure. Now, just, and I just want to ask just so we can do whatever is necessary for the next meeting. What do you see is needed for you to provide that, I guess a positive recommendation or positive feedback to the Zoning Board? Is it some specific or is it just a little time to review all this information?

Chairman Hertz stated so I think, it's a very, it's a good question. So the question before the Zoning Board is going to be, are the variances requested the most, the smallest they could be, so things like the wall, that you needed a variance for, any of those variances are going to be codependent on the site plan being pretty close to complete, so that the numbers being presented to the Zoning Board are accurate. So you're going to variances on things like the wall and parking spaces on this that and the other thing. And they are,

they're independent but they are so tied to site plan that we need to feel like we're close to having the site plan locked down that the changes that are likely to happen will be di minimus and won't really affect our recommendations to the Zoning Board and won't change the Zoning Board's opinion on those matters. So I think, I think we have to get to the end of the DOT, feel comfortable that there aren't going to be significant changes to any of the roadways and the entrances and I think there are probably a few other things, and I apologize, Jan really is the person leading this answer and unfortunately he's not here tonight, so we're at a bit of a disadvantage...

Whitney Singleton stated Chairman?

Chairman Hertz stated yes?

Whitney Singleton stated let me just weigh-in, they were in fact issued a negative declaration on May 12, 2020.

Chairman Hertz stated okay, and you're absolutely right, my apologies for that. So the Zoning Board can act, my thought is they're likely to continue their review at the next meeting, we're likely to get to the end pretty quickly here, what I would like to do is once Jan is back, I would be okay with having a special meeting for your application that way we can just sort of devote ourselves to this application by itself because of it's significance. So, why don't we conclude this, this evening, when Jan is back we'll have an internal discussion and see if we need to, what we need to do to get to the end here because I think we're close. And then assuming that the Zoning Board requests our input, we should be able to be in a position hopefully to give that. But I think we're going to want to feel that site plan is pretty close to locked before we can make a recommendation to the Zoning Board that these are indeed the most minimal relief that could recently be requested and we can get behind that.

Mr. Spina stated okay, understood.

Whitney Singleton stated Chairman, where does that leave our next schedule date?

Chairman Hertz stated so I think we continue this and our next meeting is September 8<sup>th</sup>. Do you know Stephen, do you know when you're going to be before the Zoning Board?

Mr. Spina stated no, I have...

Chairman Hertz stated I think its next week...

Mr. Spina stated no, I was actually going to look that up...

Whitney Singleton stated its going to be the third Tuesday in September.

Mr. Spina stated I knew it was after the Planning Board, but I didn't know which one.

Chairman Hertz stated well I'm going to recommend, well what do you think Whitney? Do we need to have them here at the 8<sup>th</sup> or is that going to be redundant at this point?

Whitney Singleton stated well, just kind of getting away from parsing words, I think you were basically indicating to Steve where you would like to be before your Board acts is greater certainty with what's happening as far as access, is that correct?

Chairman Hertz stated correct.

Whitney Singleton stated and right now the question really becomes how far along are they with DOT and with the Town of Bedford so as to be able to lock that stuff up and that's not exactly the best word choice, lock it up but really what we need to know is whether or not there's going to be changes in the Town of Bedford and on the state highway there that are going to impact plans that you guys are otherwise reviewing. So I think it's kind of question for Steve, I think it's appropriate that you're putting them on whatever agenda works best for them.

Chairman Hertz stated yeah.

Mr. Spina stated yeah, I think, we're trying to get on the September Bedford Planning Board meeting now that we had this call with the DOT and that adaptive signal comment is kind of going to be going away and their traffic consultant should now feel comfortable with approving the design. We hope that the Planning Board over there also feels that way but that's probably not going to happen, if we're lucky, until September. So I mean I'm assuming with what Whitney says, you're going to need to kind of have that

information for you to feel more comfortable, right? I mean that is something that should probably be [inaudible]...

Whitney Singleton stated and they meet on the same nights as Mount Kisco.

Mr. Spina stated right.

Chairman Hertz stated so it's your call Steve, we're happy to put you on the 8<sup>th</sup> but I think it would be more logical to see you on the meeting after.

Mr. Spina stated yeah, that's what I was thinking, I mean just to, so we don't waste anyone's time and just fill up the agenda. We're happy to come on but I don't know if anything could really get done procedurally by then.

Chairman Hertz stated yeah, well my guess is that you still have some, there are probably comment memos from Anthony and Jan that need to you know be addressed, and perhaps from Mr. Miley. But you can continue to work on those whether they're here on the 8<sup>th</sup> or on the 22<sup>nd</sup>. It's your call, we can put you on the 8<sup>th</sup> and adjourn you to the 22<sup>nd</sup> or we can just adjourn you right now to the 22<sup>nd</sup>.

Mr. Spina stated I'm just thinking the 22<sup>nd</sup> probably makes more sense because hopefully we can have more done by then.

Chairman Hertz stated and have met with both ZBA and [inaudible].

Mr. Spina stated right because then we would have met with ZBA on the 15<sup>th</sup> and then presumably we would go to Bedford on the 8<sup>th</sup>. They meet the same night as you guys...

Whitney Singleton stated I'm looking on their calendar though, they don't have anything listed for September, they only have ZBA and Town Board. It just may not be on their calendar yet but yeah, they do meet the same nights as Mount Kisco.

Chairman Hertz stated okay Steve, let's move you to the September 22<sup>nd</sup> meeting and hopefully we can have some substantial movement or you guys have some substantial progress by then.

Mr. Spina stated yeah, we do have comments to address now based on this new design and we're submitting to DOT or we have submitted to them, we are awaiting their review.

Chairman Hertz stated okay, so the 2<sup>nd</sup> it is. **In that case I'll make a motion that we adjourn this meeting, the public hearing until the meeting on September 22<sup>nd</sup>.**

Mr. Spina stated okay.

Chairman Hertz stated will someone second that?

Mr. Bonforte seconded the motion.

Chairman Hertz stated thank you Mr. Bonforte. Michelle, would you poll the Board?

**UPON ROLL CALL VOTE:**

<b>Chairman Hertz</b>	-	<b>aye</b>
<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Mr. Hochstein</b>	-	<b>aye</b>

**The motion carried by a vote of 4 to 0.**

Chairman Hertz stated great, so Steve we will see you in a month and good luck with the process and we're hoping we're nearing the end.

Mr. Spina stated hopefully, yes. I think we're getting there.

Chairman Hertz stated yeah, hopefully DOT will help you get there. Thank you very much.

Mr. Spina stated alright, thanks everybody, have a good night.

Chairman Hertz stated you too. The next item on the agenda is PL Property Management Corp., this is for 18 Britton Lane as well as 20 Stewart Place. They're here for site plan, these are being reviewed together as they are two adjacent properties which include a change of subdivision or re-subdivision.

**C. PL Property Management Corp. – 18 Britton Lane  
PB2017-0340, SBL 80.24-2-1  
Site Plan**

**PL Property Management – 20 Stewart Place  
PB2019-0379, SBL 80.24-2-2  
Site Plan**

Mr. Len Brandes, Architect and Mr. Gustave Levy, PL Property Management Corp., were present.

Chairman Hertz stated who do we have here from the applicant?

Mr. Brandes stated how are you doing Mr. Chairman and members of the Board, Len Brandes. One note I would like to make is that I didn't receive notes until this morning, they weren't sent out until this morning and I didn't get them until about 11 o'clock, I did make some changes for the notes that were sent in, so I can present those drawings so we have updated information, as opposed to older information. I think we can answer a lot of questions that we had from the notes that we get today.

Chairman Hertz stated sure, why don't you make your presentation?

Mr. Brandes stated can I share the screen?

Chairman Hertz stated you may.

Mr. Brandes stated I'm not sharing yet. I'm losing you guys sorry.

Chairman Hertz stated take your time.

Mr. Levy stated is there any way we can get the notes for the meeting earlier?

Mr. Brandes stated are you seeing the screen?

Chairman Hertz stated yes we are.

Mr. Miley stated Gus, typically the notes do come earlier, we got word that the two consultants that were preparing the notes didn't have internet, actually until yesterday or early today, so that is the reason.

Mr. Levy stated so Len, Len, let's just put on for the next meeting, I don't even think we should waste our time.

Mr. Brandes stated well I think we can go through a few things and see if we have any comments that we can use. If there will be more comments...

Anthony Oliveri stated comment memos go out with the Planning Board packets, they don't go earlier than that, isn't that correct Peter?

Mr. Miley stated that's correct.

Mr. Levy stated what are we supposed to work on though? What is Len supposed to fix between one meeting and the next?

Anthony Oliveri stated I don't believe the Board expects you to present drawings addressing all of the comments that went out based on the submission that was to be presented tonight. That's not the way the Board works.

Mr. Levy stated it seems really backwards and slow and time consuming.

Anthony Oliveri stated [inaudible] you got them when you were supposed to get them is what I'm saying.

Mr. Miley stated there were a couple late, there were a couple late.

Anthony Oliveri stated yeah but they don't normally address the comments and present revised drawings at the meeting.

Mr. Levy stated okay, Anthony, regardless of all of that, we should have time to address the comments made so we can have a good and productive meeting. Understand, we'll go through with this but we'd like the comments from now on at least a week in advance.

Chairman Hertz stated Gus, that's not the way that this Board works. So the...

Mr. Levy stated then what is the point of the Board? Because you guys give us comments like 24 hours before we come in front of you and expect us to address those.

Chairman Hertz stated we don't expect you to address those at the meeting.

Mr. Levy stated so when are we supposed to address those comments?

Chairman Hertz stated at the subsequent meeting. So our process...

Mr. Levy stated that seems like a long, ridiculous process, wasting a lot of time when we can address all the comments before this current meeting.

Chairman Hertz stated Mr. Levy, if I could just explain the process which is the same for you and every other applicant. We get submissions in, you have a submission deadline of I believe it's 10 to 15 days prior to a meeting that gives our consultants time to review your application and the other applications that come in. They go through those and they create a comment memo, this Board sees those comment memos typically a few days prior to the meeting, whether it's on a Thursday or a Friday, and when those comment memos are available, they go out to you as well to us and we get to review those as well. We only have a few days to do that and then that gets discussed at the meeting on Tuesday, so whether it's a Friday or Monday, typically that's when those comment memos are shared, that's when this Board sees them for the first time. We rely on our consultants to do the heavy lifting, so at the meeting is the time when you would discuss your thoughts on those comment memos, the Board would give its input and then you can go back, if need be and make any changes that are required.

Mr. Levy stated as I stated, we'd like to get the comments week before so we can make changes based on what was going on. We got the comments today.

Chairman Hertz stated understood but this has been an extraordinary week, most of us, including our consultants had no internet or power until some time into the week so it's been rather difficult to work. So this has been an extraordinary week and I think you have to give people a little bit of leeway for a natural disaster.

Mr. Levy stated yeah, yeah.

Mr. Vigliotti stated so Doug, what is the best way to move forward now? What's the best way to move forward?

Chairman Hertz stated yeah, so what I'd like to do is if Mr. Brandes has some information he's like to present, let's please present that. Then I'll have Anthony go through the, where we stand with the applicant and we'll go from there. So Mr. Brandes...

Mr. Brandes stated thank you very much. This actually was submitted to you, this is the survey from the surveyor we got with the new subdivision line for the two properties that we have here for 18 Britton and 20 Stewart. So this submitted already, earlier in the original application just now. We already do have it, the original property line is over here right next to the building, you will see that on my drawings that are coming up next, I'll pull that together for you.

Whitney Singleton stated am I the only one not seeing the content?

Mr. Brandes stated I'm trying to re-share.

Mr. Levy stated I can see it.

Mr. Brandes stated okay, so with this plan that we have here for, one more time, share. I'll blow that up a little bit so everybody can see it. The question was the existing property line which is over here, which we did show on our application and that is the proposed property line which we do have the new survey that we submitted a few weeks ago with this application. What was requested is that we show the buffer line,

so we do now have the buffer line now added in over here for the two properties, showing the buffers, the setbacks for the property and the planting buffer line is missing. In addition there was a question about the amount, I put a note 10 foot minimum all around the property, also that there was a question of how much was added in the property, so I added that information, I did show before on the existing but we had existing then what the proposed was, so its an adding of 1,013 square feet to 20 Stewart and a deduction of 1,013 square feet to 18 Britton. Just so you know that we've tried updating as much as we can for you, for these drawings right now. What else do we have, I'd like to also just over the lighting with you, that is one of the questions that came up again. I don't know of any flood lights that we have had on these plans, we never showed flood lights I did add additional notes to this, the main comment was that I was using 150 watt LED bulbs, they felt it was too bright so I am showing this now but we brought it down to 100 watts, we tried to get between three and four foot candles of light in the space. We do realize people are walking, they have packages, there are a lot of people coming here, there's kids, I don't want this to be a very low level, it's not like a dark parking garage. We also was requested to use black fixtures, black posts instead of aluminum posts, so I did add a note for that as well, so we have black posts now. There is another note over here that we added these notes right here that we changed it to the 100 watts versus the 150 watts to lower it down, these are by the way, the fixtures can be brought down, they're dimmable, so we can bring it down to the levels that we need so we're not over lighting, so we don't interrupt anybody in the streets. I've changed them to 15 foot high poles, they're all going to be black, on masonry, we had that before. We had details, we had submitted as well and any additional details on the drawings, we'll add additional details for the light fixtures and the mounts that we had submitted with the application.

Chairman Hertz stated so Len, a couple of comments. One, we typically ask for photometrics for the lighting plans so that we see what light trespass is at the edges of the property, while you're showing some overlap, there are not photometrics related to this, so we can't tell what you're footcandle levels over both in overlap and center and the edges. Also, you have 5,000, I think the information you provided, both list these are 5,000° Kelvin but in other places, I think you provided a cut sheet, I might be incorrect in this matter that shows different, I'm just trying to think...

Mr. Brandes stated that's the brightness of the bulb, you want to use a warmer bulb?

Chairman Hertz stated we typically ask for 4,000° Kelvin or less...

Mr. Brandes stated not a problem. That actually makes it...

Chairman Hertz stated that's not a brightness level, that's a color temperature level.

Mr. Brandes stated yup.

Chairman Hertz stated so we are going to need, before an approval, we are going to need to see actual photometrics.

Mr. Brandes stated okay, not a problem, we will take care of that.

Mr. Levy stated were those on the notes?

Mr. Brandes stated these were on the notes, I'm going from the notes and changes that we were able to accomplish at this point. I did mention the 5000°, to 4000 change...

Mr. Levy stated does it talk about the request for photometrics? Is all I'm asking.

Chairman Hertz stated that's generally what a lighting plan includes.

Mr. Levy stated yeah, you know what Doug, I'm upset because you guys are like dragging your feet now. I mean we could have this stuff a week ago. I understand there's a natural disaster and stuff like that, how about an e-mail, how about a message, hey guys we had a natural disaster this week, we're going to be real late...

Whitney Singleton stated Gus, can I comment on this a little bit? It's Whitney.

Mr. Levy stated yeah.

Whitney Singleton stated as Doug pointed out previously and appropriately so. The process is that you submit something and then the staff provides commentary on that and then...

Mr. Levy stated well it would be helpful...

Whitney Singleton stated Gus, let me finish, Gus...

Mr. Levy stated no, I've been sitting here going over this stuff for months now and now he's saying it would be helpful to provide this. Well if we had known we should have provided that, we might have had that tonight for you already. We wouldn't be sitting here wasting everybody's time.

Chairman Hertz stated Whitney, I'll, Mr. Levy, I'm the Chairman of the Planning Board, unless you can conduct yourself in a professional manner, we're not going to have you sitting here...

Mr. Levy stated a professional manner would have been an e-mail telling me...

Chairman Hertz stated thank you, this matter is now adjourned, we'll discuss it at the next meeting.

Mr. Levy stated real professional.

Chairman Hertz stated if you have questions about what is required, you can call the office and have it discussed. A lighting plan is the same requirement for every applicant and every applicant except for you has provided photometrics. So the fact that you're not aware of what a professional lighting plan should like is not the problem of the Planning Board and if you had questions, there's a methodology for getting those questions answered. Now we will move on to the next application. Thank you. The next application is your application.

**D. PL Property Management – 77 Smith Avenue  
PB2020-0398, SBL 80.41-1-3  
Change of Use**

Mr. Len Brandes, Architect and Mr. Gus Levy of PL Property Management were present.

Chairman Hertz stated for 77 Smith Avenue. Peter, would you take us through this application please?

Mr. Miley stated sure, the application before you, 77 Smith Avenue, is an existing unlawful two-family situated on a 9395 [square] foot noncomplying lot, the property is located in the OC, Cottage Office Zoning District. Proposed this evening or proposed originally, to be further discussed this evening is to convert the space to include an office space located in the basement which the access is located in the rear by a newly designed driveway and parking area, thereby providing five spaces including one ADA space, so they do meet the parking requirement. This application requires your Board to issue a Special Permit, in addition there are going to be two variances required because of the location of the office space. The office space as I indicated earlier will be accessed on the lowest level which is the basement and then one family, the one unit, the one-family dwelling unit will be located on the ground floor which is the first floor that faces Smith Avenue. They require two variances, one as I indicated earlier is for the location of the office, excuse me, dwelling and the other is for a small development coverage, which they're shy by let's see 605 square feet. The Village Planner indicated to me that they submitted a landscape plan which was acceptable, he did have the same comment on the lighting plan, it is my understanding, I'm not sure if he's spoke to Len or Mr. Levy with regard to the type of fixtures. He mentioned before about the aluminum fixtures, there was the same comment with regard to black. We had a previous comment by one of our Planning Board members to ensure that there were no spotlights because of some of the residential properties located in the rear. That should sum it up, other than, this is still an open public meeting, excuse me public hearing. Let me just look at my notes from Jan, if there's anything else that needs to come out of this. Okay, that's pretty much it unless Whitney has anything to add to this.

Whitney Singleton stated yeah, I have a couple of things to add. There, my understanding is that the level of outstanding issues is proving nominable, excuse me, nominal and there is nothing of a significant nature, and therefore if your Board wishes to close the public hearing and move towards a resolution of approval, the Planner and Staff don't have any problem with that, the only request would be that instead of having it put on for the next meeting, it be put on for the meeting of 9/22 so that there is ample time to prepare the resolution. If your Board is so inclined...

Chairman Hertz stated thank you. Anthony, I believe there were some comments and some thoughts that you had regarding sheet flow.

Anthony Oliveri stated yeah I am, we just had the...

Chairman Hertz stated I'm going to, Anthony, I'm sorry, is everyone getting a distortion when he speaks?

Mr. Miley stated yes.

Chairman Hertz stated there's some issue when he talks and it's gotten worse over the course of the meeting.

Whitney Singleton stated clearly our Village Engineer is not a radio frequency engineer.

Anthony Oliveri stated I'm not really sure how to correct that, I can try to go off and come on again.

Chairman Hertz stated that's okay, I think this like lower volume is helpful.

Anthony Oliveri stated okay, I'll backup, just on the stormwater runoff, just had a suggestion just to take flow with maybe route with a dissipater strip along the edge of the asphalt and we had the same comments on the lighting, just a little more detail on the photometrics. And that was it, so I would have no issue with going to a resolution.

Chairman Hertz stated Len and Gus, do you have any issues with providing the Board with this gravel dissipater strip, so that we can feel more, we're quite concerned with the water running down the driveway and sheet flowing...

Mr. Brandes stated I guess it would be at the end of the parking area over here, so the flow is going down out this direction, we have plantings over here to catch the water now, so in the front of this area, I don't have a problem. Is that alright with you Gus?

Mr. Levy stated no problem.

Chairman Hertz stated is that where you're referring to Anthony?

Anthony Oliveri stated yeah, that's what I was thinking of. Originally in the meeting we had, we spoke about maybe looking at some pervious pavers but I think the gravel strip would serve this [inaudible].

Chairman Hertz stated do any other, do any members have comments or questions on this application?

Mr. Vigliotti stated I would just like to say that 77 Smith Avenue, historically over the last 10 years has gone into a state of disrepair and this is a nice compliment to the street and all the improvements, I think are going to make this a nice property for the residents in the immediate area. I would also like to move to close the public hearing at some point this evening so we can continue to move this along.

Chairman Hertz stated I would agree, thank you for those comments Ralph. Anyone else have any comments on this application?

Mr. Miley stated I just want to remind the applicant that August 25<sup>th</sup> is the deadline for the September 15<sup>th</sup> ZBA meeting.

Mr. Bonforte stated Gus, did you hear that?

Mr. Brandes stated thank you very much.

Chairman Hertz stated and I would also like to say that the landscaping plan that you've provided is an excellent one and we appreciate the care and attention that was given to that. So thank you for that. If there are no other comments by Staff or by Board members, I would make a, I would ask for a motion that we close this public hearing and request that the Planner, when he returns, draft a resolution of approval with the changes we've requested, being the photometric, lighting plan with photometric satisfactory to Village Consultants and the gravel dissipater as discussed in this meeting tonight by Anthony. **Do I have a motion to close the public hearing?**

**Mr. Vigliotti stated so moved.**

**Mr. Hochstein seconded the motion.**

Chairman Hertz stated and before we vote on it, please confirm for me Peter, that there are no outstanding comments and no one wishes to speak on this application.

Mr. Miley stated I'm viewing Facebook, there's no comments, we're looking at, there's not addition and nobody has called it and there's nobody present here.

Chairman Hertz stated okay, thank you very much. So with that said, we have a motion and a second, Michelle would you poll the Board?

**UPON ROLL CALL VOTE:**

<b>Mr. Vigliotti</b>	-	<b>aye</b>
<b>Mr. Hochstein</b>	-	<b>aye</b>
<b>Mr. Bonforte</b>	-	<b>aye</b>
<b>Chairman Hertz</b>	-	<b>aye</b>

**The motion carried by a vote of 4 to 0.**

Chairman Hertz stated so we will plan to see you here at the meeting of the 22<sup>nd</sup> and we hope to have a resolution of approval that typically will be available to you usually two days prior to the meeting, if you have comments for that. And if you could prepare those slight changes in advance of that, that would be wonderful.

Mr. Brandes stated thank you very much.

Chairman Hertz stated thank you very much.

Mr. Brandes stated thank you Mr. Chairman and members of the Board.

**E. Charisma Associates, LLC -19 Kensico Drive  
PB2015-0307, SBL 69.50-1-5  
Amended Site Application**

Mr. Pietro Catizone of Catizone Engineering and Mr. Douglas Ulene, attorney for the applicant, were present.

Chairman Hertz stated the next item on the agenda is a formal application for Charisma Associates, 19 Kensico Drive, this is for amended site plan application.

Mr. Miley stated actually Chairman, this is a new application, formal application...

Chairman Hertz stated okay.

Mr. Miley stated they're similar to their previous application but it does include some changes, they're recent, their past approval long expired and I believe that Mr. Catizone, I see him, he's present, can explain to you some of those changes and I had a conversation with Jan and it's my understanding he had a conversation with Whitney with regard to some easements and/or another adjacent property owner being able to access or egress through their property. And I believe based on that information, the reason for the change or the mountable curb that is before you on the recently amended plans but same approval, it's still going to be an automotive storage center, unless that's changed since you know, last week and in addition to that there are some land banked spaces that are going to be located on the side and one of the questions by a Board member was are those spaces going to be utilized, they are providing three additional spaces and that because of the three spaces being now at a 90° angle, it's further reduced the access aisle that would require a variance and a slight uptick in development coverage that would also require a variance for which they once received for a smaller amount, 3.1% now going up to 3.4%. So that should sum it up unless Whitney would like to add anything that him and Jan discussed.

Chairman Hertz stated and that variance is expired along with the prior approval.

Mr. Miley stated it's changed, it's more significant now as well.

Chairman Hertz stated thank you. So, Mr. Catizone, why don't we give it to you and you give a presentation as to what this application is.

Mr. Catizone stated okay.

Chairman Hertz stated as it is a new site plan application and we'll ask questions later.

Mr. Catizone stated okay, I very quickly would like to take you through just the history and what our objective is. We received site plan approval in February of 2016, it is essentially, with the exception of the mountable curbing, the same plan that was submitted under this submission. The person managing the Estate Motors project at the time, property at the time was also managing this project, we advised them that the site plan approval was going to expire and they were more focused on brokering a deal for the sale of the facility that seemed to be on the forefront and this project fell by the wayside. In 2018 we came before

this Board again to renew the site plan application, basically the same plan [inaudible] mountable curbing as you see now and then towards the end of one year, it seems like the property manager who was in charge of the properties, who is no longer with Charisma, started doing some work which was not up to par, that work has since been removed and the issue of the mountable curbing came up during that work which we'll get to in a minute. So the Buonanno's are interested in coming into compliance with this project and constructing the improvements and moving on. Mr. Buonanno passed away in March of 2020, so his wife Nancy Buonanno is very focused on just tying up any loose ends and moving onward. I just also want to remind the Board that these are two lots that will be combined to one and that with respect to coverage that it's a nonconforming lot. So the initial 2016 application, the initial reason we were there is because cars were being parked in the driveway which is no longer happening and we decided a good solution would be to landscape the portion of the driveway, it was partially landscaped, landscaped that to discourage the parking of the cars, so the variance, although we did receive a variance, it was actually an improvement to the existing conditions and the new variance that we're requesting which just includes the mountable curbing and grasscrete pavement, is also an improvement in the condition today, so we will be reducing the impervious cover from the existing conditions. We have a pretty aggressive goal, what we would like to do is present the project to you today, we'd like to be in front of the ZBA on September 15<sup>th</sup> and I will be asking Mr. Miley to prepare a letter of denial to get us to the ZBA and if this Board supports this project, we would really appreciate a positive recommendation and we hope to be back before your Board on the 22<sup>nd</sup> for final. So that's really the history, that's our aggressive schedule and I would like to share the screen and just take you through the existing conditions and what was previously approved and what we're approving now. Can everyone see my screen or not?

Chairman Hertz stated yes.

Mr. Catizone stated okay, so the first thing I want to show is the original site plan approval and this is from, this is 2007. So at the 2007 approval there were basically 6 indoor parking spaces, one of those spaces is a handicap space, there was an overhead door at this location and also three parallel, I mean three [inaudible] parking spaces at the rear. These spaces were actually not constructed in this configuration, they were constructed facing the opposite configuration, so a car pulling in through the easement could park in that space. So our plan, so this shows the three spaces in the configuration that they were built, we're not saying that that's what was approved but that's what's there, that's what's on the survey and that's what we verified in the field. So what happened is that five of these interior spaces were utilized as lifts, so the lifts are basically vehicle storage, there is a vehicle parked at ground level and a vehicle parked above it. So they pull in the vehicle, raise the lift and then park another car under it. So the applicant installed 1-2-3-4-5-6 additional lifts plus one lift at this location 7 additional lifts. This overhead door was eliminated, it was found to be nonessential to the function of the building, all they do is store cars there, they'll do a quick detail in this hatched area, all this access is through this overhead door on the front of the building and what we proposed are three parking spaces at the rear, one of which is an ADA space. We are also showing a trash enclosure and I saw that there was a comment on the Kellard Session memo and we will note on the detail the screening and those requirements, however this facility doesn't generate the amount of garbage to really justify an enclosure or a large container but we just wanted a place for it, a place holder if there is a future tenant. The only change to the site plan really is this island, while they were doing the work, so just to backup, part of this was landscaped, where the door was we're going to turn that to landscape area and then also this stretch between where the landscaping currently ends to the corner of the building, we're going to curb that and landscape that as well. So that does give back, takes away some impervious area and gives it back as landscaped area. During the work that has since been removed, Brooks Brothers Countertops expressed that they were concerned that this island could present an issue for truck turning so we decided in keeping with what we promised this Board in 2016 and 2018, we'd propose grasscrete to keep it green, grasscrete does count as development coverage so that changes the variance but having said that, we could change that to whatever this Board likes. I'm not sure if a striped island would be better here with no curbing but certainly it does change the variance. So having said that I'm happy to answer any questions that this Board might have regarding this application.

Chairman Hertz stated thank you. So Pete, can you explain to me what, you said there's a concern about trucks and the mountable curb, can you describe what that references?

Mr. Catizone stated yes, so there's an easement, we presented the deed, the easement was part of that. The trucks for Brooks Brothers Countertops, they enter through this parcel which is currently a vacant parcel, the building is entirely on a second parcel. So they entered through this, through our, through Charisma's driveway and they turn right to get to their facility. The perpendicular or parallel parking, all of our submittals of past approvals have been this perpendicular arrangement as we show it now. You saw that the original site plans were configured of both the 90° parking and downward and they actually constructed the other way but we just wanted to be responsive to our neighbor and if there's something that's potentially preventing them from getting to their property, we want to be responsive to that.

Chairman Hertz stated okay.

Whitney Singleton stated Pete?

Mr. Catizone stated yes.

Whitney Singleton stated can I just ask a couple questions because you lost me on the deed.

Mr. Catizone stated yes.

Whitney Singleton stated you are proposing mountable grasscrete curbing in lieu of what was another pervious surface. So I'm at a loss trying to, and you're restoring an area that used to be an entrance into landscaping. I'm trying to figure out how your impervious coverage is increasing as a percentage and requiring an increased variance.

Mr. Catizone stated the 2016 and the 2018 site plan showed this island as a planted island...

Whitney Singleton stated oh that one over there, got you.

Mr. Catizone stated this island here was a planted island, so the only difference between the two plan sets is that in response to the Brooks Brothers manufacturing's concern, that we didn't not want to provide plantings on this island and we also wanted to have it as a traversable surface. We don't know if we are in conversation with them on this site plan and also on basically getting the fence done at the rear of the property, which is not only a Planning Board requirement from the previous approval, I believe it's a requirement by the railroad. So we are in discussions with Brooks Brothers, however whether this is grasscrete or some other treatment, we wanted to accurately reflect that on the variance. So the overall impervious is going down, the impervious from the 2018 approval to what we're asking for now, even though the overall is down but the variance is a little bit bigger which is the area of this island.

Whitney Singleton stated and can you explain to me and I apologize that I'm not getting this, I'm looking at everything on an iPad, I can't see it very well. What is your required parking and where are you discharging it?

Mr. Catizone stated the required parking is nine, the original site plan approval had six interior spaces and three exterior spaces.

Whitney Singleton stated okay.

Mr. Catizone stated total of nine, what's there now is three exterior spaces which we want to turn 90° and one, this interior ADA space still exists inside and that's typically where the person who maintains this facility brings cars up and down off the lifts, get them prepped for delivery, he typically parks here.

Whitney Singleton stated so what you're telling the Board then is that the two exterior spaces, one handicap and one regular space at 90° are essentially the facilitating the need for the mountable curb? But what I'm trying to figure out...

Mr. Catizone stated I'm not saying, there's three exterior spaces, the mountable curb is exclusively related to Brooks Brothers.

Whitney Singleton stated no, I get that but I guess what I'm getting at, what I'm getting at is this, your easement in favor of the other property owner has the requirement that it be twenty-five feet on the northerly side of this property. And you, I don't know whether you have that or you don't have that but appears as though you have twenty-one feet.

Mr. Catizone stated the twenty-one feet is to the existing curb line which we made...

Whitney Singleton stated okay...

Mr. Catizone stated and again...

Whitney Singleton stated but you're maintaining a 25 foot open area there for ingress and egress, correct? Whether it's paved or not paved, whether it's landscaped or a portion of its landscaped...

Mr. Catizone stated right.

Whitney Singleton stated you're maintaining the 25 feet...

Mr. Catizone stated yes.

Whitney Singleton stated I don't see anything in the easement agreement that's been provided to me unless there's additional documents that speaks to what's required in the rear of the property. I would think that if 25 feet is...

Mr. Catizone stated I don't have any other information other than what was submitted and I don't disagree with your comment.

Chairman Hertz stated so let me go back to the parking, so if nine spaces are required per the parking calc and Peter would have to verify that, are you asking for a waiver of those spaces? Or are you asking for some of those spaces to be under the lifts?

Mr. Catizone stated no, we're requesting that, we're providing four of the nine and five spaces are land banked. The use, if the demand went up then they would, the spaces under the lifts don't comply with the Village requirements for parking, the lifts are narrower than nine feet. So they would, we would either have to get a waiver for that or remove the six lifts that have been installed.

Mr. Miley stated or a variance.

Mr. Catizone stated or a variance but right now we're asking for the previous approval that five spaces be land banked.

Chairman Hertz stated so I guess the question is because your, I mean we had a clear business understanding of the use prior which gave us the ability to justify the land banking. I don't know what the current or the intended use is, and therefore if the, I mean you to some extent need to justify the fact that you don't need the spaces, we need that business case, we need to understand how the property is going to be used or not, such that four spaces is the appropriate amount and the rest could be land banked and changed if the use were to change from there.

Mr. Catizone stated so the proposed use is the same as the existing use and the use since Charisma has owned this building and that is for storage of vehicles and for the cleaning/prepping, storage and prep, it's a one person operation, there's one person that manages the vehicles. There might be an occasion where you know a manager may stop by just to see how things are running but typically it's a one person operation. No customers that are brought to this site, if they have a red car here and the customer says I want this car in red, they do not bring the customer here. They say okay, we'll have it at the dealership on such and such a day. So the facility is currently the same use and that's really what it's intended...

Chairman Hertz stated so I guess the question is, the business plan that we've seen prior is what you're saying is still in effect and nothing has materially changed to that...

Mr. Catizone stated correct.

Chairman Hertz stated so that the same logic is, we should apply the same logic, I'm just trying to, I'm helping you out here, help me out...

Mr. Catizone stated the business plan has not changed, the previously approved business plan of one person operating the facility, no customers, no visitors, is really remaining, has really remained unchanged. There is no need for parking under the current operation.

Chairman Hertz stated understood.

Whitney Singleton stated Pete, can I ask you another question?

Mr. Catizone stated sure.

Whitney Singleton stated I'm trying, in this Zoom world where we're looking at things on screens and trying to schedule different meetings with different people and with summer schedules. I'm just trying to anticipate your next stop. You're going to go to the Zoning Board of Appeals and you're going to ask for variance to take a site that's already almost 100% impervious surface or development coverage and increase that development coverage and you're going to do by virtue of proposing 90° parking spaces and a mountable curb so as to facilitate the, safe ingress and egress for your neighbor. If I were a Zoning Board member asking you the question, I mean one of the things you have to do is you have to demonstrate that this can't be done without the need for a variance. Why don't you simply move more parking inside? Discharge more required parking inside and store less vehicles on the site?

Mr. Catizone stated the current development coverage, the allowable is 75%, the current development is 80.8%, we are actually reducing it to 78.4%.

Whitney Singleton stated yes but you're doing that by virtue of the sites becoming combined, correct?

Mr. Catizone stated we were always doing it by virtue of the sites becoming combined. Without the sites becoming combined, there's not benefit for the lot that the building is on. All of the landscaping is on the lot that has no building on it.

Whitney Singleton stated no, I'm not arguing that, what I'm saying is that one of the requirements that the Zoning Board has to evaluate is whether or not the relief that you were seeking can be achieved without the necessity of a variance. And you have approximately, am I right is saying you have 26 spaces all with lifts?

Mr. Catizone stated we do but I mean the business is vehicle warehouse, so...

Whitney Singleton stated no, I understand that but why would you not simply, if you're discharging some of your parking in the building, why not discharge all of it and then you don't have to worry about that mountable curb, you don't have to worry about increased variances and you don't have to worry about 90° turns or 90° parking, I mean you're really not putting very many parking spaces outside.

Chairman Hertz stated well I'll take a variant on that, which is if there's one person who's typically at this site with an occasional manager or second person coming, why do you even need four spots?

Mr. Catizone stated but we need to meet the Planning Board requirements. So again, the original plan was six spaces interior and three spaces exterior.

Chairman Hertz stated well but...

Whitney Singleton stated well let's just say for example and I'm sorry to cut you off Chairman, but I'm just trying to accelerate this process but if you don't need nine spaces, could you get by with six spaces inside and one space outside?

Mr. Catizone stated so land bank more spaces interior?

Whitney Singleton stated no, no, I'm not saying land bank but I'm suggesting that the Planning Board has the discretionary authority to determine the necessary parking for this site. If you're telling me that one person goes to this site, why would need seven parking spaces or nine parking spaces?

Mr. Catizone stated well that's a Planning Board requirement and you're right, we could you know, have another space inside but again, this a, you know those would have to be land banked because the economics of this is to store the maximum number of vehicles interior.

Chairman Hertz stated let me make a suggestion and maybe it gets, can you go to the rear of the property, just center that please so we can see those three spaces. So we're talking about a variance that's relatively small if, and you're worried about cars coming around the corner, trucks coming around the corner and clipping you know, clipping this area as they come around the curb. Could you not create, take the furthest two spaces and leave them, remove the first space, the space where the three is...

Mr. Catizone stated I got you, right here.

Chairman Hertz stated create some greenspace in that general area so that you'd have less impervious and less development coverage and we, and the Planning Board probably has the ability to say that we can either land bank an extra space inside or determine that the site doesn't need that kind of parking in general. Or quite frankly, land bank the, oh no you wouldn't be able to land bank this but could you cut the corner a little bit better, bring that mountable curb in and then create a small area of landscaping in what's essentially the gap and the area for space three?

Mr. Catizone stated we could certainly do that, again, right now the site is over 80% impervious coverage and you know what, it's an existing nonconforming use, so whatever we're doing with landscaping is making that condition better and that is our pitch to the ZBA. Now, we want to be responsive to this Board, we don't need all these parking spaces, we're happy to provide whatever landscaping we can. Again, we were going under the assumption of the nine space, if it's determined that less spaces are needed or again if we could land bank an additional space inside, we're happy to do that in exchange for green space. The question to this Board is, you know we're already having a reduction in impervious with this

landscaping on the north side is what's the number you're looking for, what's the amount of landscaping you're looking for and we'll do whatever we can to provide that.

Chairman Hertz stated well I think what Whitney's getting which I think is a very interesting point is you're down to, you're at 78 something percent...

Mr. Miley stated 78.4%.

Chairman Hertz stated where 75% is required.

Mr. Miley stated that's correct.

Chairman Hertz stated you know, do you have the ability do the extra three percent and not have to go the Zoning Board?

Mr. Miley stated Chairman, can I just interject a second? They also, because of the redesign of the space being now 90°, it requires a larger aisle width, I have a recommendation perhaps, if they only need two spaces, why not just make two parallel spaces and it increases the width of the aisle space as well. Parallel to the back of the building, you see what I'm talking about Mr. Catizone?

Mr. Catizone stated yeah, I do.

Mr. Miley stated you have four spaces here, three plus one hashed aisle for the ADA, why not just have two along the exactly, reduce the size of the dumpster enclosure and then you don't need anything.

Mr. Catizone stated so a parallel space would be...

Mr. Miley stated 20 foot, you need.

Mr. Catizone stated 20 foot, so we would need 40...

Mr. Miley stated correct and you're at about 38 now, so reduce the dumpster a little bit, then you have it...

Chairman Hertz stated but how does that help with the impervious.

Mr. Catizone stated well we have the, yeah, it doesn't help with the impervious.

Mr. Miley stated yeah, you would landscaping instead of doing grasscrete, shorten it and landscape and you could put a landscape along the parallel side of the building, exactly, right along where you're...

Mr. Catizone stated and eliminate this island all together?

Mr. Miley stated well shorten it, shorten it to the space and then landscape long, create a two foot by 20 foot landscape buffer along the side of the building.

Mr. Catizone stated so this island, sorry I have to start...

Mr. Miley stated all the way down, exactly, there you go.

Mr. Catizone stated I have to see where the stairs are, I think the stairs come down, would come down into this landscaped area. That would be our island, yeah that stairs come down in this direction. So what we'd have to do is just shorten this and fold it in at some point. And again, we don't need the dumpster enclosure, we were showing it as a placeholder but...

Mr. Miley stated it looks bigger than the car space, it's huge.

Mr. Catizone stated I'm sorry?

Mr. Miley stated it's very large considering you say you don't generate any garbage.

Mr. Catizone stated yeah, they have cans inside, you know that, and what is it, it's not food, it's some recycling, empty bottles of whatever armorol or whatever detailing things they use. So they basically, right now have their garbage inside and they roll it out.

Mr. Miley stated yeah, just the point I was trying to make is that by redesigning the rear space, you increase the number of variances, not reduce them. Not only impervious but because of the aisle width of the

parking spaces now because the angle spaces only require 17, 90° requires 25 and you're at 19.5. So you increase the number of variances not necessarily needing the amount of spaces that were proposed.

Mr. Catizone stated alright, so if we made this change again, our schedule is pretty aggressive so if we made this change, could we still get on the September ZBA because I think that would be quite important...

Whitney Singleton stated why would you go to the ZBA?

Mr. Miley stated the intent was to not go to ZBA.

Mr. Catizone stated well I don't know if this gets us down to 75%. I mean even with this island the current grasscrete that was previously landscaped, we were at a smaller variance but we weren't at 75%. We weren't anywhere near that, I don't think, it should be in my letter or can I pull up the old plan.

Whitney Singleton stated Peter, are they going to...

Anthony Oliveri stated what lot size are using?

Whitney Singleton stated are they going to the ZBA because they are increasing their development coverage or because they're not compliant as existing.

Mr. Catizone stated we are not compliant as existing, that's why we were going to the ZBA. We are not increasing our development coverage, [inaudible] our development coverage.

Mr. Miley stated it's slightly increased Peter.

Mr. Catizone stated it's not, let's go back to...

Mr. Miley stated the original is 80 correct but from the original proposal it's increased.

Mr. Catizone stated yes, that's correct, from what was approved in 2018 to now is a slight increase. And it's my understanding that variance is not effective because they never pulled a permit.

Whitney Singleton stated that makes no sense, what do you mean the variance is not affective?

Mr. Catizone stated it's not effective, it's null and void...

Whitney Singleton stated oh, oh correct, correct.

Mr. Catizone stated so we are not increasing the development coverage, we're actually improving it. We are open to these suggestions that you've made and you know we'll take that back to our client and I think that is a very good recommendation.

Whitney Singleton stated Peter, can I ask you a question, this is for the Board, I mean you, Peter and I can sit down and discuss this without taking up everybody's time but the question really is how many parking spaces do you realistically need and does at least one of them need to be outside?

Mr. Catizone stated well when we rotated the parking spaces to 90° in 2016, we thought it was important to at least have the ADA outside...

Whitney Singleton stated okay.

Mr. Catizone stated and the ADA is currently not outside, the ADA space was inside. Now whether that's legit or not, I don't know but just from kind of common sense and good engineering, we thought it would be you know, a better design to have the ADA inside.

Chairman Hertz stated where's the entrance?

Mr. Catizone stated the entrance to the building is in the front, there is a man door here and there's an overhead door here.

Chairman Hertz stated well I mean putting the ADA space all the way in the back as far from the entrance as possible, does not seem to be, you know, in the spirit of what we're looking for. So having an ADA available space interior, to go interior makes a great deal of sense. I mean, Peter would have to opine as to it's legality but from a logic perspective, it seems to fit logic.

Mr. Miley stated it does make sense, Doug.

Chairman Hertz stated so I mean, I'll go back to sort of Whitney's point, which is you have to tell us how many spaces you really functionally need. I mean if what we're hearing is there's a guy who shows up and there's occasionally a manager who will show and come or some other executive or whatever, is it to function, you know one interior and one exterior, is it three spaces that you really use. What do you use?

Mr. Catizone stated I'll concur with my client, you know double back with them but it seems like one space and tow on occasion, is my understanding. And every time I've been to this, with the exception of when they were parking cars all over the place but since they've cleaned that up every time I've been to this site, there have been no cars in the back whatsoever. Which is why this Brooks Brothers island thing never became an issue in the past because you know it didn't matter what the aisle width was, there were no cars parked here.

Chairman Hertz stated okay, can you just, what's happening farther back on the site, at that back line?

Mr. Catizone stated we're...

Chairman Hertz stated the fence there but what's happening between where it says snow accumulation area, is that where the paving ends?

Mr. Catizone stated yes, you can see this grey line, that's where the paving ends, we're not doing anything there. It's partially wooded...

Chairman Hertz stated okay, so there's no place to gain a little bit of, to cut back some driveways to get rid of some impervious.

Mr. Catizone stated this is a wooded area, our limit of asphalt follows, I'll trace it for you...

Chairman Hertz stated yeah, no, I see that line, that's...

Mr. Catizone stated so there's really no place to really gain, to reduce the impervious anywhere else.

Chairman Hertz stated well the only other thing you could do is if you had only one space needed in the back and it could be parallel to the building, you theoretically cut that drive, cut that pavement back a couple of feet if it wasn't all being used, all that width.

Mr. Catizone stated I mean, I don't want to make the width any more narrow than it is because of the fact that's access for the adjoining property owner.

Chairman Hertz stated gotcha. Yeah and we don't want to make an unsafe condition that's going to end up with, you know...

Mr. Catizone stated but I kind of like this configuration where this becomes our curb line and you know we'll turn it into the building, it's very sloppy right now. This becomes landscape and we're more than making up for this area lost...

Whitney Singleton stated Pete?

Mr. Catizone stated yes?

Whitney Singleton stated just for point of reference and I don't know who has the ability to do this but if you go on the municipal tax viewer parcel which are the GIS system and you look at aerial photographs of your client's site over the past 20 years. There is only one photograph that shows a single on the site.

Mr. Catizone stated was that my car in 2016...

Whitney Singleton stated and I'm not trying to advocate for no parking on the site...

Mr. Catizone stated no, no, I'm not, I'm agreeing...

Whitney Singleton stated I think that's like in 2007 or hold on I'll tell you. In 2004, there's a truck in the back of the site. Other than that I can't find a single photograph with a vehicle on your client's site and what disturbs me even more, well that doesn't disturb me but every single except for what you're showing in your plans, every single vehicle has the angled parking going the other way suggesting that the flow of

traffic goes north, not south. You've had angled parking spaces out there for the past 20 years and they're all angled to the south, not to the north.

Mr. Catizone stated I thought they were, can you see the striping Whitney?

Whitney Singleton stated yeah, I can, I can see them on the...

Mr. Catizone stated it's not in this configuration?

Whitney Singleton stated no, I see it in 2018, that's my most recent.

Mr. Catizone stated oh 2018 and it's going south?

Whitney Singleton stated yup, as it does for the decade before that.

Mr. Catizone stated okay.

Whitney Singleton stated maybe you, Peter and I can sit down or Anthony or Jan or whoever you need to site down with and workout a plan that both works better for you client, suits their needs, and doesn't require a variance. I'm really not trying to get involved in your plan but it seems as though we're kind of going about this in a strange sort of fashion.

Anthony Oliveri stated I think to get 3% off of the development coverage, you're going to need five to 600 square feet.

Chairman Hertz stated you know, you sound like Frankenstein, it's really quite remarkable when you're speaking.

Mr. Catizone stated I mean, there's a probably a small area here and let's assume we get rid of the garbage dumpster but there's probably a small area here that we could landscape that wouldn't really impact the access.

Mr. Miley stated you get rid of that hashed now for the ADA space since the space is going to be inside all of that could turn into impervious, excuse me, pervious.

Mr. Catizone stated right, again we want to maximize this aisle width here. But we could work on this offline, I'm open to that. The only thing I'm concerned with is how we do that with the schedule that our client is trying to keep. I guess if we don't need a variance then we don't have to go ZBA, we can certainly be back before you for the second meeting in September.

Chairman Hertz stated yeah, I mean if you don't need a variance that's easy, if you do need a variance, it gets a little tough, you might need less of a variance. I'm going to share my screen for one second just so we can all, oh you have to stop screen sharing for a second.

Mr. Catizone stated I thought I just did.

Chairman Hertz stated there we go. Let me know if you can see this.

Mr. Catizone stated yes, Doug.

Chairman Hertz stated so here's your, here's the site in March of this year, you can see the diagonal parking going in the other direction, here is your striping...

Mr. Catizone stated right.

Chairman Hertz stated let's just walk back in time.

Whitney Singleton stated you have different aerials than me Doug.

Chairman Hertz stated yeah, I subscribe to a high resolution aerial mapping service so we're stealing company resources.

Mr. Catizone stated so not very many cars.

Whitney Singleton stated never.

Chairman Hertz stated we're going back, here's 2016, there's someone driving through.

Whitney Singleton stated there's actually more vehicles parked out on the street.

Mr. Catizone stated right. The question is, this is what got us here...

Chairman Hertz stated right, right, so here we are in 2015 with vehicles on the sides...

Mr. Catizone stated right and those are the areas that we've blocked off.

Chairman Hertz stated right, so yeah so I mean functionally this hasn't really changed so you're going to be landscaping all the way through here, I mean if you bring it around you know and park one vehicle this way, you've made one or two vehicles there, I think that's the question, do you need one or do you need two? It makes, you don't have to worry about this mountable curb that you could put in here, right?

Mr. Catizone stated right.

Chairman Hertz stated it makes this traverse fairly easy. So I'm going to, I can stop my screen share. Okay, so what's your pleasure, how do you want to proceed?

Mr. Catizone stated I think I'd like to do a little bit of a redesign based on this commentary, we can land bank another space interior, I could get on the phone with Whitney or on a Zoom with Whitney, Peter and if Jan and Anthony want to participate and the question is if we're reducing an existing nonconformity, why do we need a variance at all?

Chairman Hertz stated because its still not within the conforming numbers. You're reducing it but it's still above what's required. It still requires a variance, it just needs, I mean I think that's the short...

Mr. Catizone stated so we may, I'm not sure that we'll get down to the 75%, that kind of...

Chairman Hertz stated and I mean Pete just stepped out I think but Whitney can you concur that we have the authority to lower the parking requirement for this site, that we have the discretion.

Whitney Singleton stated yes.

Chairman Hertz stated okay and that will be based on your business use base.

Mr. Catizone stated okay.

Chairman Hertz stated so I mean clearly, other than parking those spots when you were sticking those case outside, no one ever uses those spaces. You do not need those spaces, so...

Mr. Catizone stated right.

Chairman Hertz stated and we would much rather have the ability to discharge those inside should they ever get used but it looks like that is just not the use case here and the Village would rather have you know pervious surface that has, that serves multi functions that landscaping does. We would vastly prefer that over paving of things that won't get used and striping of things that won't get used, so that would be our, I think that would put you in a better stead, you may not get to zero on your, you may still have a variance and it will be smaller and I think it will produce a better site plan and if you can make that within your time frame, that works for us and hopefully that works for you.

Mr. Catizone stated I think we could assuming we could maybe speak to you know the consultants this week or possibly early next week. Do we need to come back to this Board get to ZBA, let's say we get to 76%, [inaudible] Peter's letter to do that?

Chairman Hertz stated you do not need to come back to this Board to go to the ZBA.

Mr. Catizone stated okay, so I think we could make that...

Chairman Hertz stated Whitney, can you confirm that?

Mr. Catizone stated there's Peter.

Whitney Singleton stated yeah, you're, I think what would be helpful here because I don't want to get in the position where I'm saying something, let me back up. When there is an interpretation to be made here,

it is made in the first instance by the Building Inspector and if he feels a particular way that something is noncompliant, he calls it out as such. I don't want to be in a situation where Peter and I, and Peter and I frequently debate over the proper interpretation of things, I don't want to get in a discussion here where I'm saying that he can proceed or Peter's saying he can't proceed or vice versa. And I think that what we can do is if we sit down with Pete Catizone, that Peter and I can work out a plan that will not likely require a Zoning Board variance. And I do agree with Mr. Catizone that that should probably sooner rather than later because even if he doesn't go back to the Zoning Board of Appeals, he has a submission deadline coming up pretty quickly for the Planning Board.

Chairman Hertz stated correct.

Whitney Singleton stated all applicants do.

Chairman Hertz stated right.

Whitney Singleton stated I think you said it was, is it not 21 days or is that only for new applications?

Mr. Miley stated its 21 days. I mean, if you're close we can obviously work with you.

Whitney Singleton stated so I mean we're already looking at you know, September from tonight's meeting.

Chairman Hertz stated and they were looking for an approval on the 22<sup>nd</sup>. So...

Whitney Singleton stated I think if we meet next week with the applicant we can hopefully work this out.

Mr. Miley stated the submission deadline would be the 1<sup>st</sup>, September 1<sup>st</sup> for the 22<sup>nd</sup>. I think that leaves you almost two weeks, at least two weeks, two and a half weeks.

Mr. Catizone stated that's enough time for us, as long as you make the time for us. There's not public hearing on this, it's a Type II.

Whitney Singleton stated you mean for a site plan?

Mr. Catizone stated for a site plan.

Whitney Singleton stated no public hearing.

Mr. Catizone stated no public hearing.

Whitney Singleton stated this is not a special use permit, correct Peter? In this zone.

Mr. Miley stated no special permit.

Whitney Singleton stated okay.

Mr. Catizone stated okay so, you name a day next week, I'll be there.

Mr. Miley stated just contact Michelle, we can setup a Zoom meeting with three or four us and vet this out and hopefully get you to a plan that's compliant and no need for a variance.

Mr. Catizone stated okay, sounds good. Thank you all so much and we'll speak next week.

Chairman Hertz stated okay.

Mr. Vigliotti stated thank you.

Chairman Hertz stated alright, well that was fun and exciting. Our next and last item on the agenda is 2 Morgan Drive, LLC at 2 Morgan Drive on for Site Plan and Submission.

**F. 2 Morgan Drive, LLC – 2 Morgan Drive  
PB2019-0370, SBL 80.55-1-2.1/4  
Site Plan and Subdivision**

Tyler Sweet; Mark Millsbaugh; Richard Beck were present.

Chairman Hertz stated they've provided a tree removal plan, we do have some memos and a full EAF. Peter, do you want to just introduce this and then we'll let the applicant or Whitney, who wants to...

Mr. Miley stated sure Chairman, I'll give you, this applicant has been before you on several, at least over a year. The project is to subdivide an existing 5.71 acre lot into two separate lots that's lot A and lot B. One of those lots proposed is to include a private auto storage facility to accommodate a private car collection. The other from what I understand, I'm not sure if this information has been updated or if Whitney can add to this, the second parcel was going to be conveyed to the DEP, I'm not sure if that's still the case or not, New York City DEP, excuse me. In addition to that there is some recommendations by our Planner who I spoke to today for the Board to seek a consultant, an environmental consultant to review some of their findings, again Whitney if you have anything to add on that, I just had a quick conversation with Jan. This is located in the RDX Zoning District, it's a research and development zoning district, we have, I believe we have one issue with regard to interpretation I made, there were two interpretations, one being a corner lot and this is something that Whitney mentioned earlier and the other being the type of lot, so we received information from the surveyor and you provided some documentation with respect to the angle so it was determined that it is not a corner lot and I made the mistake by calling it an interior, there is no definition in our code for interior lot. And this is something that we're going to discuss, as Whitney indicated, with the Zoning Board, the definition it is a through lot because it does front on two streets, one Lexington and the other on Morgan Drive. But getting back to the pertinent issue of the site development which is a purview of your Board, it is my understanding it's still going to be an auto storage facility and I'm not sure of the status of the second lot, so I'll just ask Whitney to finalize the initial summary.

Chairman Hertz stated thank you.

Whitney Singleton stated I can provide some perspective on this just for the Board members that are not familiar with it. The, just historically, this area back in Radio Circle comprised of several now, now several different lots, the Post Office, Frito-Lay, Village lane, Crème de la Crème's land, this parcel and some additional land was all part of the Village's wastewater treatment system which was basically a bunch of sand beds and filter beds and a bunch of tanks that stored all the effluent for Mount Kisco. And what happened was in lieu of treating it and hauling and drawing it and pulling it off, the City of New York came in and they wanted to protect their watershed, so the City of New York came in and said to Mount Kisco, we will take all of your sewage in perpetuity, we will install a sewer system for you and we will take it out to the pump house on the Saw Mill Parkway and pump it down to Yonkers where it will be treated, you will never have to pay for anything. And we will give you all of the lands that we once owned that constituted our wastewater treatment plant and area along the brook there and we will give them to Mount Kisco, free of charge and we will indemnify you, most importantly, in the agreement of 1984, New York City agreed to indemnify Mount Kisco of any and all claims for contamination at the former site, at this former site. So Mount Kisco took title to all those pieces of land and they sold a piece off to the Post Office, which developed the Post office, they sold a piece off to what's now the Frito-Lay building, sold off some other pieces and they sold off the Crème de la Crème site and this 2 Morgan site and everything seemed to be progressing and you guys gave approval for the Crème de la Crème site and then they hit a pipe underground and all sorts of liquid bubbled up on their site and that project stopped and recently as a result of some investigation of the Richard's Lumber site in Mount Kisco which was the former Manhattan Project site, where they had a lot of uranium, the EPA and the DEP and the DEC decided or figured presumably they dumped some of that uranium down toilets and sinks and maybe it ended up on their Radio Circle site. So the reason the applicant has been held up for a period of time is DEP has come in to do a site assessment to determine whether or not there are any hot spots on any of the properties out in that area and to the best of my understanding because this has been shared with me, the hot spots on the general property, the really hot spots are on Village owned land and on the Crème site. The site in question, does have minor hot spots and rather than have to wait for complete remediation by New York City DEP of this site, the applicant has sought to divide the parcel in half, there is one portion of the parcel which is pristine, pristine is probably a poor choice of words, there is one portion of the site that does not have contamination or any significant contamination and there is another part that has a small amount contamination. And what they want to do is develop a portion of it to put an indoor automotive storage, like the last project and private indoor storage and leave the other site for future development, if as and when New York City DEP remediates it, remediates the site and/or takes ownership of it. And that will be the same thing that will have to happen on the other parcels that are owned by the Village of Mount Kisco and Crème de la Crème which is no, I forget what they're called now, they have another name. And so they do have a remediation, a character analysis or whatever it's called to determine where the contamination is and DEP and DEC seem to be very comfortable with the fact that the parcel that's being proposed for development is safe for development and they don't have objections to that portion moving forward. But it all harkens back to the original wastewater treatment plant that was in this general locale. And that is historically how we got here and my understanding is from talking to Jan, to kind of bring it to present day. The DEP, the recital that DEP is going to take ownership of this land is apparently not an acceptable representation at this point, so that the applicant is going to revise their plans and resubmit to show that there is some envelope of building that could be developed on site B in the future, when it's remediated and that there will sufficient parking

and access and otherwise compliance with the zoning requirements of the Village. And at this point in time, I think we should let the applicant's representative confirm or clarify to the extent that I'm wrong.

Chairman Hertz stated thank you very much, I'll turn it over to the applicant.

Mr. Millspaugh stated hi, I'm Mark Millspaugh with Sterling Environmental, I think Whitney's summary is pretty complete and accurate. I'll remind the Board that on an earlier submission we did show a concept plan for what we call lot B, which is the lower part of the property, where a number of the tanks and a lagoons were located. We did show in that submission that there's a building envelope, we presented a rough concept of a building with paving and parking et cetera. We, on a subsequent revision we took that off, that was suggested by Jan or Peter, I don't recall who, the sense was that if that parcel was selling later, we wouldn't be showing the concept at this time. In any event, New York City DEP has decided that they will not take title for a variety of reasons, they are responsible though for additional investigations and the remediation, they just don't have plans to own it later. So we can go back to the concept that we showed previously, we would like to get some clarity from the Planning Board in terms of level of detail for something that's little more than a rough concept that this point and in all likelihood would ultimately be developed based on the remedy that's selected and if there's soil consolidation as part of the remedy, well then we would pick those areas for parking lots and we would respond to the hand that's dealt but at this point we don't know what the specific remedy would be. And you know the other aspects of the summary that Peter and Whitney gave are accurate, we responded to the through lot question with a letter that lays out our understanding of the Code and the fact that we do have the requisite frontage, it's a minimum width issue. So we have submitted that, that was a letter dated July 21 and then in preparation for this meeting we submitted other materials that were discussed at the last meeting, mainly a landscape plan and Tyler do you have, can you rattle off what else was provided to the Board? Which would bring the application up to its current point and then this additional things that we intend to submit for the next meeting, I guess would be the second meeting in September, are the architectural drawings for the building and the final decisions on utility tie-ins. Tyler, we provided some additional things beyond the landscaping, if you want to step through those.

Mr. Sweet stated yeah, we provided the landscape plan, the tree removal plan and the revised EAF. The previous EAF we had submitted to the Board did indicated that the lot B would be transitioned to the DEP, since that's no longer the case, we did make that change to the EAF. That was the only substantive change that was made to the EAF, was literally just removing that statement and saying that it would be developed in the future dependent upon the remediation. And at this point we have a business plan that is ready to be submitted, we've made revisions to the drawings as previously noted on the comment letters from Jan and Peter at the previous meeting and those are ready to be submitted once we have the final architectural drawings in anticipation of the second September meeting. We really wanted to have this meeting to update the Board on the status of the project, make sure everything is moving forward on all fronts and go over the current status of remediation investigation which make can speak to a little bit.

Mr. Millspaugh stated yeah, before that just a note on the EAF to remind the Board, we circulated the EAF to the interested and involved agencies and so that was a take away from the last meeting and we took care of that requirement. In terms of the remediation, the investigation that Whitney mentioned that would be undertaken in the area, we have expedited that for the lot A area, its referred to as the MARSSIM survey which is an acronym for multi-agency radiation survey, that was completed last week, and we have received verbal results from the contractor that did that work that based on the field instruments they did not find any elevated readings above background on lot A, the methodology that's used and the work plan that was approved by DEC and DEP requires some number of soil samples be sent to a laboratory for additional laboratory testing so you're no relying entirely on field instruments. Awaiting that data and awaiting that final report and that will also be part of the submission that we made when the architectural drawings are finalized. We're, my firm is not preparing the architectural drawings just to be clear, the applicant has an architect working on those and the plan is to have them ready for submission by September 1, which I believe is your cutoff date for the second meeting in September.

Chairman Hertz stated alright, thank you. So let's go back to your earlier question which is what we want to see with regards to lot B and the level details. So I think because this is a subdivision and understanding that those things could change. What we want to understand is that what, that the lot is essentially going to be a compliant lot that what you can achieve on the site makes sense and therefore that the subdivision line you're requesting is logical. So understanding, at least from my perspective and Whitney, here could weigh in and Anthony but from my perspective, I think what we're trying to do is understand we certainly here you that obviously depending on soil testing and one area may shift for another that you can create a logical layout for use of that site and that therefore the line that you are proposing is a logical line. And you know not that you're subdividing something and then you come back and say we need variances here because we can't achieve anything on this site. I think that's really what we're looking to do, not that we're going to hold the next applicant to that but that we see a building envelope, we see development

coverage calcs, we see methodologies for parking, et cetera, et cetera, that would work and make sense. So Pete or Whitney or other Board members, or Anthony...

Anthony Oliveri stated Doug, is my voice...

Chairman Hertz stated now you're normal.

Whitney Singleton stated now you're better.

Anthony Oliveri stated I'm normal, okay. Yeah, I'm not seeing how the change in terms of DEP taking it over or not changes the approach that we had previously. I don't know that we want a site plan that gets approved, we want a subdivision application and maybe that subdivision has conceptual layouts that can be discussed. I don't know that you want to approve a site plan and get into that level of detail. The site plan would only be for lot A, so I'm not sure how that really changed from the original approach, I don't think it really has in my view.

Chairman Hertz stated I agree.

Mr. Sweet stated I can speak to that, it did change slightly in that we did show an envelope, a simple envelope saying that this many square foot building, this much parking, pretty much exactly what Doug is saying. And we did take that approach but when it was thought that the DEP was going to be taking over this site and adding it to their land bank for preservation purposes, we determined that there was going to be no future developed, so we took all that off. So in the next submittal, we'll put that back on we just want to make sure what we're putting on...

Anthony Oliveri stated but only on the subdivision, it would not be a site plan application for that property.

Mr. Sweet stated correct, and we wouldn't be providing details for that. It would just be on the subdivision plan and that would be the plan provided by the land surveyor.

Anthony Oliveri stated it makes sense to me.

Mr. Sweet stated that's perfect.

Chairman Hertz stated yeah, I would concur with that. Okay so my understanding is that we have, that consultants have identified a engineering consultant expert in this area that would be acceptable that's been forwarded to the Village Board, so we will have an expert reviewer to advise this Board on the remediation level, on the contamination levels and any remediation plan that's required that will allow you to move forward or allow us to move forward on your application. And I don't think there's anything more at this time, I think, unless...

Mr. Millspaugh stated could I ask a couple questions?

Chairman Hertz stated you may.

Mr. Millspaugh stated one is we circulated the EAF and I understand that the Village seeks to be lead agency, is that a determination that you can make? Did you get an responses back from interested and involved agencies objecting? Is that something you'd be in a position to do tonight?

Chairman Hertz stated Whitney, do we know that that's been circulated?

Whitney Singleton stated I don't know that Mount Kisco circulated intent to be lead agency. But Mark is correct that if nobody is objecting then Mount Kisco Planning Board could assume that position but my, I want to confirm that with Jan because I don't know that has in fact been circulated but I will certainly check. And there was, oh, with regard to the comment, with regard to the professional, I just want to make sure that Mark, are you the contact person on this? I mean we want to make sure that when we do have a consultant, a consulting engineer on board that there would be, you know a contact person from your office that could forward all submissions to date.

Mr. Millspaugh stated I would be the contact person at my office and then this Board, I assume the Village Board is aware that both DEC and DEP are intimately involved in this matter. I can provide contacts as those agencies as well. I am hopeful that this consultant, whoever you select will be able to see from the record that the agencies have really been on top of this.

Chairman Hertz stated so Mark, I would be a little bit reluctant to make the motion to declare ourselves lead agency until I know that this has been properly circulated and whatever. And I don't know that it is necessary to continue to move you forward. We will get that done as expeditiously as possible.

Mr. Millspaugh stated if we are able to provide the outstanding items by September 1, and are able to appear, if your agenda allows at the second meeting in September, will this be able to be the subject of a public hearing at one of the October meetings?

Chairman Hertz stated it would probably end up being, so we need a public hearing for subdivision, is that correct Whitney?

Whitney Singleton stated yeah and I think while we haven't discussed it, is there a steep slopes or wetlands permit associated with this?

Mr. Millspaugh stated there are, we provided...

Whitney Singleton stated I thought there was a small area of steep slopes.

Mr. Millspaugh stated there is and we, in the last submission provided the steep slope calculation.

Whitney Singleton stated okay, so that will require a public hearing as well, which can held together.

Chairman Hertz stated yeah, I'm just looking at the title here and it's not listed under that, but yes, so we can hold those together. Typically it would be because of notice requirements, you generally miss the next meeting, so if we go to the September 22<sup>nd</sup> meeting, you would end up at the second meeting in October because of notice. You could probably make it, if you notice prior...

Mr. Millspaugh stated well I think, obviously we would want the Board's input at the September 22<sup>nd</sup> meeting and their concurrence that the application is complete for the purpose of a public hearing.

Chairman Hertz stated and getting to the public hearing early is not going to be that advantageous because most of what will be discussed at the public hearing will be information regarding the contamination and remediation, so we're going to have to have those full reports and have them full reviewed by our consultant. And all that information to be complete before we can finalize any public hearing, we can certainly open the public hearing.

Whitney Singleton stated Chairman, I was able to communicate with our Planner via text. I asked whether or not we had circulated the notice of intent for lead agency and he says that he believes so but he would like to confirm in the morning.

Chairman Hertz stated okay.

Whitney Singleton stated so but I think that you're absolutely right, declaring lead agency status, saving two weeks or four weeks isn't going to create a monumental change of timing for them on their ultimate approval date, if you put it off, I don't think it's going to result in a delay.

Chairman Hertz stated yeah, so let's circulate our intent or verify that it's already been done. If we get no notice, we'll make that determination at the next meeting. We will plan to put you on the agenda for the 22<sup>nd</sup>, and that should give you, based on what happens there, we should be able to then put on a public hearing on the second meeting in October, assuming you know satisfactory outcome of what happens on that September meeting and notice requirements. Does that work for you?

Mr. Millspaugh stated that makes sense.

Chairman Hertz stated okay.

Whitney Singleton stated and just one other thing, because I know that we're going to get this from our consultant and/or from Anthony and Jan. When do you expect to have the soil samples or confirmation of the soil samples for DEC and DEP?

Mr. Millspaugh stated I will check directly with that consultant but I was told the report, we should have it in the next week or ten days.

Whitney Singleton stated great.

Chairman Hertz stated great. Okay, are there questions from Board members or consultants? Other things that we haven't touched on tonight?

Anthony Oliveri stated well I would just point out that were I believe memos from Jan, Peter, and myself, so just make sure the applicant has all the memos so when they come back, they address all that stuff.

Chairman Hertz stated Mark, you've received those?

Mr. Millspaugh stated I believe I have, I could send an e-mail confirming the date of the memos we have just to verify that I'm not missing any.

Chairman Hertz stated yeah, you can check and all memos, obviously Michelle can provide you with anything and verify that you have a complete record. Okay, if there's nothing else then we will plan, we will plan to put you on the agenda for the 22<sup>nd</sup>. We'll do our homework with regarding to lead agency and hopefully you'll get all your information back and we'll have a useful meeting on the 22<sup>nd</sup>. It sounds like we're going to have a long agenda that night, hopefully you won't be at the back of it again. Alright, if there's nothing else, we'll see you at the next meeting.

Whitney Singleton stated are you ending the meeting or are you just ending this application?

Chairman Hertz stated well they are the last item on the agenda, so I'm ending this application and I will ask if anyone has anything else.

Whitney Singleton stated yeah, I've got one other thing.

Chairman Hertz stated okay.

Whitney Singleton stated and I just didn't know how you wanted to handle it. In light of the shutting down of the application for, I forget the addresses, Gus' properties over on...

Chairman Hertz stated yup.

Whitney Singleton stated one of the things I just wanted to comment on and I wanted Peter to chime in on this. He, I think it's actually going to get worse because if I'm not mistaken, Peter's memo says that they're going to shift a lot line, shifting a lot line is a subdivision and as far as I can tell we don't have a subdivision application on behalf of those two properties yet.

Mr. Miley stated that's correct. There is no subdivision plat.

Whitney Singleton stated so he's been put off for a week and I don't even know whether he's aware that he's going to have to file another application.

Chairman Hertz stated so can we please, someone, Whitney or Peter, please contact him.

Whitney Singleton stated I think that Jan, Peter, and I should, whenever we have a, schedule something to meet with Pete Catizone, we should also have something, a follow-up with that because I just, that was not appropriate what he said to the Board, I didn't think.

Chairman Hertz stated and that was not a fruitful meeting.

Whitney Singleton stated no.

Chairman Hertz stated so you know, yeah.

Mr. Miley stated I can ask...

Whitney Singleton stated I think it's not a full appreciation of the process and frustration more than anything.

Chairman Hertz stated I understand but I'm comfortable that this Board has acted in an appropriate and expeditious manner. So I think let's help ourselves and help the applicant, provide him with the information that he clearly doesn't understand at this point and hopefully we won't have...

Whitney Singleton stated okay.

Chairman Hertz stated [inaudible]...

Anthony Oliveri stated part of the problem is that his professional should realize this and understand that he needs a subdivision. I'm not sure why, that's really the root of the problem.

Chairman Hertz stated I understand, let's be the bigger, larger people in this and...

Anthony Oliveri stated of course.

Chairman Hertz stated and help them to understand what they don't understand. Alright, thank you all very much, I appreciate everything. And that concludes this meeting of the Mount Kisco Planning Board. Thank you for watching us, listening to us and all the other things, goodnight.

The meeting ended at 10:09 p.m.