



Whitney Singleton stated Rich, one other thing and I don't mean to slow you down. I just want to, for purposes of disclosure, it's a little weird I've never been in a virtual meeting where, when somebody recuses themselves, they usually step down from the table. But we have a situation where Mr. Alfano may potentially need to recuse himself, so he's not going to participate tonight. He has expressed some concern that there might be an appearance of impropriety if he, he does a lot of work with Verizon and if there's a cell tower component associated with this, he will be recusing himself. If there's not, he probably will not end up recusing himself but I just wanted to disclose that upfront, okay?

Mr. Null stated I think it's very important to state and I appreciate you bringing that up Whitney. This project is a solar farm, we are not proposing a cell tower, we have nothing to do with any cell tower. And we have had this discussion before the Planning Board, a cell tower has been proposed, Homeland Towers, it's not our application, it's not linked to us in any way, we have no [inaudible] with them in any component whatsoever.

Whitney Singleton stated I'm simply disclosing.

Mr. Null stated no, I appreciate you bringing it up.

Mr. Williams stated Whitney, do you mind if I share my screen at this point, Mr. Chairman?

Chairman Boxer stated that's fine.

Mr. Williams stated so if I did that correctly, everyone should be looking at a colored version of the site plan...

Mr. Null stated Whitney, you're correct, it's 2.5 megawatts, I'm looking at the January 24, 2020 submission by Sunrise Solar. It is my mistake with a typo.

Whitney Singleton stated okay.

Mr. Williams stated just to get everyone orientated on this plan, north is to the right side of your screen, running up and down the page you have New York State Route 172, which is South Bedford Road which is where we do derive our access from. But as Bill pointed out, we do also have frontage along Sarles Street which runs north and south and if you can see my cursor is on our eastern border. Here we have the intersection of Linden Lane, the area in which we're seeking a variance is right here and I'll zoom on that in a couple of minutes. What you see in the light green is where we're proposing disturbance, there's an existing driveway that connects on Sarles Street here, just off our northwestern corner is the Marsh Sanctuary property which Bill mentioned, which sits here. There is a small strip off out western corner that is owned by the Marsh Sanctuary, it leads them around our property to our southern boundary where they continue to own more land. And just off of their property, off our southwest corner is the Mount Kisco Chase. Everything in light green is where we're proposing disturbance. This site was the former, was the site of a former estate parcel, you can see the remains of the stone foundation from the mansion in this portion of the property. There used to be a tennis court located here and you can see in this portion of the property and I'll zoom in, bear with me one second. I'll zoom in, is the remains of an old carriage house or barn and again, that's in close proximity to where we're seeking the variance. The darker green/grey is where the solar array sits and the yellow/green color are the stormwater basins proposed for the site. What you see in blue is the 200 foot required buffer and the red extension of that line is the actual zoning boundary based on the CD zone. As Bill mentioned we did study an alternative which did not require a variance, I just pulled up on screen what that would look like. Basically we were able to eliminate the solar panels in this portion of the property, again just for point of reference, you can see that stone foundation from the original carriage house and relocate them farther north on the property. What that did was it resulted in more tree clearing, it also resulted in more steep slopes disturbance. This alternative required the removal of 834 trees, whereas our current proposal actually based on the submission we made to the Planning Board today is at 654 trees. One of the other things that I think we'll find helpful just in the visualization of this application is we did provide sight line cross sections. Again, I'm going to turn the orientation, so just to get everyone oriented on the picture in the lower left corner of the plan, north is not up, you have 172 running left to right and Sarles Street to bring everyone back into the area for which this variance is sought, we're talking about this portion of the property right here which actually is very close to cross section line B, so I'm going to now change the page to show you cross section B which is right here. For point of reference down in this valley or belly is Sarles Street, as you move left across the cross section line, you can see the steep topography that Bill previously mentioned. You can also see the tree canopy, now what I want to mention about the cross section lines that we prepared, we actually flew and obtained Lidar data to establish the tree canopy. So what you are seeing are real tree heights and a real tree canopy, it's not that we took a tree and just copy and pasted or superimposed, this is real survey information to establish the tree canopy which you can see represented by the green line here. Several hundred feet away you can see the closest house on the opposite side of Sarles Street with the several hundred feet of existing

tree canopy to remain, the additional screening we're proposing here and then the solar array where as Bill mentioned the panels have a maximum height of eight feet and the fence will be a total height of seven feet, hopefully with your interpretation this evening. Was there anything else that you wanted me to cover or...?

Mr. Null stated do you want to address Whitney's question where the variance is located, are we talking about Sarles Street or are we talking South Bedford.

Mr. Williams stated to be clear we're talking about Sarles Street, right in this portion of the property and for point of reference again, that is by that existing garage foundation that still does remain from the original estate. Which, just to tie all back together, again closely lies along this cross section in here so we're really talking about from our property line here to the proposed landscaping and the fence that we have which is 128 feet from the property line and again that necessitates a 72 foot variances right here.

Mr. Null stated as noted in our statement of principal points, landscaping will screen visibility of these panels. The options for us to comply with the 200 feet would actually be more disruptive to the site and to the neighbors than putting panels in the location that we've indicated that requires the 72 foot variances. As far as a variance for the fence, I attached for your review and consideration an interpretation issued by National Electrical Safety Code, it confirms that it requires a seven foot high fence around a facility such as this. I think we've laid out the points in the application and here I went through the standards under the requirements for a variance in New York State, I can repeat them for you if you want but out of respect for your time, we are here to answer questions if you have any. This is an important project for the community, it's a green orientated project, it eliminates reliance on fossil fuels and its something that the Village has sought to encourage. This site provides an opportunity for a sizeable solar farm and those are not readily available just anywhere, we think by having one in a location, in the right zone that the Village adopted and designated as appropriate that this should be something favored by the Village overall.

Mr. Weise stated Bill, I have a question.

Mr. Null stated sure.

Mr. Weise stated can you tell me how many 2.5 megawatt solar farms or larger are within Westchester County?

Mr. Null stated I cannot but we can get back to you with the answer to that question, sir.

Mr. Weise stated I'm asking because I have, I'm familiar with solar farms, investment solar farms and I can't recall seeing one surrounded by a residential development and I'm curious as to whether or not there are other that are similar to this and part of my concern is one of safety, who, the Marsh Sanctuary has trails very close to this and a lot of the people who use those trails are teenagers. And I know there have been some safety concerns with solar in general and I would hate some tragedy to occur because it's too close to a residential area.

Mr. Null stated I'm not aware of any safety issues associated with solar farms, this will be fenced as we indicated previously and the location in a CD district was mapped by the Village Board of Trustees deemed to be appropriate adjacent to residential properties. As we were noting, the panels themselves will stand no taller than eight feet and we're several hundred feet away from the nearest residence with [inaudible] with exiting trees in the way, they are not going to be, their presence will not be meaningfully apparent to anybody.

Mr. Williams stated Bill, just to add onto that point, to bring this closer to the residences, our closest residence is almost 400 feet away and from there they go up over to 500 feet away. So although we are seeking a variance from the buffer, the portion where we are, isn't in close proximity to the residences.

Chairman Boxer stated question for you, you keep talking about the tree lines...

Mr. Null stated yes.

Chairman Boxer stated won't there be bare trees in the wintertime.

Mr. Williams stated some of the trees will be but it is a heavily deciduous area and there is a high variation of topography. In addition to the perimeter screening that we're going to be doing along the fence line.

Chairman Boxer stated okay.

Mr. Null stated there's also considerable distance which makes it difficult to see just over that distance independent of leaves on trees.

Mr. Williams stated it might be helpful, if the Board would like, I can pull back up the site sections and we can see it's not just the trees but also the effects of the elevation because this is a unique property where although there's a plateau in the middle, it is surrounded by slopes on many of the sides. Would you mind if I do so?

Mr. Null stated no, please do.

Mr. Williams stated so the four cross sections were prepared and I'll walk you through each one of them this time in a little bit more detail. A. runs north to south and actually starts at the closest neighbor's home just off our northeast corner and that you can see here. This is the house of that closest residence and you can see based on the line of sight which are these two straight lines here, the existing topography coupled with the trees is going to mask the view of the solar area. And that's not taking into account the fencing and the landscaping that will also be supplementing which is located right here, for a point of reference, this is our property line and although the driveway is closer than 500 feet, you can see based on the panel location, the house itself is just over 500 feet from the solar panel. Cross section B starts at the neighbor's house on the other side of Sarles Street, again, this is the closest point to where we're actually seeking a variance and just so the Board can relate, this cross section to the variance location, I'm going to jump around for a second. You can see cross section B cuts right on the corner of the solar array, this is that same corner and here is where the variance is sought, so that cross section which is running this way, towards the house down here, gives you a good indication of the area for which we're seeking a variance. That is this cross section here which would have the most direct line of sight, it does appear though that there is some evergreen screening throughout, although it is sparse, this is mostly a deciduous area but we will have some proposed landscaping against the fence line here. And again, what you can really see in this cross section is the low height of the panels at only eight feet which is easily hidden with proposed screening, we're not talking about twenty foot panels where we would only propose eight to ten foot trees at the start of the site plan. Moving into cross section C which is down at [Rolling] Ridge Court, and here you have Stratford Drive which is the beginning of Mount Kisco Chase, Brentwood Court which I'll touch upon in a second and Ridge Court which is where took cross section C from and here you can see not only the great distance, the solar panels at about station 1300 where the house sits between two and three hundred, about 275, so you have almost 1,000 feet. But in addition you'll have to look through all those trees and over those trees in order to finally see the solar panel which again would be only eight feet off the ground. And last, looking at Brentwood, you can see again as you start at the house and you look up the hill, this first hillside actually precludes your view of that solar panel in the background which is something that's quite common. And again, as I mentioned, where we are looking at the variance right here happens to be an area where we don't have adjacent residences, this is the closest which is just under 400 feet away.

Mr. Weise stated can I ask, is the example you use in which there is no need to have a variance. How did you decide the footprint of the solar panels in that original plan and then what was the decision to move them to this area where it needs variances.

Mr. Williams stated sorry to bound back and forth with the screen share, so I'm going to put it back up just to describe it to you. So this is our current plan and again the area we're talking about is in here. What this does is this maximizes the useful portions of the site that were previously cleared and disturbed, particularly in this area right here. Again, as I zoom in on this area, all in here was part of the original estate, so while we do have some clearing of growth that's occurred since the estate was abandoned, it's not part of the original forested areas from the property. And in our recent submission to the Planning Board we actually did submit historical aerials just to show where the estate existed. When we looked at staying out of this area, we have to look at areas that have exposure to sunlight and then we also have to balance the other environmental features namely the steep slopes disturbance and the tree removal which are sensitive issues in this area given the proximity to the Marsh Sanctuary. We also, to your point and to your question, wanted to keep the solar array as far as we could from the Marsh Sanctuary and people that could be actively using the trail. And in here you'll see that we do have some flatter topography but as you work your way around this slope, it does increase in steepness and does form a natural divider break for us in order to keep that appearance of the separation. So as we looked at areas of the property that we could use for additional panels, this belly in here where we have less steep slopes is really the ideal, however, moving into that area means we have to cross those steep slopes. It also means more tree removal because this is naturally forested area, it's beyond our original tree survey but we did go out and do a count to see how many trees in this area would need to come down for comparison purpose, again the difference is 834 in this scenario verses 654 in our current. Also, it puts you closer to the Marsh Sanctuary...

Mr. Weise stated I was just going to ask, is this, would the power generation, 25 megawatts, is this the same footprint for 2.5 megawatts as the proposal or is it a different wattage?

Mr. Williams stated this would maintain the same wattage.

Mr. Weise stated the same wattage.

Mr. Williams stated and to whoever raised the question before, it would have a direct impact on the Marsh Sanctuary trails.

Mr. Null stated I want to point out that we have worked with the Marsh Sanctuary and we are proposing granting them a license for a portion of the site that it is [inaudible] premises, so the trails can go through there. And when we were negotiating with them about that, it seemed to be something [inaudible] that we were willing to accommodate that and keeping the solar panels away and facilitate that whereas if we put the solar panels in a location that is as of right, it would limit the passage that you had indicated earlier.

Mr. Spector stated how is the determination made as to how many solar panels are required for the project in order for it to be viable?

Mr. Null stated Rich, do you know the answer.

Mr. Williams stated no, we'll have to get back to you with the owner.

Mr. Null stated we'll get back to you with that. And I wanted to mention also that as you know this is, for environmental purposes, a coordinated review is being handled by the Planning Board. So we fully anticipate that there will be more meetings with you and time for us then to come back as no offence in saying this, but we understand that no decision legally would be able to made without the Planning Board first adopting some environmental determination prior to you acting because of the coordinated review and the Planning Board having lead agency status.

Mr. Weise stated I have one last question on the 2.5 megawatts, why does a project need to be that size? Why can't be smaller? Is it economics? What are the reasons?

Chairman Boxer stated can I interrupt for a second. Mr. Rhodes, please stop putting up your signs, your chat, only hand raising when we open it to the public. Okay.

Mr. Null stated we will get back to you Mr. Chairman and members of the Board with regard to that question. We appreciate your interest in knowing that answer and we don't have that information available to us right now.

Mr. Hertz stated sorry, this is Mr. Hertz, I'm having a terrible time with the audio on this so I would love to answer some of your questions but you hear the issues. I'm going to see if I can mute my phone because I can only hear through my phone. Let's do this, if Michelle can open up my audio, I can speak and I'll mute the Zoom call via the computer.

*Connection discussion regarding audio with Zoom.*

Chairman Boxer stated okay.

Mr. Null stated we understand that we need to get back to about how many other 2.5 megawatt facilities there are in Westchester County. And why in particular these 2.5 megawatts, the size here and why not smaller. I'm sure there are going to be other questions that come up during a public hearing, so please don't consider that a summary at this point, we know that we're going to back before you and we look forward to having constructive dialogue on this project.

Chairman Boxer stated any other questions from the Board? Okay, we can open it up to public comment, I just want to point as Mr. Null stated, this is not the end last meeting, so if all possible, if it starts to run late if you can come back for the next meeting that we're going to have so we don't spend all night on this one subject.

Mr. Miley stated Harold, can I interject? Regarding the public hearing, when you do open the public hearing, there are three ways to make comment, if you'll indulge me for a second, I'll provide a phone number, Facebook and then we also have Village Hall open for public comment. The number, people can call in, I'm monitoring the phone is 914-420-0383. I'm also monitoring Facebook Live and if somebody would like to comment, I'll read comment into the record. And last, we have two people here once the public hearing opens. And the last, I said the last, this is the very last, we have a couple of people who are raising hands via zoom that would also like to make comment.

Chairman Boxer stated okay, we can open it up at this point to public comments.

Mr. Miley stated okay Chairman, I'm going to bring up the first person that's present here in the Village Hall and allow me a second to get them prepared. The first person is Mr. Coppola. He will be right with you.

Chairman Boxer stated and just an aside, when you make your comments, please state and spell your name, so we have an accurate record.

Mr. Miley stated yeah Chairman, we also have them sign in at Village Hall.

Chairman Boxer stated okay, good.

Mr. Miley stated just bear with us... You're live Mr. Coppola.

**Mr. Coppola** stated my name is George Coppola, C-O-P-P-O-L-A and I live at 5 Brentwood Court which directly abuts this proposed site and the Marsh Sanctuary itself. Since this is a Zoning Board meeting, and by the way, this is the first time I've been notified of any meeting regarding this application in all the time its been discussed and promulgated, this is the first time I've had official notice, that in itself is wrong. Alright so, Zoning Board meeting, let's think about Zoning, I want you to ask yourselves these questions, what is the point of a Zoning Law and once that law is enacted what goals do you have for that law for the area. The ultimate answer is that a Zoning Law is meant to preserve an area whether its commercial or residential or a conservation area, it's meant to preserve that area the way it is. It's not meant to allow a free for all of commercial activity, this is in the very midst of a residential area, it's a heavily wooded area and it just doesn't belong. Just what is the pressing need here to put this monstrosity smack in the middle of a residential area, there are so many more available sorts right in this Town that would be so much better. Let's talk about 700 trees for a minute, although this is presented as a green initiative, the fact that you're going to clear cut a forest, 700 trees in order to do is an absolutely abomination. I don't even know how to calculate the carbon fixing, the CO2 removal, the O2 generation or the water retention by 700 trees and I don't mean to dismiss these items as insignificant but I just don't have the expertise to estimate that. But I do want to point out is the habitat loss, I mentioned last week that dozens of species of birds visit my yard on a regular basis, I would think a very conservative estimate for these massive trees is that say 10 birds, 1 individual birds use a tree as their habitat, we can quickly, everybody body understands that means 7,000 birds will be permanently removed, there is not regeneration, no re-planting, no nothing. Supposing I were to go out to my backyard and capture and removed 7,000 birds, what would you say to me? What would you think of me and what crimes would I be charged with and I should be charged with. To allow this project to go through on this site is no less than an environmental crime. Why would you allow this to be so? This is an enormous ecological negative, I haven't mentioned anything about ground dwellers in the woodland but when you come in and you now have 700 stumps to remove, grading, earth moving, how many more thousands of individual animals will you permanently remove with prejudice? This is a horrible idea. Very much in keeping with purpose of Zoning laws is that we should be the starts of the [inaudible] not the destroyers and this is just destroying a beautiful area. The plan is an environmental abomination and the destruction will never be reversed. You really think this is the proper course of action when you consider what we leave to our children, really? How selfish and short sighted, this should not be in here at all, under any guise. I mentioned earlier that there are plenty of alternatives to demonstrate how inane this proposal is, think of parking lots. So many forward thinking communities have used their parking lots for solar arrays, why not encourage sites that are already made and entail no further ecological damage or financial burden on the residents of the community. Corporate campuses, hotels, malls sports arena parking lots are some of the few places that have added solar panels. Places like the Cincinnati Zoo, the Los Angeles Department of Water and Power, Google, FedEx Field, the Atrium office building in Irvine, Drexler County, Texas parking garage, Phoenix water Treatment Site. Why can't we be a forward thinking community and do this here? Parking lots, you just couldn't ask for a more appropriate site, it's already flat, it's paved, it entails no further environmental damage, the areas are even large than the proposed site, the installation would be wrote, there's not need for an impact analysis, there's not water runoff consideration, there's no pollution problem, there are no water catch basins, no need for grading, no sight line problems, no fire access difficulty, no steep slope disturbance, parking lots are absolutely tailor made for a project like this. Go in that direction if you really want to serve the community. This project doesn't serve the community, it hurts it, badly. Some unintended benefits that you might call quality of life, paybacks in parking lot installations are this, who hasn't gone to a parking lot and searched for that one shady spot when they go shopping? Who would like to have protection from the rain when they load their groceries in their car, both of these are, excuse the pun, covered. Why wouldn't you do something like that? The best benefit is that you are not continuing to irreversible destroy parcel after parcel of residential areas for commercial projects. We can't manufacture new land. In addition to parking lots, there are multiple flat roofed businesses, encourage agreements with businesses to put solar panels on these flat roofs, it's easy and if you can't as a Town encourage these green initiatives with commercial areas, then use your own municipal lots [*inaudible – audio cut out*].

Mr. Weise stated we lost him, huh?

Mr. Null stated its muted.

Mr. Hertz stated Michelle, you might want to note that the Village Hall feed has been muted.

**Mr. Coppola** stated am I live?

Mr. Spector stated your person is well, I don't see...

**Mr. Coppola** stated on top of the ecological negatives, there is a very real financial detriment to the residents on the periphery of this proposed project. Can you really imagine when I intend to sell my house that a punitive buyer upon learning that there's a power plant right next door is going to oh, let me offer you more. No, that's ridiculous, my house will be devalued by this and so will many others in the area, this is wrong. I've heard a lot about how much will be generated but in understandable terms, how many homes would this power? Now I saw an estimate of 350, I think that's a gross exaggeration, number one when they say 300 average homes, they're talking about 2,000 square foot homes and they're talking about sunny time, I doubt that this project will power 100 homes. But I'm going off what's being said by the applicant and as far as we know, we can't trust this applicant as far as we can throw him. It's kind of funny how no one has offered to compensate these house with say, free power, since they have so much power to distribute, why don't we make that part of the deal, actually don't take me seriously, I don't want this thing in here under any shape form, whatever. I've come here to object to the approval of the plan on this particular site in any way, shape or form, no power complex, no industrial site should be put here, this is a travesty. [Inaudible] minor details, how many water holding areas, how high the fence is, what the runoff is, what detergent they use, this is nonsense. We should be focusing on whether or not this should be here at all and it shouldn't. It's not in the interest of the community. Using this site in this manner is a grotesque ecological rape of the environment, a blow to natural beauty and a financial burden to many of the people in the area. Again, I pose the question, what is the pressing need, the overriding reason to install this in this site? As a postscript to all of this, the manner in which this application has been brought forward is a complete surprise to the community at large and especially to the residents who would be most affected by such. As I mentioned, this is the first time I've been officially notified to come here and offer comments. This has been going on since at least February, and yet we weren't notified until now. There are hundreds of pages of detailed analyzes by the applicant but no chance for comments by the community in all this time. At this late date, its almost as if we're being presented with a fait accompli and the only thing left to [inaudible]. Recusal is not withstanding, the fact that board members past or present have a vested interest past or present makes it doubly suspect. If the Planning and Zoning Boards do not do the right thing for the community and work the community and not for this company and they don't disallow this, then what recourse do we have? We go to the courts and get an injunction? We call in the State. We call in the DEP. If we need to, we will, this is a wrongheaded approach to any green initiative. How can you say its green when you have clear cut a forest in order to do it? When it comes to this whole application and its hidden progression, a Shakespeare quote might in order here, there is something rotten in the State of Denmark. Thank you for your time.

Mr. Spector stated Mr. Chairman, maybe I make a comment?

Chairman Boxer stated who's this?

Mr. Spector stated Wayne Spector. May I make a comment?

Chairman Boxer stated yes.

Mr. Spector stated can there be an explanation given to the public as t the role of this Board and the very limited role of this Board in what's before us today. This Board is not the Board that can determine whether this project moves forward but this is not a Board that makes the determination as to what's allowed on the property. We are dealing with a very limited issue, at this time, two variances with respect to this project and I'm not all trying to stifle the public from their comments, I just think it's important for the public to understand the very limited role of this Board and perhaps Mr. Singleton can explain that as well.

Chairman Boxer stated Whitney, you have to unmute.

Whitney Singleton stated okay now? Sorry about that. Thank you and while obviously everyone appreciates public participation in this process, it is helpful as Wayne pointed out that your Board has a limited capacity. The Zoning that is provided for this site is implemented by the legislative body of the Village which is the Village Board. The application process to modify the site and to issue a Special Use Permit for this site, is vested with the Planning Board. The Planning Board will evaluate whether or not this meets the criteria of the site plan, underlying Zoning and the special use requirements for a solar farm as implemented by the Board of Trustees. With that said, the application is noncompliant with the

regulations in two regards, as currently fashioned and that is that it is encroaching into the buffers by 72 feet and that the proposed fence that's required by Federal Law or standards, exceeds our maximum fence height by six inches. So I think we're all pretty much focused on or your Board and the public is more focused on the use and where its going rather than the six inches of the fence. So it is not for your Board determine where the proper location is for this site, for this use. It is not for your Board to determine whether or not it meets the underlying Zoning requirements, that's already determined by the Building Inspector. It's your Board's limited function to determine whether or not the benefit to the applicant exceeds or is exceeded by the detriment to the public and the neighbors and there are five criteria that your Board is fully aware of that you look at in evaluating that. Basically the balancing test here that's promulgated by the legislature and enforced by the Courts is does your Board deem the benefit to the applicant to outweigh the detriment to the neighbors and to the public and to the Village as a whole. Whether it's environmental, whether it's visual, whether it's financial, whether it's the substantiality, whether it's a self-created hardship, those are all factors that go into it but ultimately your Board is going to determine whether this layout and its request for a variance from the underlying Zoning requirements is in the public interest to be issued in favor of the applicant or is to be declined in favor of the public or the neighbors. And that's your limited function and I think Wayne was appropriate for pointing, reminding the public what you're doing here. The underlying application for the use and the special permit and site plan is all vested with the Planning Board. And as far as the dates and I heard some dates mentioned, there's only been one public hearing open by the Planning Board and there's only been one public hearing opened by your Board to date and the opening of the public hearings is a function of when the application was received and when it has evolved to a point where a public hearing is warranted. There is no fait accompli affiliated with this application whatsoever. This is, I believe your Board first saw this on Friday of this week, so this is just the beginning of the process for the Zoning Board of Appeals and as was previously pointed out, your Board may not act, it's not a question of whether you wish to act, you may not act until the terms of SEQRA have been complied with. That means that you cannot act until the Planning Board has already issued a determination under SEQRA, so this process will go on with your Board until such time. And I hope I wasn't too wordy in that.

Chairman Boxer stated thank you.

Mr. Hertz stated and Mr. Chairman, if I might, I apologize for having my audio issues at the beginning of this but if there are questions of substance on the application that I can give clarification on that Rich or Bill Null are not able to do, I'm happy to answer those questions.

Chairman Boxer stated thank you. Peter, I guess we're ready for the next person.

Mr. Miley stated okay Chairman, the next person that will be speaking is Mr. Rex Pietrobono. He's ready to go when you're ready to go.

**Mr. Pietrobono** stated thank you members of the Zoning Board of Appeals. I have my mask but I'm also, there's significant distance between me and the next human being, so I'm going to remove it for my purposes of speaking to you. My name is Rex Pietrobono, P-I-E-T-R-O-B-O-N-O and I reside at 2 Sarles Street, Mount Kisco. I am under the previously displayed cross section A, the closest neighbor's home to this project and adjacent to the 180 South Bedford Road. The past few months I've had the opportunity to meet with two of the applicant's representatives to walk both our properties along the northeastern side of the project. On April 25<sup>th</sup> the applicant and his associate gave me a guided tour of the proposed solar farm, they showed me specific boundaries representing several surveyors' stakes, marking the perimeter of the project. After meeting with them, I believed the accuracy of the information and its completeness and that I could rely on it. Unfortunately, the applicant's overall plan for the parcel had been concealed from me, the Planning Board and the general public. Until the applicant's July 10, 2020 disclosure, the reason for that is clear, when considered comprehensively, their plan proposes a startling detrimental change to the character of the surrounding neighborhoods. And I saw neighborhoods because the applicant by their actions and their discourse and even their counsel, they see to try to pit I guess, neighbor against neighbor because everything is to try to move this project and the proposed, this project moved over to the east. Everything has to be away from one neighbor, which is not fair, I have nothing, I don't want this to be encroaching upon the Marsh, nor the people in The Chase but that doesn't mean that this can justify their encroachment into this boundary which is the application before you. In and of itself, the proposed solar farm project would bring a commercial use to a property largely in its natural undeveloped state. It would not be an easy change for any of to accept but I was working on doing so, with them in good faith. However, the recent discovery of the planned cell tower, is nothing less than the clandestine expansion of the industrialization of this parcel with much more of a significant impact. The application had been improperly segmented to streamline the future approval of a cell tower on the very same leased parcel of land, in fact it is on their submission, and you can see it is coexisting with their fencing and the gate. But this would be dramatically hovering over our property, our neighbors, all of Sarles Street passersby and elsewhere. To add further insult to injury, the applicant seeks a variance to encroach roughly one third of the way, which I believe is 72 to 73 feet into the easterly most 200 foot buffer zone of an adjoining

municipality/Sarles Street border, as well as the residential neighborhoods. Interestingly, applicant coolly proposes the eradication of almost 1,000 trees yet when it is suggested that the solar farm stay out of the buffer zone and move a short distance west to situate the solar within its proper boundaries, applicant piously avows the need to avoid removing some 70 trees and always ignoring the possibility of a reduction in the scale of the proposed solar farm instead. Any alleged difficulties with scale and location related to the project are self-inflicted financial hardships, brought on by an applicant with full knowledge of Zoning and regulations prior to executing any lease hold. That goes for the cell tower people and the applicant. They are extremely well versed in the Codes and they knew exactly what they're getting into and now they're here and they're looking for some sort of exceptions. You know, many of us would like to be supportive of a solar farm project, if it were sized reasonably and within the perimeters of the space. The proposed cell tower addition is ruinous to the legitimacy of the entire project, they can put their hands up all they want and say it's not us, it's on their plans, it is in conjunction with their property, their portion, I don't know the lease of the property, I haven't seen a lease, I've asked to see a copy, I think it's fundamental to any review and I'm not aware that it's been provided. And for anyone unaware of this area the 25 acre parcel, the eastern buffer zone is near the edge of a high rock cliff overlooking Sarles Street. So that cross section for neighbor B, shows a slope, a steep slope but that is nothing compared to what is actually on the buffer, if you pass that cross section and go right to directly east of this proposed solar farm and that buffer zone, there is a cliff, a shear rock cliff I'd say anywhere from 75° to 90° and that's important because the proposed reduced space between that cliff and a new fence to be laced in the buffer zone, is absurdly constricting. It would pose a hazard for the wildlife, which there is there in abundance, effectively compelling them to pass through a cliff side cattle shoot of sorts. Applicant's desired encroachment would likewise bring the entire solar project and its glaring open space above it unnecessarily closer into view by its neighbors and all persons travelling along Sarles Street. And again, it's the applicant who is pushing this on us to distinguish it's location. Everything is thrown on our side, the eastern side of the lead property is also a collection of families, it is not a dump of all the unsightly byproduct of this commercial industrialized application. We also have property values to consider, I heard you mention just a moment ago that part of the evaluation is what is the benefit to applicant, does it exceed the detriment to the neighbors interest, which includes financial. What is my property going to be worth with the solar farm there and a cell tower? You want to buy the property, you want to pay me for the difference in value, get an appraisal now and get one two years from now and you can pay me the difference? What about our enjoyment, don't we count? You speak of people walking through the Marsh, then lower the scale of the property, put it where it belongs, why does it have to be shoved down the throats on anyone on the east side of this property? The Planning Board and the ZBA's attention to a sensible alternative location of the solar farm panels, fencing, poles, structures in prohibition of a compounding cell tower would be commendable. You know the buffer zones were designed to protect us from the kind of substantial encroachment the applicant seeks herein. Maximum profit by some does not justify a variance to encroach upon the protections deliberately bestowed upon the surrounding residential, municipal, and sanctuary properties. It's not fair to put this, again to pit or put us against each other, it's wrong for this section here for this site and if they're going to make the application, a legitimate application, it should be without the cell tower and it should be within the perimeters of the boundaries and respect of buffer zones which are there for all of our benefit. Thank you.

Mr. Miley stated okay Chairman, we have two people in the waiting room. The next person we are going to allow in is Ms. Schleimer. She's on.

Chairman Boxer stated okay.

**Ms. Schleimer** stated um, I just wanted to make a short small comment. When I became aware of this application, I went on the Village website and I found the agenda for this meeting and I asked if I could be provided with a copy of the packet which would include the application and supporting documents for this application. I was not provided with same. What I noticed it was never posted on the Village website unlike what is done for the Planning Board, what is done for the Village Board of Trustees and historically it appears that for the Zoning Board of Appeals is it not traditionally done. Now the explanation I was given was that a lot of applications for the Zoning Board of Appeals are personal and would provide personal application. This and the ShopRite application which is also on this evening are a large commercial applications. I just raise to this Board and our Building Inspector and our Village Attorney why the public is not allowed and I as a trustee am not allowed to have a copy of what this application is so that I and other people, members of the public can prepare to make appropriate comments to present before this Board. So I would ask in the future, that the Zoning Board, the Building Department, the Village Attorney, consider that it is appropriate to provide members of the public with the appropriate documentation and information so that they may participate in this meeting, in a meaningful fashion. Thank you.

Mr. Miley stated Chairman, can I answer that question?

Chairman Boxer stated sure.

Mr. Miley stated Ms. Schleimer is right, traditionally things were not posted on the Village website with regard to Zoning Board applications but just recently myself, the Village Manager, and I received an interpretation from Whitney, whether anything would preclude us from including on the website so from this point forward, we going to start including all applications, not only on the Planning Board side but also on the Zoning Board side.

**Ms. Schleimer** stated thank you very much.

Mr. Miley stated you're welcome.

**Ms. Schleimer** stated just for information, I have submitted written comments to the Zoning Board of Appeals which I trust was included with your packet for your review.

Chairman Boxer stated it came in very, very late but yes, we did get them.

**Ms. Schleimer** stated thank you.

Mr. Miley stated are you complete Ms. Schleimer?

**Ms. Schleimer** stated I am.

Mr. Miley stated okay. Chairman, we have Mr. Rhodes will be the next speaker.

Chairman Boxer stated okay.

**Mr. Rhodes** stated okay, can you hear me, Peter?

Mr. Miley stated you're good Mr. Rhodes.

**Mr. Rhodes** stated Mr. Chairman, members of the Zoning Board of Appeals. I understand that what we're talking about tonight is the two variances, most important obviously being that for the reduction of the buffer, the 200 foot buffer. So I would like to talk specifically to that. This buffer is not something from old times, not an antiquated regulation, this buffer, this 200 foot buffer was establish just over a year ago by the Village Board when they modified the CD District zoning, it was modified specifically in the situation in the CD Zone property was going to be used or potentially used for a solar energy installation. The discussion as to whether this buffer should be 200 feet or less or more, was a very lengthy and as I remember, the applicant was involved very heavily in that both as a Planning Board Chairman and as paid representative of his company. There was a lot of discussion [inaudible] and then finally after all of that discussion, the Village Board decided that this 200 foot buffer was necessary in order to protect the value, both the natural and the property values of the Village and also the neighbors. So to then develop a plan which requires the elimination or partial elimination of these buffers is, I think a very clear case of a self-imposed hardship, as you know, as was mentioned by Mr. Pietrobono and by others, there do not seem to be any answers, it was asked many times why this solar farm could not be potentially a little bit smaller so it would neither impinge on these buffers or impinge on the traditional trails on Marsh Sanctuary. No answer, as a matter of fact it was asked earlier in this meeting by one of your Board members, I believe it was Wayne that asked that and they said we don't know what size it has to be, I mean with all the thousands of man house and all of the discussions and questions and affidavits that have gone into this, that being the obvious question, they've modified the plan three or four times to try to get around that but that question has not been answered. You know, why couldn't the facility fit within the buffers and also fit within some of the other requirements of the CD Zoning law, in terms of respecting you know steep slopes and other natural, not natural features of land and the rights of the neighbors. So this is, you know the kind of thing if you don't answer a question when the answer is uncomfortable to you, you think that it will just be maybe passed over and people will forget and I think the same thing in terms of the 200 foot buffer applies to the cell tower. Now apparently from what I've been able to gather from public records and those public records are not complete at this point but there was the, if you were, if you listened to or have the record of the first session of the public hearing, there was a tremendous amount of upset, anger from members of the community and even from members of the Planning Board on this kind of late reveal of the cell tower plan. Apparently it was known for some time, yet it was only revealed last week publicly and I think that the answer that the applicant gave earlier that it should not be considered is one that is both self-serving but also potentially illegal. I think there are two legal aspects to it in terms of whether you should consider it as part of this application and I think you'd be able to get advice from counsel on this maybe after I'm finished with this part. First of all, there's a principal in terms of called segmentation and you know our function as the CAC, the Town's Conservation Advisory Council, which I'm a member is actually to advise the Town Boards and Commissions on environmental issues especially those regarding to the SEQRA, the environmental reviews of various kinds of application. And this principal of segmentation

is a very clear one, it's well established in the rules and basically says that if there are parts of a project or application that will have a cumulative effect on the environment that they should be considered together as part of the SEQRA process. The other thing that is a legal issue involving this cell tower, which is of course, if you look at the maps, it's fairly close to the buffers and as Mr. Pietrobono said, very close to his property, is that and I'm quoting now from the CD Zoning Law from the Town. "If a development is planned in stages, the Planning Board by other implication, other bodies, shall review and accept and approve the overall plan as well as each stage to ensure that the staged development meets good Planning and Engineering standards." So clearly, the cell tower, whether it's ready to be built now or a couple of years from now and whatever the role of this particular applicant is in it, it's part of their application, it's on their plans, the implication of that in regard to the buffer and the environmental impact, the cumulative environmental impact should be considered by this Board. I mean, it's obvious [inaudible] considered because the action of any proposals of cell towers in this Town on natural spaces whether it was in Leonard Park or other places has met with universal rejection from all members of the community. So clearly they wouldn't want it included with their solar farm, so you know the position of the CAC on this and I submitted a fairly lengthy analysis that was vetted by all members of the CAC about this application which you should have in your packets or will have in your packets. [Inaudible] alternative energy, several of us have been pioneers in this area and have been working in this area for decades but what's happened recently and [inaudible] is that people have been practicing what is called green washing which is to take some solar energy which is very popular and necessary and to then put it into the park or put it on farm land and then later modify the proposal as being anti-environmental, just plain red bating and in this case, the CAC is provisionally in favor of this application, within the limitations set by the Village Board in terms of the buffers and if can be done in a way to minimize to the greatest extent possible the environmental and open spaces. And I think this application to you is really premature given the fact that there is segmentation issue, it violates the CD Zoning to handle the cell tower separately, violates the CD Zoning regulations and then there's, if you have the time to look at it, there's five other pages specific to this buffer that you're considering. We urge you to not really waste everybody's time, to let the Planning Board process go through, [inaudible] either eliminate this proposal or change it radically because you could discuss it now and then I think as is pretty evident, if it's changed, you're going to have to go through the same process all over again. So I would like to close by just asking if possible, if Mr. Singleton could, because I know he's done some research in this area, advise all of us including the Zoning Board as to how the segmentation issue and the CD zoning regulation that the overall plan has to be considered in terms of environmental impact, in terms of granting any special permits or variances. Mr. Singleton could enlighten us a little bit on that, it would be very helpful for me, the public and hopefully for the Zoning Board too. Could you do that please? He's muted. And I'll finish my comments there and thank you for your time.

Whitney Singleton stated John, can you hear me?

**Mr. Rhodes** stated yes, thank you.

Whitney Singleton stated okay, just very briefly. The Planning Board circulated it's Notice of Intent to be lead agency on this application to all involved agencies which included the Zoning Board. As such and is customary, the Planning Board serves as lead agent, so the Planning Board will make all of determinations absent of depending on what they find with regard to segment, the Planning Board is going to serve as lead agency and any SEQRA Determination will be made by them. Therefore the issue as to segmentation is not really something that's before the Zoning Board of Appeals. We've already previously talked about the issue of the limited scope of what is presently before the Zoning Board of Appeals, I am not disagreeing with anything that you said, if the Planning Board who does have a memo from me and has met with me to discuss the applicable laws and has received a memo from the applicant's counsel, if they determine that it's segmentation, they will as you point out, consider the entirety of the action which would potentially include a cell tower or they could take another course of action which says that they're not segmented or that the segmentation is permissible. Not all segmentation is impermissible. So, right now the issue before the Zoning Board is limited to the fence height and to the buffers and I agree with you that certain aspects of this, I don't want to say that they're premature but the applicant has made an application to the Zoning Board and the Zoning Board is entertaining it, much of what happens with the Zoning Board will be predicated on what the Planning Board actually does. So, the Zoning Board is not going to act until the, the Zoning Board is not going to act on anything positively or negatively unless and until the Planning Board makes a determination under SEQRA and whether or not, and how to proceed under SEQRA. So I hope that addressed your concerns. I think there was one other point that you may have said that perhaps I didn't cover but basically everything's going to relate back to the Planning Board's determination on SEQRA.

**Mr. Rhodes** stated against the benefit to the applicant as opposed to the detriment to the environment and the neighbors, that granting or not granting that variance of the 200 foot buffer, it would seem to me just simple common sense that that evaluation would have to include the entire project which according to the plans include that cell tower, by some sort of legal operation, they're trying to separate it, I think that that's, the Zoning Board of Appeals, that's just opinion that they're really going to say whether this 200 foot buffer is to the advantage of the community and neighbors and environment and so on, someone has to

consider that this involves a cell tower as well as solar farm. So to exclude it from the conversation seems to be counterproductive. The other part of the question Whitney, which I don't think you addressed directly but I think the same answer applies is that the CD zone requires that, CD Zoning requires a unified look at the totality of the project and the development, it says the word development and that development now includes according to the plan and leases that have been entered into on the cell tower so I think that outside of the SEQRA segmentation rule, that's also part of the Town law and just common sense would indicate to me that the Zoning Board would have a productive discussion about this sort of buffer, would have to include a discussion of the impact of the cell tower on the buffer as well. Thank you.

Mr. Null stated Mr. Chairman, will I have an opportunity to clarify certain statements here?

Chairman Boxer stated sure.

Mr. Miley stated Chairman, I have just one more person waiting. Do you want to get all the public comments first? Your desire?

Chairman Boxer stated let's have the last person talk.

Mr. Miley stated this person I have to call back, and stream them through my microphone, please bear with me.

*Mr. Miley's phone conversation for Mr. Ronski's public comment.*

**Gerry Ronski** stated first I apologize, [inaudible] so I apologize for that. This is Gerry Ronski, my wife and I, Beth, have resided in Mount Kisco for over 30 years and we currently reside for the last 27 years at 8 Brentwood Court and as I'm speaking you, I'm looking out my window at 700 or so trees that you are apparently going to destroy. But I know it's getting late and I endorse all of the comments that were made by the prior speakers, I'm not going to repeat them. We also submitted some number of written comments which I will continue to do so to both the Planning Board and to this Zoning Board of Appeals so I won't repeat that. I'm just going to make a couple of quick points and then move on. Initially, I think that what the prior discussion highlights and demonstrates is that this hearing should never have been open to begin with because first of all, 1, like the other [inaudible] who have spoken or other folks who have spoken, also attempted to locate a package of this application on the Town website so I could properly prepare myself and discuss the merits but unfortunately the request was denied and then I was advised that I had to submit a FOIL request for an application which I understand is now something that is going to be changed, I respectfully think that highlights that again that this hearing should never have been opened. Independent of that reason, I think that another very specifically reason which has been sort of highlighted already but to reemphasize, I think that this Zoning Board of Appeals should have never opened this hearing, is correct that the Planning Board is Lead Agency, they're in charge of conducting a review, there are some very, very, very serious issues here that has already been identified, as clearly as the segmentation issue. Independent of the segmentation issue, there's the question of whether this application is of significance. I mean, the negative environmental impacts of this application I think are very clear and I will avoid to rehash those. Those questions, the question of significance and segmentation are for the Planning Board to address and by you even opening the hearing, respectfully I think you've sort of ignored the clear requirements of the State Environmental Quality review Act and the point of this is what's the great rush here? Why is the great urgency to destroy 700 trees to stick a power plant in the middle of a residential neighborhood and to destroy a neighborhood? What is the great rush? I do not understand why there's this great urgency to rush this thing through. Is there some issue with 700 trees that we have to destroy them? Are the trees some danger to this community? I don't think so and what sort of further demonstrates that is what my wonderful neighbor who lives across the street identified and that is when we went to submit an application to take down one tree that was basically going to fall on her house, the application took almost 2 years to review and then at the end of the day was denied. And now you're going to rush through an application to take down 700 trees that have an incredible impact on the environment, and I recognize that's for the Planning Board and not the Zoning Board of Appeals but again, it just highlights that the hearing should never have been open to being with. And we never had received any notice whatsoever and I swear I'm within 300 feet of the lot line but I guess counsel for the petitioner can sort of check that. But again, like what is great rush here? The more we get involved in this process, [inaudible] the lines documented included the title change and everything else and frankly, you know the more you want to peel the onion here, it starts to stink more and more and more. And so I think this hearing should be suspended and that the Zoning Board of Appeals could just place this in a hiatus state and let the Planning Board do what it's supposed to, issue a positive declaration and also to identify the segmentation issue with the cell tower. So I'm going to rest on the balance of my written submission, reserve the right to submit substantial additional submissions and just emphasize that any hardship that's been identified here has clearly been self-created by the applicant. So on that I thank you for time and have a good night.

Mr. Miley stated Chairman, just let me hang up with this gentleman and take his information, just bear with me for a minute or two.

Chairman Boxer stated sure.

Mr. Miley stated okay Chairman, that's all our public speakers this evening. We went through Facebook, there are no comments except one that asked a question whether the water runoff basins are located in the buffer, they are, I did answer the question yes that the detention basins are located in the buffer. And there are no other comments and there are no other people waiting in the waiting room in Zoom and there are no other public here to speak.

Chairman Boxer stated then we should, at this point, we'll just keep the public hearing open and...

Mr. Null stated Mr. Chairman, may I address a couple of issues so that they don't linger as if they were accurate.

Chairman Boxer stated sure.

Mr. Null stated thank you. We received, with regard to notice we received a plan from the Assessor's office that indicated 300 foot radius, we double checked that against the Westchester County GIS tax mapping. We sent notice as required to owners of property within 300 feet, we actually included owners in the Town of Bedford, as well as in the Village of Mount Kisco. We had submitted documentation to Mr. Singleton but we also previous submitted to the Planning Board Secretary and we submitted it with an affidavit of mailing to your secretary as well. So with due respect, all those, including Mr. Coppola who had been notified for the Planning Board public hearing, all have received or have been mailed notice as required. There is no mandate that they receive it, we don't control US Mail but we did mail it, we mailed within the radius appropriately. It's unfortunate that they may not have known or may not have received it, we certainly can't control that. The notice is actually only required for a public hearing, it's not required on the filing of an application. So although this application was filed back in February, there was no required mailing to anybody within a radius until a public hearing was schedule, the first on by the Planning Board last week, July 14<sup>th</sup>. With regard to the cell tower on the same owner's land and I don't know where the suggestion came about a title change or some nefarious dealings by ownership or otherwise but we do respect [inaudible] what we can for the Village, the Planning Board and to the Zoning Board as well as to the residents. The application by the cell tower company is not our application, we understand the Planning Board needs to render a determination as to whether it will consider it at the same time as our application, we placed the location of that lease on our plans, on one of the plans that potentially the Planning Board and Zoning Board identify where this site would be in relation to us not because we're saying it's part of our project but only to orient people and we took that location based upon a recorded memorandum lease that was filed in the County Clerk's office which we also submitted to the Planning Board. So with due respect, we're trying to help and be clear. The use of a solar farm is a use that the Board of Trustees determined to be appropriate in the CD district. This is not a commercial use, inconsistent with the surrounding property, certainly not having based upon the Village Board having decided that this is an appropriate use apart from what neighbors may think about it. And with regard to, what we need to establish before this Board, we need to establish that granting the variances, the encroachment into the buffer by 72 feet and the increase in the fence height are more beneficial than detrimental to the surrounding, to the neighbors and to the community. And that's a measure as against what would be required if we complied with the requirements so if we add the as of right plan that we showed this Board and extended closer to Marsh Sanctuary, we'd be in compliance with that 200 foot setback but the reason a Zoning Board exists is to grant relief in situations that are justified. So Zoning ordinances when they're written, with due respect to Mr. Coppola who said that Zoning is designed to maintain the status quo, with due respect, that is not the case. Zoning is designed to accommodate uses that are deemed appropriate and beneficial to the community and they may be different, they may be additional residential development, such as this site could accommodate. So if this site was developed for additional residences, there would be trees coming down, there would be new driveways being built, there would be new impacts to school districts and otherwise. The Village Board decided that rather than requiring only residential in the CD district among others, other uses, that a solar farm, which is a relatively passive use, is an appropriate use for this time and this age as far as moving away from fossil fuels. The urgency to it, the urgency to it is because its now viable with certain state and federal grant, monies that are available, federal and otherwise and it may not be down the road. It's certainly something that would be beneficial to the community by way of reducing the amount of power that would need to be produced by other than a renewable facility, renewable energy facility such as this solar field. Unfortunately, whenever development takes place on a property, there's alteration to that property and that includes tree removal which has to be assessed and determined whether it's appropriate or not appropriate. There's no way to develop this property for any use whatsoever without alteration of the property in some form or fashion by way or stormwater management, tree removal, preconstruction, driveway construction et cetera. And the same has happened on surrounding properties such as, one in which some of the residents now reside in, that property 20-something years ago

was not develop at the intensity that it exists and it's made for a good place for people to live and we respect that. We look forward to being able to come back to you with information regarding why 2.5 megawatts is the financially viable size, why not smaller. We didn't side step that question by not giving you an answer, we think it's better to give you a complete and thorough answer in writing than to try and give you a short answer based without [inaudible] and we will get that information for you. The water runoff et cetera has all be part of the analyzes provided to the Planning Board and as Mr. Singleton correctly noted, the environmental impacts are going to evaluated first by the Planning Board as lead agency. So we've submitted additional data, just today, responses to questions that came up before the Planning Board and we've submitted extensive data over the course of the past five months from the initial submission in February. So this not a ruse to review, this is the due course of process before the Village and we appreciate having the time and opportunity to speak to you and to inform the public about what this project entails. We look forward to coming back to you with answers in writing and to be able to appear again before this Board to answer questions. Thank you.

Chairman Boxer stated thank you.

Whitney Singleton stated Chairman, before you adjourn this public hearing, I just wanted to add one or two things to what Mr. Null just stated. Whether the applicant is in a rush or is not in a rush or there's a degree of urgency, that has been somehow imputed to your Board or suggested that your Board is rushing an application, I would like to point out for everyone's benefit particularly for your Board's reputation. This is an application that you first saw Friday, you didn't slap it on an agenda because you deemed it to be necessary to move it along. You received an application, when somebody receives an application and it is otherwise compliant and it is timely filed, you process that application. DMV doesn't suggest that they don't like to take applications from bad drivers, they take the applications and if the drivers are bad, they don't get their license. If this application is not good, you won't approve the variance if you deem it to be inappropriate. The mere fact that you're entertaining an application is not a fait accompli, it's not a rush job and it's not anything else, it's simply the process that's done and as far as the time within which both your Board and the public was able to access the information, that has historically been a problem and in the age of virtual meetings the Building Department is seeking to address that as Ms. Schleimer suggested we do. So I think that you're going to see an improvement there but that was not something that was done solely for this application, it's been the process for everything application.

Chairman Boxer stated thank you.

Whitney Singleton stated and my last point is before adjourning the meeting, I think there should be some consideration given to, you have to adjourn it to a date certain. So the question becomes and Mr. Null may want to unmute his mic, the question becomes what would be your Board's next meeting that you would want to entertain this at? Is this something that you would want to put over until September or is there even a meeting in August for the Zoning Board?

Mr. Miley stated next meeting Chairman, is September 15<sup>th</sup>. There is no meeting scheduled for August.

Chairman Boxer stated okay.

Whitney Singleton stated okay, so I presume that that would be acceptable to Mr. Null since it's the next meeting.

Mr. Null stated yes, thank you.

Mr. Weise stated I just wanted to remind Mr. Null, I am interested in understanding how many projects of this size are in Westchester County so we have some sense of how common this type of development is.

Mr. Null stated we will try to get you that information and to the extent that it's available, provide it to you.

Mr. Weise stated thank you.

Chairman Boxer stated okay, we can adjourn this hearing for now and thank you everybody for coming and I would like to take a short recess for five minutes.

Mr. Null stated can I just ask if we need a motion to adjourn it?

Whitney Singleton stated yes.

Mr. Null stated thank you.

**Chairman Boxer stated okay, someone make the motion?**

**Mr. Spector stated so moved.**

**Mr. Weise second the motion.**

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

Mr. Null stated thank you for your time and consideration, stay healthy and safe, we look forward to seeing you in September.

Chairman Boxer stated okay, everybody's back. The next case is ZBA# 20-6 The Park.

<b>2. DP 21, LLC (The Park)</b>	<b>ZBA# 20-6</b>
<b>333, 383, &amp; 309 North Bedford Road</b>	<b>Area</b>
<b>Mount Kisco, NY 10549</b>	
<b>(SBL) 69.50-2-1, 69.51-1-3, 69.43-1- 2 &amp; 3</b>	

Mr. Stephen Spina of JMC was present.

Mr. Miley stated Chairman, we, the applicant is back.

Chairman Boxer stated okay.

Mr. Miley stated just give him a second to join. Okay, Stephen, you're live.

Mr. Spina stated okay, good evening everyone, this is Steve Spina from JMC representing Diamond Properties for the project The Park, 333 and this is our first appearance for this Board. We've been to the Planning Board in Mount Kisco since the end of 2018, we've been to Bedford because a portion of the property is located there and we just received our SEQRA Determination of non-significance on May 12<sup>th</sup>. So we put together our application in June and we are before your Board for the first time. There are 19 variances that we require to go forward with the project and I was going to just quickly run through a little presentation that will help highlight those variances. Everybody can see my screen? This is the property here in yellow is the property boundary and red is the town line between Mount Kisco on the left and Bedford on the right. We are proposing to relocate the ShopRite grocery store in the Town of Bedford to Mount Kisco in this lower right corn of the building here which is currently warehouse space. And this is just some photos of what the site use to be before it was redeveloped in 2006. This is one entrance at Ice House Road [inaudible] Bedford, this is Ice House Road here. So the site was in pretty bad shape when Diamond Properties took it over and this is view from the top of the hill at the northern driveway [inaudible]. This is kind of their vision, is a rendering of what they did in 2006, another view here with the solar on the roof. And this is just an aerial to show where the existing ShopRite is located now and where we are proposing it in Mount Kisco. The whole project was able to really gain traction when Diamond Properties acquired the [inaudible] southern driveway property at 309 North Bedford Road and also worked out a lease agreement on the northern driveway property, adjacent to that northern driveway, that owner. So it allowed us to look at realigning the driveways which would solve the traffic issues along the corridor that exist today and allow the project to go forward with some improvements. So these are just some views, and I'm sure everyone is familiar with, this is the southern driveway onto North Bedford Road, this is along North Bedford Road, I think north toward the northern driveway, would circle here to the right and this is 383 North Bedford Road to the left. This is a view out of the northern entrance driveway onto North Bedford Road, it is a restricted turns, no lefts in or out and quickly this is aerial view of the southern entry and this is what we're proposing there. So if I sort of toggle back and forth, you'll notice that there's a portion of the existing building here is being removed, driveways which don't align now would become aligned. So everything is predicated on aligning the two driveways, the southern and northern driveways, so this is just a rendering showing what we're proposing, the aerial, similarly the northern entry driveway and existing building and quickly toggle through, you'll see propose building in its place, smaller and the driveway swings down to [inaudible].

Mr. Miley stated why Stephen, can you adjust your mic? We're having trouble recording in the Village, it's very, very difficult to hear and the person recording just indicated that it's not recording well. I'm not sure if there's something wrong with your microphone or change. I'm not sure how everybody else in the Village that's watching, we really can hear anything.

Mr. Spina stated can everyone hear?

Mr. Alfano stated it's not that, it's just the audio is very choppy on my end too, I don't know if you're talking through the audio through the Zoom meeting or you're dialed in.

Mr. Spina stated I am talking through the Zoom meeting on my computer.

Mr. Alfano stated it might be worthwhile to call. It's better now but we'll see if it happens again.

Mr. Miley stated Felipe, can you hear that? Felipe is giving me the thumbs up. Just talk a little bit louder Stephen. I just wanted before we lost all the information, I just wanted to interject.

Mr. Spina stated alright, sorry. Sure, okay. So what I was going to say was, sorry, what I was going to say is I was just comparing the two driveways are they are from existing to proposed condition, this makes the whole project possible and I was going to get into the variances that we need for the project. So in our submission that was made, there was a list of 19 variances outlined, we had several meetings with the Town/Village Planning and Engineer consultants, as well as Mr. Miley, we really went through the plans in detail and Mr. Miley came up with a very detailed list of the variances for all three lots, the 333 North Bedford Road, 309 and 383. And this first variance is sort of self-inflicted, I guess you could say when there was a zoning change made to allow for a grocery store in this district, there was a maximum building area that was placed on that grocery and I think at the time when we were initially coordinating with ShopRite, that building square footage would have worked but we did not account for having internal loading areas and a mezzanine. We thought the internal loading would be good to keep the trucks out of view but it does take up space within the footprint of the store, so we'd be asking for a variance of 85,652 square feet, where 75,000 is allowed. So this first figure just shows in yellow the internal loading areas and there's a blue line up here that shows the mezzanine above the loading. So you know, adding these areas up, there's 7600 square feet of loading and about 3500 square feet of mezzanine, that's what puts us up to that 85,000 so part of the building also had to be, a vestibule had to be added in the front here, the ramp to get patrons up from the parking lot to the finished floor of the existing building, this portion of the site, the parking surrounding the building is about two or three feet lower than the existing finished floor of the building. So these are sort of the reasons why we are requesting that variance.

Mr. Alfano stated Stephen, quick question as a reference point? What's the square footage of the existing ShopRite in Bedford Hills?

Mr. Spina stated it's about 40,000 square feet, so this is double that.

Mr. Alfano stated got it, thanks.

Mr. Spina stated you're welcome. I'm just going to cycle through these variances that we need and then we can either come back or if anyone has any questions you can stop me. The second one here which is just a large color figure, the variance is basically a development coverage variance, we're allowed up to 70% development coverage, I think we're proposing, the variances for the 333 North Bedford Road proposed lot which is what's highlighted here, within the ML District, there's a requirement of 70% and we're a little bit over that but when you look at the whole lot, ML District and CL District, we're actually under the requirement of development coverage, so we're just over and that's basically caused by the additional parking that we're proposing to suffice for a ShopRite grocery store because that use requires additional parking. You know, beyond what's there now...

Whitney Singleton stated Steve, this is Whitney speaking. Can you point out on the diagram for the benefit of the Board, where the Town line is.

Mr. Spina stated sure, it basically runs along the northern edge of the building here, kind of up/down on my screen and then it sorts of takes a little bit of a bend and then it runs along this property boundary here. So most of the site work is proposed in Bedford, reconfiguring this parking and loading area, there's a little bit down here in Mount Kisco but we are adding some parking, thus some impervious area, thus the need for this slight increase over what's allowed for the development coverage. We prepared these figures for the Planning Board. The next is just a view of our layout that was submitted and this is really to just illustrate the third variance which is the parking space variance. The site currently has a hundred, excuse me, 801 existing parking spaces, we're proposing 72 more but the requirement per the Zoning and per the ITE, Institute of Traffic Engineers manual for parking requires 1127 parking spaces, so 254 more parking spaces than we will propose. Now we have gone through a pretty detail analysis in terms of parking with the Planning Board, we did parking studies, counting cars as part of the traffic study we did. We submitted table and they were reviewed by the Planning and its traffic consultant in some significant detail which basically go through all the available parking that was observed and then you extrapolate what the proposed uses are and how much parking they would take up. We studied surrounding ShopRite, sorry surrounding supermarkets et cetera and all of our studies suggested that the proposed parking that we are showing on the plan, that quantity would be adequate.

Mr. Weise stated can I ask, is it the grey shaded that would be the ShopRite parking? Or is that, what does the grey indicate?

Mr. Spina stated so the grey is new pavement. There is basically a line here that runs, this is anywhere we're disturbing the existing pavement and proposing to add new pavement. The ShopRite parking is kind of, it's really kind of this area, all this here and what we have said was the ShopRite parking would sort of end with their loading dock right here, so it would be all of this sort of lot in here and you know it should also be noted that ShopRite wanted more parking, typically they require a certain number for this size store which we are not able to provide but we're close enough where they're happy and you know we feel through all the different uses on this, you know there's going to be shared parking involved where ShopRite's peak would not coincide with the other peaks from some of the other uses. So that was kind of all accounted for in the parking study.

Mr. Weise stated okay, thanks.

Mr. Spina stated the next slide is the 4<sup>th</sup> variance we need, it's minimum lot width, so it's an existing nonconforming condition where this little finger of the 333 lot, it actually goes out to North Bedford Here, it's going to be connected to the main site, it's only fifty wide where the requirement is 100 feet. SO Mr. Miley is just kind of requiring us to get that variance to sort of clean up this sort of existing nonconforming, there's a quite a few of those on site.

Mr. Miley stated Stephen, let them know that 333 North Bedford Road is separated in two different districts, ML Zoning District and the CL and that variance is pertaining to the CL district, requiring a 50 foot lot width variance.

Mr. Spina stated right, sorry, good point.

Mr. Alfano stated this is just an existing piece of land that was left over when this was originally built?

Mr. Spina stated yeah, I mean, basically that land provides access to the main road to all these other buildings that are not even on the property. So there's just easements in this land, it's really more for the benefit of these adjacent properties.

Mr. Weise stated and it doesn't connect now to the parking lot, does it?

Mr. Spina stated no, there's, I think quite a grade change at the end, maybe like five or two feet here, with a wall, there's no plans to connect it.

Mr. Weise stated and so the reason it would be necessary is for access to this part of the building because there's going to be a lot more traffic with the ShopRite, is that why that's necessary?

Whitney Singleton stated maybe I can weigh in on this, Arthur. When this was originally the Grand union distribution center, the Ice House Road access which is in the middle, was chained up and the access at the southern end of the site which is in yellow, was chained up and all of the ingress and egress came out of the north access point because one, it was long, I mean wider, it's double the width of the other two and there's actually a third that you can see just to the south of the main entrance but it's got such a grade change that it was never utilized for anything. So there were four tentacles going out to the street but only the north entrance was used because of it's greater width and there were only trucks going in and out of site and they generally left after midnight so it was easy to get in and it was easy to get out and as a result of various encroachments by other property owners, a dispute arose over that southern access that was highlighted as yellow and there was a court decision over it recently, so while the applicant had originally applied to open that up, it's no longer being proposed to be opened up and I think that that's something that the Planning Board is comfortable with because the applicant is proposing two new improved aligned intersections of substance so that you will have a signalized intersection on the southern end and a signalized intersection at the northern end that are full intersections, they're not offset, they're aligned. And that was the recommendation of the Village's traffic consultant. So I think what Steve is pointing out with regard to that southern site, its basically a nothing for purposes of this application, other than just more square footage that's covered in impervious surface.

Mr. Alfano stated thanks Whitney.

Mr. Spina stated and yeah, I should have pointed out earlier, the ML District and the CL District are separated by this red line, it's labeled better on our plans and its hard to see on this slide, that's basically the divider. That's what this variance is for, just this width here. And a lot of the variances we're asking for are existing nonconforming conditions that we're either keeping the same or in some cases, improving. Like this next on here is front yard setback, where the existing Canine Kindergarten building and parking are in that setback and then there's a little bit that we are causing because of the driveway widening here,

the little triangle of pavement that will be in that setback as well. And this is wide like this to get the, you know better turns for tractor trailers, we provided truck turning plans...

Mr. Miley stated are a number of these variances also a result of the subdivision or lot line movement or relocation of the lot line?

Mr. Spina stated right, right, good point, I was going to get into that when I got into those individual lots but yes, they are. This is the fifth variance we need and the sixth variance would be, there's a five foot buffer encroachment here, this is pertaining to this relocating the lot line here where we previously had buildings on 309 North Bedford Road, where the lot line sort of came down here. We're shifting it over for this driveway, so now we're encroaching on that buffer, we're adding a sidewalk here for some pedestrian access all the way down throughout the site, so this is a result of that five yard buffer where we're proposing I think, two feet. The next variance here is for the parking on the 309 North Bedford Road lot, so we require an 11 space parking variance, the requirement is 30 spaces, we're providing 19. This lot, existing conditions now has 33 spaces but the building is double the size of what we're proposing, so we're sort of cutting the building in half and leaving more than half of the parking. But that's sort of what's left over when you realign this driveway. And these uses are planned now to stay the same, there's an IT store, a nail store, a subway and there are automotive garages on the back side below these uses on the street side. The next variance we require is for minimum lot width, so 100 feet is required, the existing lot was wide than that but because of the driveway realignment and the lot line adjustment as Mr. Miley indicated, now when you look at the front yard setback line, this is the 71 feet and this is what's leftover. So we require a variance for 71 feet where 100 is required for this lot here. The next variance is the front yard buffer, there's a 20 foot wide front yard buffer, we're proposing a seven foot buffer from this front yard property line to the beginning of the first parking. Right now, there is zero setback as far as the parking goes [inaudible] and a little bit of green space there from what the proposed improvements. The next variance here is the side yard, so there's a five foot side yard setback required, we are providing zero feet, existing conditions we are also providing zero feet, it really is unchanged, the existing use there.

Mr. Alfano stated Stephen, quick question...

Mr. Spina stated and that's the variance is the other side... sure?

Mr. Alfano stated this area right here, this is the south entrance where we, where there used to be, we have the existing audio store, the entertainment store.

Mr. Spina stated yes.

Mr. Alfano stated are they, is that building being knocked down and they're being moved to the back or what's, maybe you can explain what's being changed here besides the lot line change and roadway?

Mr. Spina stated so the left side of that building, which I believe is vacant on the upper portion, so this slide, so these two kind of segments of the building, which I think are an audio/video store, the IT store is really here, these are vacant I think now and then there's automotive repair garages in the back here, those would all be removed and then this is what's leftover, these two pieces.

Mr. Alfano stated got it, thank you.

Mr. Spina stated let me see if I have a view of that, I thought maybe I had a picture of it but you'll see the front of the Subway, the nails and there's still that, there's one store here that you can still see. So what I was saying before, sorry, this variance here which was the five yard, sorry was a 10 foot building side setback, so this existing building would be seven feet from the proposed lot line, so we would need a three foot variance for that. Again, the existing building there now that we are proposing to remove is even closer to the lot line that's there now, so it's kind of a little bit of an improvement to the existing conditions. Then the next variance, then we're at the 383 North Bedford Road northern driveway and the first variance we require there is the development coverage variance, the requirement is 80% and we're proposing 86%, so we're a little bit over the impervious coverage. The existing conditions of that lot now are at 96% development coverage, so we're actually improving it with some additional greenspace but we're still over what is the maximum. So that's the variance required there, the first one. The second variance is on...

Whitney Singleton stated Steve, Steve, sorry to cut you off...

Mr. Spina stated sure.

Whitney Singleton stated I just want to clarify something for the Board, that whole area on the left that says loading and all those horizontal parking spaces, that's presently not part of that lot. That is separately owned by 333 and it's not part of 383. You're showing this as one lot and it's not.

Mr. Spina stated the existing lot is this. I'm sorry, let me just make it a little wider. So this is the existing lot and as part of the project...

Whitney Singleton stated correct.

Mr. Spina stated to make the driveway change happen, we're proposing basically to swap this little triangle here, this would be traded sort of with that property owner. So in order to make this, in order to make the driveway realignment, you would, 333 North Bedford Road would be gaining this triangle but losing this rectangle, so this lot 333, it's a little bit larger. Hopefully I'm explaining that better. As part of our project narrative that we submitted, it explains it in there. So now 383 would go from this red sort of rectangle to the portion that's colored, this leftover piece here, and this added rectangular piece here. Then this blue piece would go to 333 North Bedford Road for the driveway realignment.

Whitney Singleton stated and just for the Board's clarification, I don't know if you have an aerial photograph of that right now Steve but everything that is currently between those lines, between the line, maybe Steve has, that's all greenery in there currently where all those parking spaces are, those are all mature trees. There we go...

Mr. Spina stated so there's a grassed area here, there's really no trees there anymore, that aerial shows trees but I think they were cut down, supposedly they were dead...

Mr. Alfano stated the last...

Mr. Spina stated but it is a grass area nonetheless.

Mr. Alfano stated I was going to make comment, the last aerial imagery I'm looking at from 2019, last June shows no trees in that grassed strip.

Whitney Singleton stated really?

Mr. Alfano stated thanks Google.

Whitney Singleton stated in 2018 they're all there.

Mr. Spina stated we were told those trees [inaudible]. Right, so what we're proposing though in this area because of that is porous asphalt or pavers, we're working on the design there but we're going to have a strip of, instead of regular asphalt, we would have some sort of a green practice for stormwater mitigation of that impervious area. But we still count that as part of our development coverage, it's still technically impervious area, so it's part of our 86%, part of the 6% that we're asking for relief on. And we are proposing the project in general, not to go on a tangent, it's proposing quite a bit of landscaping, we are removing trees of course but we proposing a lot more trees, a lot more new trees than what we're removing. So there will be quite an increase in landscaping especially along the North Bedford Road corridor, you know along the frontage of these buildings and lots and driveways of the, you know any existing trees that can remain will and they'll be a lot of new trees and shrubs planted. This variance here that I was about to show, this is a front yard setback variances, so there's a 20 foot front yard setback variance required, we're proposing 12 feet, so it's kind of this little area here, from the property line to the first parking space and again the existing lot now there has zero or I think it was two or three feet, so we're pushing the parking back a little bit so it will get a little better there. This next variance is another existing variance that is there now, it's a five foot rear buffer there, the existing building now goes right against the back of this lot line here, the proposed building go up against that, so we're into that yard buffer and then there will be another variance in a few slides, talking about the building buffer. So we're encroaching into the rear yard and the building in this back rear line which are both existing, nonconforming conditions now. We would be removing that building and putting a new building in there. This next one here is the side yard, so the two places we're proposing encroachments into that side yard buffer, one on the left side for this parking here, we were talking about adding a trash enclosure back here and also the building here would be into the five foot setback from this new lot line. And this next one is again waiting for the building, it's only .8 feet from the lot line, so this is a building setback variance here. Again, we're pushing the lot line over the rear on the driveway and we wanted to get a sizeable building, it made sense for the property owner to have spot, again...

Mr. Weise stated can I just ask...

Mr. Spina stated the existing building that's there...

Mr. Weise stated .8 feet, is that what you said?

Mr. Spina stated .8 feet...

Mr. Weise stated and that is the exit ramp?

Mr. Spina stated yes, this is the driveway, the northern driveway that would align Foxwood Circle.

Mr. Weise stated and that is enough clearance for the 18 wheel trucks that are going to be going and down that road?

Mr. Spina stated yes, I mean there's, yes, it's you know, there's a five foot sidewalk between the curb and the building and...

Mr. Weise stated okay.

Mr. Spina stated so there's not going to be trucks hitting it or anything like that...

Mr. Weise stated there's a sidewalk between the building corner and the roadway.

Mr. Spina stated yes...

Mr. Weise stated alright, thank you

Mr. Spina stated both the driveways now which don't have any sidewalks, we're proposing sidewalks from North Bedford Road all the way down to the bottom of the site, to at least encourage pedestrian activity.

Mr. Weise stated okay.

Mr. Alfano stated I have a question...

Mr. Spina stated the next variance...

Mr. Alfano stated Peter or Whitney, have any concerns been brought up regarding the difference in lane width what we're seeing here, the 15 foot versus the 12 foot lane width? Or is that standard practice for traffic lanes?

Whitney Singleton stated I can't comment on specifically how that was handled, what I can tell you is this, I apologize for the echo. This has been reviewed by our engineer, our retained traffic engineer, the retained traffic engineer for the Town of Bedford, obviously JMC on behalf of the applicant and reviewed by DOT as far as turning radiuses, lane sufficiency, approaches and everything else.

Mr. Alfano stated okay.

Whitney Singleton stated not something I have any degree of knowledge on, but I know a lot of eyes have been on this application.

Mr. Alfano stated okay, that's good to hear. Just curious, that's all, thank you.

Mr. Spina stated thank you Whitney. This next slide just shows again, I mentioned before it's really similar to the previous five yard, five foot yard buffer, this is the ten foot rear building setback, so it's the same thing because of this building up against the property line, another variance would be required for the building. So this one here, this is a requirement, the trash enclosure is not supposed to be located I believe behind the primary principal building on the lot because of our kind of irregular shaped lot that we went through before, you know we're proposing a trash enclosure all the way be here so it's behind the building. It's kind of really only the good place to put the trash enclosure, there's not one now on that site, they kind of have a dumpster or two on the pavement, on wheels. So we are proposing a fenced in enclosure to keep a dumpster and a few recycling receptacles, you know it's, we selected this area in the back of the site, there's a variance for that. And then the last one we have is the retaining wall length. We have a very large proposed retaining wall and that was because of, I sort of discussed a little bit earlier the added parking and reconfigured parking lots for a grocery store parking demand. Some of that required us to essentially push back the perimeter of the existing parking lot to what we show now and requires a retaining wall, quite a large retaining wall. It's, you know goes down to about, it tapers down to nothing on the ends, at points in the middle it goes up to 14 feet high. It's typically about eight feet high, it's basically an essentially part of the grading and parking lot design for the project.

Mr. Weise stated can I ask, do you have a large [inaudible] on top of the retaining wall?

Mr. Spina stated excuse me?

Mr. Weise stated is there any fence proposed on top of the retaining wall, so you don't have people who can inadvertently walk right over it, fall over it?

Mr. Spina stated yes, yes, there will be a safety fence on top of the wall. There will be a four foot high fence, we don't know yet exactly what it will look like, we will work out those details with the Planning Board, I think unless anyone here has any input on it, but there will be a fence.

Mr. Weise stated I only mention it because I have a big retaining wall between my neighbor and myself, there is a large black wrought iron fence on top of it, it looks pretty nice but it is absolutely necessary.

Mr. Spina stated I agree. We're currently working on a 3D rendering view of that wall, what it would look like sort of from a few different locations down below here, the Planning Board had requested that so that is something we're working on, sort of understand the scale of the wall. But I did have this photo here that I can jump ahead to that we get from the manufacturer of the retaining that we're thinking of using. It is that sort of precast concrete block wall, each one of these pieces, you know from here to here is two feet, this one is actually a 14 foot wall, this is what it would look at the worst, you know the highest point, I don't even know where this is taken from, we got this from the manufacturer but this is something we're considering for the retaining wall. We would have more of a buffer from the curb to the wall, we would have a vegetated swale in there and we'd obviously proposing landscaping you know in front of and on top of the wall and they have a fence here shown. We would probably do something that is not really as easy to climb but just to give an idea of kind of what the wall would look like, this would be at its highest point, you know, in terms of height, I figure it might be worth showing that. And that concludes the list of variances that we require for the project and I guess at this point, if anyone has any questions we can go back to the specific slides.

Mr. Alfano stated Stephen, quick question, how many parking spots are existing as of today?

Mr. Spina stated 801.

Mr. Alfano stated 801 was that?

Mr. Spina stated yes and that is for the 333 North Bedford Road, that doesn't include the other two smaller lots.

Mr. Alfano stated right, that is what I was asking about was the 333.

Mr. Spina stated right.

Mr. Weise stated during construction will the other commercial enterprises still have access or is it going to be difficult?

Mr. Spina stated yes. No, what we proposed to do, we developed a phasing plan with the Planning Board and basically the, I believe the northern driveway was going to be constructed first, so the southern driveway Ice House Road, would be left open and that would be the only access into the site while that northern driveway is being constructed and then as we have it, you know, we didn't work the details yet with the DOT and both traffic consultants but I imagine we would try to open a lane or some portion of the driveway or keep half of it open et cetera, similar to what they do when they do roadway construction for the northern driveway while its being built, that whole driveway will be shut down, maybe we can keep half of it open, but certainly the Planning Board has adamant about that you know, the two driveways must be fully constructed and operational before the grocery store can be occupied in any capacity. The Planning Board Planning consultant has been adamant about that, that's in the SEQRA findings, so it's not like it will be the grocery store open and only one driveway active, it will not be like that.

Mr. Weise stated okay.

Mr. Hoyt stated are you concerned about, so talking about parking, in a normal parking lot there's an element of one who just operates at night and another business operates during the day, maybe there's some room for, it makes sense that you can double count some parking spots. The current parking alignment for this complex, which is huge, is really spread out and I don't have the, you don't have the map in front of you but the proposed parking for this entity, for this proposed supermarket is off to one side, so I don't recall whether you're counting the parking for the entire complex, I know if I were a customer and I had to park by the Saw Mill Club and walk all the way over to the supermarket, I wouldn't be very happy. So are you concerned that, you know there's some really choice parking but is it really going to be enough?

Mr. Spina stated so overall we're not concerned that the parking adequate. We've studied it quite a bit and we're confident that there is enough parking here. We do know that there are going to be those times during the year like right before Thanksgiving and stuff like that where everyone is shopping on a Saturday. That 85<sup>th</sup> percentile day of the year that's studied but there will be ShopRite patrons that are going to have to park farther from the door say on the eastern side of the building. All these uses here are warehouses and contractor suppliers that either aren't open on Saturdays or have very little traffic demand, so you know given the uses now we're not concerned. [Inaudible] be done pretty detailed...

Mr. Hoyt stated I feel like those entities [inaudible] is may be beyond on the scope of this meeting but those business you referenced, they're like, I can't imagine at some point in the future, they'll go away and you'll get more of the other types of business that exist on the other side, more you know, the Rockin' Jump, more the, those businesses seem like they're vestiges from maybe a time passed.

Mr. Spina stated it could very well become proposed, it's only, me or another engineer whoever that might be, would have to reevaluate the whole parking facility and include whatever the proposed use is and if it results in, I mean they'll have to do a parking study and if they don't provide adequate parking, they're either going to have to figure out a way to do so or, I doubt the Planning Board would advance the project but it certainly would have to be reviewed and analyzed.

Ms. Broth stated I have a question. I picked up part of a Planning Board meeting where the traffic study person was talking about the flow of the tractor trailers in and out of the property, can you just let me know what that flow is going to look like just coming off of 117.

Mr. Spina stated sure, just the truck pass, the directions that they'll be going and coming from, entering and exiting?

Ms. Broth stated yes, please.

Mr. Spina stated sure, so the driveways are designed so that the southern driveway would be the driveway the trucks would enter into and the northern driveway would be the exiting driveway. So the southern driveway would receive trucks coming from the south and north and the northern driveway would be the trucks would leave and turn south. And there will be signage, it's on the plans, proposed signs at the internal intersection where it would say no trucks, truck traffic left or right, exit through northern driveway, southern driveway, you know directional traffic on the site to alert the truck driver as to which direction he is supposed to be entering and exiting, there are signs on the right...

Ms. Broth stated is the width of that, on the southern driveway, is the width of that road as wide as it on the northern driveway?

Mr. Spina stated I think they're pretty close, let me see, I don't have a dimension on there, 36, 40 feet here and then...

Whitney Singleton stated Steve, just for the Board's edification, you should probably talk about, you should probably comment on who's idea it was to direct the truck traffic that way and why, my recollection is that this was not initiated by you or by Bedford or by Mount Kisco to have the truck traffic all coming in on Mount Kisco. That was primarily a result of the turning radiuses and it came at the suggestion of the DOT, not any particular Board, one of the concerns that when they widen the driveway on the northern end in the Town of Bedford to sufficiently accommodate the turning radiuses, the DOT expressed concern that there was a lot of "in the line of fire" time for pedestrians crossing that area, something like 80 or 90 feet you had to walk across a pedestrian crossing, it was a very long crosswalk for the pedestrians that concerned DOT.

Mr. Alfano stated that is a pretty big intersection, yeah.

Mr. Spina stated that is correct. So this is, I'm just going to the northern driveway here, a previous design we had for this driveway had the curb sort of bending out a lot farther to the right, it was opened up and we actually had a little mountable island here so trucks could come from the north and turn right and enter into this driveway but they needed such a large swing radius to do, the DOT was not comfortable with it. Like Whitney had said, it had a lot to do with the vulnerability of pedestrians trying to cross that crosswalk, it was 120 feet long, which the DOT does not like crosswalks to be that long. So they went through a coordination with them, they directed us to have all trucks entering in the southern driveway...

Ms. Broth stated Whitney, does the DOT take any public comment?

Whitney Singleton stated yeah, I would imagine that they would but this was basically they're traffic engineers commenting on a plan that JMC had presented to them, that had been vetted, I can't speak for Bedford but it had been vetted by the Mount Kisco Planning Board and our engineers and our traffic consultants and I think that our traffic consultants, as much as I don't like the concept of directing truck traffic through Mount Kisco, it was universally agreed that the approaches and the turning radiuses work better at the southern end and as far as you know comment that DOT received, I don't know what comment if any that they received but obviously they're capable of receiving it.

Ms. Broth stated yeah I mean, I don't know, I can't tell from the way this is drawn, but I don't know that the setbacks coming out of the south end of the property are going to be far enough back those tractor trailers to make that turn without taking cars from ends off. They're not very good drivers.

Mr. Spina stated this here?

Ms. Broth stated ah yes, if you look at the, so you can see it has a little bit of a turn radius setback for the drivers at the light but that was my concern, is the width of that road and the tractor trailers being able to make that turn.

Mr. Spina stated I believe I have a [inaudible].

Mr. Alfano stated and the other question to go on that is why are there two lanes exiting and only one lane entering? Was there any thought given to having a balanced lanes for ingress and egress?

Mr. Spina stated okay, alright, first let me go to this plan, so these are the trucks plans, the truck turning plans, this is what was submitted to the Planning Board. I'll do this one here first, so to answer your first question, so what had the DOT instructed us to do, we widened as much as we could, that's why there's this kind of striped area here, a little bit of a, it almost looks like a fire lane, beyond what a regular vehicle needs. The DOT had instructed us to push the trucks out far and have them make the turn from this lane into the driveway, that's, this was the maximum width the DOT would accept and this shows the truck making that turn and now I'm looking at this, I thought we had this, I think we have to adjust this a little because previously when we did this plan, the truck went out a little farther to the right and we didn't sort of put this stop bar here. We have to adjust [inaudible] turn will work...

Ms. Broth stated so the DOT was looking for you to push all the way to right to make that turn but center lane is still a turn lane.

Mr. Spina stated right, right, so this left turn lane is really to be used by pedestrian vehicles and going back on a previous design, when we first did this design, we had the trucks you know, of course in the left turn lane where we think they should turn from and when you do that, it made this driveway so much wider and the DOT again, concerned with the pedestrian crossings and time to do that, essentially forced us to make the driveway more narrow and they said well could a truck make the turn if you put it in the room and we were able to show that, even though it doesn't look like it from here, we [inaudible] adjust a little bit. That is essentially what we were lead to do and it does work but it's not ideal.

Mr. Alfano stated it works on paper though, right? I mean, in reality, if I'm a truck driver, why would I turn from the through lane as opposed to the left turn lane? That doesn't make sense to me.

Ms. Broth stated no and the cars are going to be fighting to make the turn.

Mr. Alfano stated now there's going to be traffic potentially because now if you're a truck trying to make a left turn and there's traffic flow from the opposite direction, assuming it's a green light and not a green turn, that's going to cause additional traffic or backup coming northbound.

Mr. Spina stated right, yeah I mean these are all valid concerns and we voiced these type of concerns with the DOT because...

Mr. Alfano stated right.

Mr. Spina stated because when we did this design initially, we had the truck in the left turn lane where it really should be and...

Mr. Alfano stated it should be and there's no reason why it shouldn't be.

Mr. Spina stated I mean, realistically, I would hope that, I think what would happen is that the trucks will be in the left turn lane and probably have to sort of you know, look out to the right and may be bend out a little bit into this lane and then turn, I'm just thinking realistically from what I've seen. The only thing I

can say is the analysis software that we use is conservative, so it's kind of like a worst case with the truck turns and these vehicles. And then lastly, we know that the trucks now make these kind of turns in this terrible driveway which are you know, very narrow, steep and have small turning radii. So we [inaudible] and I think DOT and I think the traffic consultants, [inaudible] an improvement over what's happening now and we looked at you know, specifically ShopRite but all the other tenants, I know there will be some outliers but 90% of the truck deliveries come very early in the morning which would not [inaudible] peak hours of traffic...

Ms. Broth stated there's truck deliveries all day.

Mr. Spina stated and no doubt these truck turns, sorry?

Ms. Broth stated there's truck deliveries all day.

Mr. Spina stated tractor trailer truck deliveries?

Ms. Broth stated car trailers are worse than tractor trailers and they're in and out of there all day.

Mr. Alfano stated to that point right, but Tesla, they're not a dealership but Tesla makes deliveries of their cars I believe in the same location.

Ms. Broth stated correct.

Whitney Singleton stated to a dealership. There is a dealership.

Mr. Alfano stated I'm talking about the Tesla service station. My point is Tesla delivers cars to a warehouse in the same location, that's my point. And just being honest, I understand the DOT did this analysis but this analysis is not realistic because it's, again if I'm a truck driver why would I turn from the through lane? That doesn't make sense.

Ms. Broth stated asking to be hit. I think the only way to do it is to move the setbacks back, that way they have more [inaudible].

Mr. Spina stated it's funny you said that...

Whitney Singleton stated well if your Board's...

Mr. Spina stated our first design had the stop bar, this stop bar here, our initial design had it setback more because of that. This is kind of a bad example to use because we did get this truck turn out here but we did have this back and that was a direct comment from the DOT [inaudible] whatever it was a certain distance from the road. You know, a lot of this, which I totally understand is not ideal, but in the totality, will be an improvement. You know, was, is dictated and directed by the DOT and there's not a lot we can do, we have gone back and forth with them quite a bit, you know proposing a lot of traffic measures [inaudible] in terms of the flow of traffic, in reality, trucks when they come are going to slow down traffic a little bit in order to make a maneuver, as they do today. There's really no denying that.

Ms. Broth stated I don't know that I would go with the improvement but I will add the editorial comment that as some who drives Park Drive four or five times a day, I'm not looking forward to the way that intersection is looking to be.

Whitney Singleton stated if the Board is so inclined, since this issue is not directly within your purview, the traffic but it does relate, as you pointed out, to the setbacks of the buildings and the ability to negotiate the turns and curbing and everything else. I would be happy to, and one of the things your Board is allowed to do, is solicit the input of various professionals that work for the Village or consult for the Village and I can certainly relate your concerns about the sufficiency of northbound turns into the southern access by trucks and is it safe to make left hand turns out of right hand lanes and how will it impact the nominal setbacks and such. I can relay that to your engineer and/or traffic engineer for a comment before your Board continues to entertain this application.

Ms. Broth stated I would appreciate that.

Mr. Alfano stated I agree.

Mr. Spina stated and also, we are still working through comments with both Bedford traffic consultant, we just received comments from them and the DOT, we are about to resubmit to the DOT, so there's still some adjustments to be made and more proposed improvements that are being proposed that aren't even shown

on these plans that we are working on. Like Whitney said, there's a lot of eyes on this and a lot of you know, conservative detail and I think there's still a little bit of work to be done on the drawing.

Mr. Hoyt stated well good luck, is all I have to say.

Whitney Singleton stated Steve? Can I try to direct this in a particular fashion, let me just go through a couple of things I noticed in the application that need to be addressed. The application is signed by Jim Diamond as the owner of DP 21, which owns the 333 site, can you just make sure that Jim Diamond signs as the owner of 383, oh I'm sorry, 309 and that the, Phil Skriloff or whoever the person is from Philar Realty, sign on behalf of 383. Because right now you have an application over somebody's property that's not consenting, there's no critical deadline for submitting it but technically you don't have their authority to sign. Secondly, do you...

Mr. Spina stated can that be, sorry...

Whitney Singleton stated go ahead.

Mr. Spina stated so two separate applications, one signed by Mr. Skriloff and one by Mr. Diamond, or would they sign the same...

Whitney Singleton stated no, they can be two separate. You have appended to your application at the end there, you have Jim Diamond as the owner of the 333 site or the LLC or the corporation that owns 333. If you can just have Jim sign off at the owner of 309 and Skriloff sign off as the owner of 383. I'm not trying to make you jump through hoops but I don't want the Planning Board or the Zoning Board to be in a position where they're authorizing something that was never consented to by the property owner.

Mr. Spina stated understood.

Whitney Singleton stated so there's that and the, can you also for purposes of the parking variance, are there any portions of this site which you're showing parking spaces that are committed to either fleet vehicles, car storage, car display for automotive dealerships or are those all generally available parking spaces? When you said you needed the 254 foot variance, 254 car variance.

Mr. Spina stated so, we do have, there's a few areas of designated parking, so right here we have a little parking storage area designated for the Safe Haven storage...

Whitney Singleton stated that's up in the front, right there, yeah.

Mr. Spina stated right, to keep their trucks sort of neatly located in area, I guess they're spread out in this area generally. So just that, I mean there's a few electrical charging stations and stuff like that for electrical cars but anybody can park there. One thing we think we're going to have to do with ShopRite parking, is the [inaudible] the 20 spaces here, next to the loading dock, there's going to be a fence in between them to sort of, [inaudible], if the truck had to wait, another truck could move. We are thinking these 20 spaces are going to have to be ShopRite employee spaces, which we would need somewhere for their employees. We were going to designate these spaces as that, just kind of more of like a long term space, somebody who is here for a longer shift could park here but I think other than that anybody can park anywhere.

Whitney Singleton stated well I guess the question I'm getting at is this, are there, when you said you going from 801 spaces to 873, and that you need 1127, are those 15 parking spaces incorporated into those numbers or are they excluded for Safe Haven.

Mr. Spina stated included.

Whitney Singleton stated okay and do you, I can't recall, do you have any authorized parking area for Tesla or is it all indoor?

Mr. Spina stated no, I don't believe there's any authorized outdoor parking.

Whitney Singleton stated okay.

Mr. Spina stated I think, everything is supposed to be inside.

Whitney Singleton stated and, okay. And my last comment is this, as far as coming back to the Zoning Board again, do you think that your application before the Planning Board is going to evolve in such a fashion that any of these applications, 19 variance applications before the Zoning Board could change? or

are likely to change? In other words, you're asking them for relief that may change before you're done with the Planning Board.

Mr. Spina stated right, I don't think so. You know with, we made this application, we actually changed the layout of the parking lot and the Zoning Board was the first Board we submitted the latest design to, you know, the variances are listed to go with what intend to build and what we're proposing going forward.

Whitney Singleton stated okay.

Mr. Spina stated so I don't think anything would be affected by it, if any of them jumps out to me but I don't think so. Most of the variances are existing nonconforming or something that we're slightly improving, none of those would change.

Whitney Singleton stated gotcha, I just don't want to see you come in with a laundry list of variances and then whatever relief the Board deems to give you, then all of a sudden it changes and you have to come back and back, as the plan gets refined by the Planning Board, by the Bedford Planning Board, DOT, whoever.

Mr. Spina stated right. I don't anticipate that right now.

Whitney Singleton stated okay.

Chairman Boxer stated are there any other questions? Can I have a motion to keep the public hearing open?

**Mr. Weise introduced a motion to keep the public hearing open.**

**Chairman Boxer asked for a second.**

**Ms. Broth seconded the motion.**

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

**Whitney Singleton stated Steve, we'll see you on the 15<sup>th</sup> of September.**

Chairman Boxer stated of September.

Mr. Spina stated would we be receiving comments from this Board formally, or just want to make sure we're addressing anything that needs to be addressed between now and then.

Whitney Singleton stated well what I can do, is I wrote some notes from tonight on behalf of the Board that I can forward to you with a copy to the Board as to some things, some follow up items and I'll just go through those with the Chairman before they go out to you, okay?

Mr. Spina stated okay. Alright, thank you very much and we'll make sure we address any follow up items for that next meeting.

Whitney Singleton stated thanks guys.

Mr. Spina stated alright, thank you everybody.

Chairman Boxer stated before you go, a motion to adjourn.

**Mr. Hoyt introduced a motion to adjourn, seconded by Mr. Alfano.**

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

The meeting adjourned at 10:13pm.