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CITY OF MOUNT VERNON

CITY PLANNING BOARD

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HELD AT: One Roosevelt Square  
Mount Vernon, New York  
March 7, 2012  
6:30 p.m.

BEFORE: William Holmes, Chairman  
  
Marcus Griffith  
Michael Justino  
Janet Snyder  
Lesly Zamur  
Sophia Trott

ALSO PRESENT:  
  
Brian Johnson,  
Assistant Corporation Counsel  
  
William Long,  
Planning Administrator

J & L REPORTING SERVICE  
of Westchester, Inc.  
200 East Post Road  
White Plains, New York 10601  
(914) 682-1888  
Joseph S. Jacoby, Reporter

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2 CHAIRMAN HOLMES: Good evening.  
3 We'll start momentarily, as soon as  
4 Corporation Counsel returns. Thank  
5 you, very much. Ladies and  
6 gentlemen. The meeting will come to  
7 order. Tonight's regularly scheduled  
8 meeting of the City Planning Board  
9 held tonight, March 7th, 6:30, in the  
10 City Council chambers.

11 Item 1, approval of minutes.  
12 I'll ask for a motion to approve  
13 minutes or I'll ask for an update  
14 from the secretary.

15 SECRETARY: The minutes will be  
16 ready no later than Monday.

17 CHAIRMAN HOLMES: Thank you,  
18 very much.

19 Item 2, extension of time  
20 request. Case 1-09. 116-122 West  
21 First Street -- 10 South Ninth  
22 Avenue, Section 165.69, for lots 6,  
23 7, 8, 9 and 10, located within the  
24 neighborhood business zoning  
25 district. The application of Greater

1  
2 Centennial CDC by Architect Sabir  
3 Campi of Sabir Engineering LLC is  
4 requesting an extension of time for  
5 the Planning Board to rehabilitate  
6 the four story buildings for mixed  
7 use purposes. The original approval  
8 was granted March 4, 2009, which  
9 expired on March 3, 2011. The  
10 applicant seeks a two-year extension  
11 of time. For the record I'm making  
12 corrections to the agenda, which are  
13 not -- I'm corrected. The applicant  
14 now seeks a two-year extension of  
15 time from March 4, 2011, expiring on  
16 March 3, 2013.

17 MR. LONG: Just a point of  
18 clarification. It's case number 1 of  
19 2009. That's the case number. I  
20 don't see the applicant here to  
21 represent themselves.

22 CHAIRMAN HOLMES: I will make  
23 the correction on the case number.  
24 The applicant is not here.

25 MR. LONG: I don't see the

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applicant.

CHAIRMAN HOLMES: Questions from the board members? I'll entertain tabling this item since the applicant is not here.

MS. TROTT: You can ask for an extension after it expires?

MR. LONG: Yes, you can ask for an extension after it expires. Whenever they ask for the extension, it has to go back to the date it originally expires.

CHAIRMAN HOLMES: The applicant is not here. We'll move on and if the applicant does not come at the end, I'll ask for a motion to table.

Item 3, concept plan, case number 6-2012, for 324 South Columbus Avenue, Section 159.25, block 4055, lot 9, located in the neighborhood business zoning district. Application of Angela Hester and Dennis Nembhard by Bailey's Engineering PC, proposing converting

1  
2 two existing vacant retail stores  
3 into a day care use. The concept  
4 preparation by staff.

5 MR. LONG: William Long, staff  
6 of the Planning Board.

7 CHAIRMAN HOLMES: One  
8 additional thing. SEQRA  
9 determination Type II, does not  
10 require SEQRA assessment.

11 MR. LONG: This application  
12 converts an existing store front into  
13 a day care. The property is  
14 currently in the zoning district, 324  
15 South Columbus Avenue, between Milton  
16 Elliot Street. Special use permit is  
17 required to ensure the proposed  
18 application of the daycare does not  
19 cause a detriment to the children or  
20 surrounding area. The site itself is  
21 approximately sixty nine hundred  
22 square feet. The building is  
23 approximately thirty-six hundred  
24 square feet. Total square area of  
25 the store fronts proposed to occupy

1  
2 the daycare is approximately eleven  
3 hundred square feet. There's a play  
4 area in the rear, approximately four  
5 hundred seventy six square feet, with  
6 five foot high fence. The applicant  
7 proposes to have three employees and  
8 twenty two in total. The children  
9 will range six months to five years.  
10 Looking at the site plan, this is the  
11 actual site itself. This is the  
12 building and the applicant proposes  
13 to use this portion of the building.  
14 This is the rear play area in the  
15 back and to give you a better  
16 understanding, this is the elevation.  
17 The stores that are directly adjacent  
18 still on the same site, some stores  
19 directly adjacent to the proposed day  
20 care. The applicant proposes to use  
21 these two store fronts for the  
22 daycare facility. At this point,  
23 basically the applicant will provide  
24 any additional information and of  
25 course, a public hearing, if there's

1  
2 additional information the board  
3 feels they need in order to assess  
4 this particular application, this  
5 would be the time to say so.

6 CHAIRMAN HOLMES: Questions  
7 from the board. Thank you, Mr. Long.  
8 I have one question initially as far  
9 as drop off section, loading zone, is  
10 there parking currently in front of  
11 that drop off section?

12 MR. LONG: At this point, Mr.  
13 Chair, that would be a question that  
14 the applicant would present to you  
15 during the course of the public  
16 hearing. That's something the  
17 applicant should make a note of.

18 CHAIRMAN HOLMES: I'd be  
19 interested to know what would be the  
20 logistics as far as drop off and pick  
21 up, because these types of  
22 operations, it's all within generally  
23 a half an hour window, two times a  
24 day.

25 MR. LONG: One other point, the

1  
2 applicant does not require, didn't  
3 require any variances before they  
4 proceeded for the special permit.

5 CHAIRMAN HOLMES: We'll move  
6 on. We have Item 4 correspondence  
7 from the city agencies and boards.  
8 Madam Secretary do you have any  
9 correspondence from city agencies and  
10 boards. We have a receipt of Lead  
11 Agency notice from the Mount Vernon  
12 Zoning Board.

13 SECRETARY: No, we do not.

14 MR. ZAMUR: I have a question.  
15 Mr. Long mentioned that the address  
16 was 324. We have 330. Is that part  
17 of the same lot?

18 MR. LONG: Yes. The correct  
19 address is 324. From time to time it  
20 has been referenced as 330. The  
21 actual address according to the tax  
22 assessor's office is 324.

23 CHAIRMAN HOLMES: To make note  
24 to the public, we open the agenda.  
25 There is Item 4.1, which is what I



1  
2 referenced. If I kept waiting, I  
3 would have corrected myself. What I  
4 will do for logistical reasons, move  
5 Item 4.1 to put it next to Item 7.2,  
6 which these two items will work in  
7 combination. I think it will work  
8 better for the evening.

9 We'll move onto Item 5, which  
10 is continued public hearing and 5.1,  
11 case 8-2011, 30 North West Street,  
12 Section 164.68, Block 1056, Lot 12.  
13 Application of Extra Space Storage by  
14 Architect David DiGiovanni, proposing  
15 to reconfigure the circulation  
16 pattern by constructing a new garage  
17 door on the property located within  
18 the industrial zoning district, which  
19 requires site plan review. This  
20 action is a coordinated review  
21 classified as unlisted action.  
22 Therefore, the Planning Board as Lead  
23 Agency must make a SEQRA  
24 determination prior to rendering a  
25 decision.

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MR. DiGIOVANNI: This is a continuation. Basically I don't believe there was any other issues that were open, that we left open, except for underneath the sidewalk.

CHAIRMAN HOLMES: I believe there were a couple of issues open. Otherwise we wouldn't have left it open. I will refer to, we had a couple of questions, did we not?

MR. DiGIOVANNI: It was primarily underneath the sidewalk. We're trying to determine who actually owned it or if there was any documentation of any easements between anyone and Mount Vernon. I forwarded over a copy of a title report to William long, who I assume forwarded it to the attorney and we found nothing.

CHAIRMAN HOLMES: All right. Do we have any questions from the board members?

MR. ZAMUR: Does he know of our

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suggestion to attend the City  
Council?

CHAIRMAN HOLMES: I do not know  
that, unless it's been presented to  
him. Do we have any questions based  
upon what you have? No update to us  
tonight?

MR. DiGIOVANNI: Correct.  
Again we did our research, due  
diligence, with the title report,  
which did not have any easements.

CHAIRMAN HOLMES: If I recall  
from your last presentation, we had  
discussion about that locker which is  
in the City's right-of-way we're  
referring to.

MR. DiGIOVANNI: Yes.

CHAIRMAN HOLMES: Underneath  
it's in the right-of-way. You had  
offered to indemnify the City.

MR. DiGIOVANNI: Yes.  
Currently we're showing we were  
closing that area off. We will not  
use it.

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CHAIRMAN HOLMES: I'll ask for staff's assistance.

MR. LONG: There are two outstanding items. One, the traffic circulation in terms of left turn movements and the vault. Basically the vault, according to the documents that the applicant submitted, which was basically the full title report, did not indicate there had ever been City Council approval for the use of the vault, which is in the City's right-of-way. What that means at this point, the applicant will have to go to the City Council to ask the City Council for the use of the vault, if the applicant chooses to use the vault for commercial purposes. Those are the two outstanding items at this point.

CHAIRMAN HOLMES: Thank you, very much. Are you desirous to use the vault?

MR. ZAMUR: May I say

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2 something. Just for clarification,  
3 if you so desire to use the vault,  
4 there is an avenue by which you can  
5 do so. That is to obtain a lease  
6 from the City Council. I believe  
7 Counsel can clarify the terms of the  
8 lease, what it would be. It would be  
9 almost nothing for you. It would  
10 allow you to continue to use the  
11 space with indemnifying the City  
12 according to the lease. If you don't  
13 desire to use it, that's a whole  
14 other point right there that could be  
15 made. You said you were not going to  
16 use it and wall it off. That would  
17 need to be presented, how you would  
18 do so, subject to maybe inspection.  
19 Maybe the building department might  
20 have to be involved. I'm not sure.  
21 You to have an option to use the  
22 space. We have cleared a way for you  
23 to do so, to maintain your use of the  
24 space, if you desire to do so.

25 MR. JUSTINO: Subject to the

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City Council approval.

MR. ZAMUR: Yes.

MR. DiGIOVANNI: Is there a possibility to do things simultaneously, to expedite, to follow through with the lease and possibly get some type of board approval, so we can start our permitting process and start the construction?

CHAIRMAN HOLMES: The only thing this Board would be able to do, would be able to grant something that's subject to the approval of the City Council. The City Council has a higher body as far as land use. That's how it works here.

MS. SNYDER: It wouldn't have to be held up for the City Council. The approvals you're seeking from our board would be separate from that.

MR. JUSTINO: You know, I don't know if you'll be able to proceed until you get the City Council

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approvals.

CHAIRMAN HOLMES: Our approval will be subject to that approval. You don't have our approval until you get that approval. If you get our approval tonight, it will be subject to their later approval.

MS. SNYDER: You're not using the vault space now?

MR. DiGIOVANNI: Right. I would like to proceed.

CHAIRMAN HOLMES: We cannot grant you approval to use city property.

MR. DiGIOVANNI: Right.

CHAIRMAN HOLMES: That vault now encroaches city property. So the City Council is the only body that can grant that approval.

MR. DiGIOVANNI: Understood. Again my point being, right now our plans show it as being closed. We're not using it.

MR. JUSTINO: There's a bit of

1  
2 a problem with that. I know some  
3 comments have been made without  
4 knowing and inspecting and everybody  
5 being comfortable it is permanently  
6 closed off, you don't have any  
7 possible access to it. I think it  
8 would be in your's and the City's  
9 best interest if you just sought  
10 approval from the City Council, so  
11 that it's there, it's under the  
12 building, there is no question about  
13 future exploration into that area  
14 without having the City's approval  
15 for the use of that. We would like  
16 to make a recommendation, once the  
17 traffic circulation question is  
18 answered, we would make a motion  
19 having that be part of our motion for  
20 acceptance. Again, if you run into  
21 the problems with the City Council,  
22 in time, you'd probably have to come  
23 up with an iron clad plan to  
24 eliminate that space and we'd all  
25 have to be comfortable with it.



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MR. DiGIOVANNI: The plans show the space is walled off. There's access to it by a door because there's a water meter.

CHAIRMAN HOLMES: What the Board is saying to you, we would need greater reassurance of either not using it or we would need to be certain that the City was indemnified, at least as far as the City Council, your agreement with the City Council before this Board.

MR. JUSTINO: It goes a little beyond indemnification because you did supply that first. Because it is City property, there really does need to be an agreement between the City and your company that you're allowed to use the space. Likely would be no dollar type of transaction. That would be the proper way to allow that space to exist.

MR. DiGIOVANNI: Right. Again I'm trying to get an idea, I'm not --

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2 if we go through that route, it's  
3 going to probably delay us several  
4 more months before we can get permits  
5 to construct the rest of the  
6 building. This is a very small  
7 portion of the project. So again --

8 CHAIRMAN HOLMES: It is, but  
9 the size of the project becomes  
10 irrelevant when it encroaches the  
11 City property. That changes the mix.

12 MR. DiGIOVANNI: Could that  
13 area be closed off and we can submit  
14 that work and you would accept the  
15 application, would that be acceptable  
16 to the Board?

17 MR. JUSTINO: Unfortunately,  
18 we're not totally equipped to answer  
19 that.

20 CHAIRMAN HOLMES: I'm not.

21 MR. JOHNSON: Is that a legal  
22 question? Sounds like a legal  
23 question.

24 CHAIRMAN HOLMES: Before we  
25 make it a legal question, is it a

1  
2 practical question. Your application  
3 intentionally was not to do that.  
4 You're changing to do that. I  
5 thought perhaps there was testimony  
6 before that stated the reason why  
7 that wasn't the practical way you  
8 wanted to go. Now you're changing  
9 your mind.

10 MR. DiGIOVANNI: Originally we  
11 were going to build under the vault.  
12 When it became an issue, we said  
13 okay, we'll eliminate that. We  
14 wanted to proceed with the project.

15 CHAIRMAN HOLMES: The vault is  
16 a particular situation where it  
17 seems, unless you take action, you're  
18 going to use that space.

19 MR. DiGIOVANNI: No. The  
20 approved plans are going to show it's  
21 closed off. That's what is going to  
22 be filed. That's how the permit  
23 would be issued. Subsequently, we  
24 can file another application to use  
25 that area, in order to again obtain

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the permit for the bulk of the project. This is a relatively small area.

MR. JUSTINO: I'm looking at the plans. I don't see where you show this being blocked off, this area. You need to clarify that for us.

MR. DiGIOVANNI: Look on page two or three. We indicate the vault with the water room and one door that accesses the water room, because there's an existing water meter. If the board wants, we can put another partition here to totally seal the door.

CHAIRMAN HOLMES: Again this board is prepared to grant approval subject to City Council approval.

MR. DiGIOVANNI: Right.

CHAIRMAN HOLMES: If an agreement can be reached with City Council to indemnify and make proper contractual arrangements for the use

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of the property. It's a two prong issue. Your concern is the further delay. I cannot speak for the City Council.

MS. SNYDER: Can we give them approval based on him closing it off?

MR. DiGIOVANNI: Close it off.

CHAIRMAN HOLMES: I don't believe we can do that, because we don't have plans in front of us that present that.

MR. DiGIOVANNI: We do have the plans. That's the plans submitted.

MR. GRIFFITH: Point to the vault.

MR. DiGIOVANNI: That's the area in here.

CHAIRMAN HOLMES: That solid line.

MR. DiGIOVANNI: This line has no access to it. It's a solid wall.

MR. ZAMUR: I don't see your scale. This looks approximately --

MR. DiGIOVANNI: 3/32.

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MR. ZAMUR: How many linear feet is that, about one hundred? Your ceilings are eight or nine down there.

MR. DiGIOVANNI: About nine foot.

MR. ZAMUR: You're planning to build a nine foot wall 100 feet long, temporarily?

MR. DiGIOVANNI: Yes.

MR. ZAMUR: It seems like a big waste.

MR. DiGIOVANNI: Not necessarily.

MR. ZAMUR: Let me say this to the Board.

CHAIRMAN HOLMES: Can we have -- Commissioner has the floor. Thank you.

MR. ZAMUR: If he never brought up the intent to use the space for storage, it was just kept open, would it then have been a none issue, right? So the space was open as it's

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been for many years, 50 or 100 years. He never intended to use it. It was a blank space that was empty, it was open to his property. If he never brought the plans originally to us, he planned to use it, would it have been an issue still for us?

MR. GRIFFITH: Yes, because it's still an encroachment.

MR. ZAMUR: Because the space is open.

CHAIRMAN HOLMES: It's an encroachment to the property.

MR. ZAMUR: Even though he didn't physically encroach?

CHAIRMAN HOLMES: They built on it.

MR. DiGIOVANNI: At some point.

CHAIRMAN HOLMES: The vault was constructed on the City property.

MR. DiGIOVANNI: There must have been a structural issue recently. I'm not exactly sure. Within the past eight years or so

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there was a permit issued to reconstruct that vault. That was issued by the City.

CHAIRMAN HOLMES: Do we have that? Is that part of your application?

MR. DiGIOVANNI: Yes, that's part of the paperwork we originally submitted, along with the copies of the permit and the C of O when we originally submitted the application.

CHAIRMAN HOLMES: I don't understand what it has to do with the use of it.

MR. DiGIOVANNI: That's the point, it's always been in use. Then must have been some structural deficiencies with it and it was reconstructed.

MS. TROTT: Had to stop using it?

MR. DiGIOVANNI: Right.

CHAIRMAN HOLMES: I'm not clear whether or not it's position relative



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2 to the City's right-of-way was known  
3 at that time. I can't comment on  
4 that.

5 MR. DiGIOVANNI: I don't know.  
6 I wanted to make that point.

7 MR. LONG: The question is, if  
8 you got a permit, did you receive the  
9 permit from DPW? That would be the  
10 body to issue a permit in terms of  
11 any construction in the City's  
12 right-of-way.

13 MR. DiGIOVANNI: I wasn't  
14 involved with it. It was issued by  
15 the building department. As far as  
16 DPW, I don't know.

17 CHAIRMAN HOLMES: We're a  
18 continued public hearing; correct?  
19 We're continuing the public hearing.  
20 Have you anymore statements?

21 MR. DiGIOVANNI: I want to  
22 address the one question about the  
23 wall. It would be a self-storage  
24 system wall, so once we got an  
25 approval, assuming the City Council

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2 granted us approval to occupy the  
3 space, it's like an erector set, it  
4 would be taken apart and used  
5 somewhere else.

6 MR. ZAMUR: Can we separate the  
7 issues, the vault downstairs and the  
8 right-of-way issue?

9 CHAIRMAN HOLMES: Not to my  
10 knowledge. I will defer that  
11 question to Corporation Counsel.  
12 Repeat that.

13 MR. ZAMUR: Is there anyway we  
14 can separate these two matters, where  
15 the one matter being the  
16 encroachment, the other matter being  
17 the circulation, so this gentleman  
18 can proceed with the most important  
19 part of his project, the circulation  
20 pattern for his space?

21 MR. JOHNSON: I don't think  
22 that's a clean way of doing it. I  
23 wouldn't recommend doing it that way.  
24 That's not how the application was  
25 submitted. If you wanted to approve

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2 it pending, with the condition of  
3 City Council approval, that's fine,  
4 but the understanding would be  
5 obviously, he still couldn't do any  
6 work. It wouldn't be valid until we  
7 got that from the City Council.

8 MR. GRIFFITH: My  
9 recommendation to the Board would be  
10 for you, like we suggest, go to the  
11 City Council. They meet twice a  
12 month. Get them to sign off on you  
13 using the vault. Then you have that  
14 clear. Then we'll move forward from  
15 there.

16 MS. TROTT: We can do it  
17 subject to that.

18 CHAIRMAN HOLMES: I'm okay with  
19 that. Are you okay with that?

20 MR. ZAMUR: The subject will  
21 help you in front of the City Council  
22 if they see we have approved the  
23 project subject to you getting  
24 approval from them.

25 CHAIRMAN HOLMES: Go to number

1  
2 two, the left turns. Any updates as  
3 far as that or any change of your  
4 position from that?

5 MR. DiGIOVANNI: No. Typically  
6 again there is no left turn onto Oak  
7 Street. Like we previously said we  
8 provided signage limiting access.

9 CHAIRMAN HOLMES: What I will  
10 ask now, I'll ask if there's any  
11 member of the public who came to  
12 speak either for or against this  
13 application? We're in continued  
14 public hearing. This is the time any  
15 member of the public to come forward.  
16 Any member of the public would like  
17 to speak for or against this case?  
18 Note there are no public comments.  
19 That being said, now I will entertain  
20 a motion from the Board.

21 MR. LONG: You have some  
22 correspondence.

23 CHAIRMAN HOLMES: Please, read  
24 in the correspondence.

25 SECRETARY: Catherine Eastman,

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2 DEC. Your City will be the Lead  
3 Agency for SAS local permit  
4 application. The State of New York  
5 only becomes the lead SEQRA agency  
6 for very large projects. In  
7 addition, the remedial projects  
8 carried out under the supervision of  
9 DEC's environmental exempt from the  
10 SEQRA review under 6 NYC RR part 375.  
11 If you would like further  
12 clarification, I can get one of our  
13 attorneys to speak with you. If you  
14 have any further issues you would  
15 like to discuss, I will welcome your  
16 questions and concerns. Catherine E.  
17 Smith, project manager. That  
18 concludes the correspondence.

19 CHAIRMAN HOLMES: Thank you,  
20 very much. No further  
21 correspondence. I think since the  
22 board has already taken action on our  
23 SEQRA determination, is that correct  
24 Counsel, we have taken action?

25 MR. LONG: We have not taken

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action.

CHAIRMAN HOLMES: I'll entertain a motion for the Board on the SEQRA determination.

MS. SNYDER: Make a motion that the Mount Vernon Planning Board declare it's intent to be Lead Agency.

MR. LONG: The Planning Board is already Lead Agency. You are Lead Agency at this point. In terms of the determination whether or not you feel any further environmental review is necessary.

CHAIRMAN HOLMES: Thank you. I'll entertain a motion for a negative declaration.

MS. SNYDER: I'd like to make a motion that the Planning Board make a negative declaration with respect to no further SEQRA action on this case.

CHAIRMAN HOLMES: Do I have a second?

MS. TROTT: Wasn't there a

1  
2 letter supposed to be read into the  
3 record regarding the determination  
4 that was made by the State.

5 CHAIRMAN HOLMES: She just read  
6 it into the record.

7 SECRETARY: The DEC.

8 MR. ZAMUR: Second.

9 CHAIRMAN HOLMES: All those in  
10 favor? All those opposed? The ayes  
11 have it. Approved. I'll entertain a  
12 motion for the application.

13 MR. JUSTINO: I make a motion  
14 we accept the plans as submitted,  
15 including the change in the traffic  
16 circulation to no left turn off of  
17 Oak street heading west into the  
18 property and the applicant must seek  
19 City Council approval for the use of  
20 the vault and that the Planning Board  
21 makes a recommendation to the City  
22 Council that a lease of the sub  
23 surface vault located within the  
24 City's right-of-way be made to Extra  
25 Space at 30 North West Street for

1  
2 commercial purposes only, subject to  
3 any reservations, restrictions,  
4 indemnifications and conditions the  
5 City Council deems necessary to  
6 assure adequate protection to the  
7 safety and the adequacy of street  
8 facilities and to abutting or  
9 adjacent land users, in accordance  
10 with Section 36, Article 2(a) of New  
11 York State General City Law and that  
12 the New York State Division of DEC  
13 continue to oversee the remediation  
14 process for the building during  
15 construction and after completion.

16 CHAIRMAN HOLMES: Do I have a  
17 second?

18 MS. SNYDER: Second.

19 CHAIRMAN HOLMES: Those in  
20 favor? Those opposed? Ayes have it.  
21 Thank you.

22 We have 5.2, that is case  
23 number 3-2012, 60 West Broad Street,  
24 Section 165.22, Block 1028, Lot 1.1,  
25 located in the RMF-15 Zoning



1  
2 District. Application of  
3 Cingular/AT&T by Attorney Lucia  
4 Chiocchio, is proposing to legalize  
5 modifications such as removal of  
6 antennas made to a wireless  
7 telecommunications facility. The  
8 applicant is requesting a modified  
9 special use permit as follows:

10 Wireless telecommunication  
11 facility modifications such as but  
12 not limited to the removal of  
13 antennas.

14 The addition of visually  
15 discernable components of an existing  
16 site or change or upgrade for better  
17 or more modern equipment constitute a  
18 modification of the wireless  
19 telecommunications as defined by part  
20 267-28 J Section 3 (b) which requires  
21 a modified special use permit.

22 MS. CHIOCCIO: Lucia  
23 Chiocchio. I just wanted to take two  
24 seconds to review the proposal  
25 because I'm sure you can get

1  
2 confused. We had three before you.  
3 I wanted to distinguish which one  
4 this was.

5 CHAIRMAN HOLMES: That's your  
6 SEQRA determination. The action is  
7 uncoordinated review, classified as  
8 unlisted action. Therefore the  
9 Planning Board as Lead Agency must  
10 make a SEQRA determination prior to  
11 rendering a decision.

12 MS. CHIOCCHIO: Back in 2001,  
13 AT&T received a special permit from  
14 the Planning Board for a roof top  
15 facility. The approval consisted of  
16 nine parallel antennas, installed in  
17 three sectors, with three antennas  
18 per sector, associated equipment  
19 cabinet located in the basement of  
20 the building. AT&T installed the  
21 facility, however, it only installed  
22 two out of the three antennas. The  
23 actual antenna mount for the third  
24 antenna is on the building and it's  
25 installed. You can see it. So the

1  
2 proposal is install that third  
3 antenna at each of the sectors which  
4 would compromise the nine that were  
5 approved in 2001. So we're not  
6 adding any antennas to the 2001  
7 approval. The proposal includes  
8 installing what are called RH units.  
9 The units are about the size of a  
10 brief case. They would be installed  
11 on the antenna mounts which are below  
12 the antennas behind the parapet.  
13 You're not going to see the units.  
14 Obviously you're not going to see the  
15 equipment cabinets because they're  
16 installed in the basement of the  
17 building. The proposal is not adding  
18 any visual elements to what was  
19 approved in 2001. When we were here  
20 the last month, the Planning Board  
21 asked your understanding of the  
22 special permit that was issued in  
23 2001, could you lower the antennas,  
24 could you flush mount them to the  
25 facade of the building. We reached

1  
2 out to the landlord. We explained  
3 what that would entail. Obviously  
4 you have to attach it to the  
5 building. Somehow that would require  
6 drilling into the facade. The  
7 landlord's attorney responded that  
8 the landlord did not want us to  
9 relocate it. We asked for a letter,  
10 which we were provided by the  
11 landlord's attorney, which we  
12 provided to the board. We tried.  
13 They wouldn't let us do it at that  
14 point. It's not anything that we  
15 have control over. Like I said, we  
16 were provided a copy of the Email and  
17 the letter we requested with respect  
18 to the request to relocate the  
19 antennas. Our proposal hasn't  
20 changed. It's still mounting the  
21 antennas on the existing antenna  
22 mounts.

23 CHAIRMAN HOLMES: Thank you,  
24 very much. I think we have a  
25 continued public hearing on this

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case. I ask, do we have any additional correspondence?

SECRETARY: No, I don't.

CHAIRMAN HOLMES: I'll ask if there's any member of the public who wishes to speak in favor or against the application, you can come forward at this time. Again any member of the public wishes to speak in favor or against the application, 60 West Broad Street? Note there are no additional public comments at this time. I will ask then that we have comment from our telecommunications consultant. I have one more question for you. At our last something we had asked you to reach out. We did get the letter in response that you copied back. Did you copy us on the response from the landlord?

MS. CHIOCCHIO: What I provided was the landlord's attorney actually responded to our request. He provided an email, which I submitted.

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We asked to provide a letter on his letterhead, which we provided.

CHAIRMAN HOLMES: Just for the sake of clarification, what did you interpret from our request in that regard?

MS. CHIOCCHIO: My understanding, the request was could we move the antennas to relocate them to the facade of the building. By other installations, we have done that at other places, so forth. So that was the request we had made to the landlord. Obviously if we're moving the equipment, moving it on his building, we need his permission to do that.

MR. ZAMUR: Do we have a picture of the antenna mount?

CHAIRMAN HOLMES: Thank you.

MR. ZAMUR: There are three antennas here placed side-by-side, soldier style. Are the additional ones going to be side-by-side

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continuously or raised up above?

MS. CHIOCCHIO: Can I show you on this breakdown? What we provided, this is the existing conditions. We have two antennas in the antenna mount. Then you'll have the three antennas. That is showing what it's going to look like.

MR. ZAMUR: This is the third.

MS. CHIOCCHIO: Right. If you go back to the 2001 application it's in there.

MR. ZAMUR: You were approved for nine of these and this is the third?

MS. CHIOCCHIO: Two per sector. We installed six. We'll go back and install the remainder. There's three sectors.

MR. ZAMUR: This is one sector?

MS. CHIOCCHIO: Right.

MR. ZAMUR: There's more on other sectors? Every sector has two and you're proposing to add one to

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three sectors, three more antennas?

MS. CHIOCCHIO: Right.

CHAIRMAN HOLMES: Two more.

This is the third.

MR. ZAMUR: Three sectors, two antennas and three sectors, they have six. Three more would give them the nine they originally asked for.

CHAIRMAN HOLMES: Okay.

MR. EDWARDS: Commissioner, I did discuss this briefly with them earlier this week. The question the City had was to what extent did you talk to the landlord, did you talk directly to the owner or his attorney? What was the process you used and the seriousness you took from the board's question.

MS. CHIOCCHIO: We reached out to the landlord, explained what the board had requested and what that would involve. The landlord's attorney responded that he was not amenable to relocating the antennas.



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That was the process.

CHAIRMAN HOLMES: Right. Thank you.

MR. EDWARDS: There was nothing offered to the land owner or landlord?

MS. CHIOCCHIO: Not to my knowledge.

MR. EDWARDS: Why was that?

MS. CHIOCCHIO: That's not related to zoning. This is part of our original special permit approval. It's not like installing a brand new facility, trying to work with the landlord.

CHAIRMAN HOLMES: Any questions?

MR. ZAMUR: What I don't understand is if originally you had approval for nine and you only put six, why are you back here before us to install the other three? Is it not a case of as of right?

MS. CHIOCCHIO: My position is

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yes, it is a case of as of right.

MR. ZAMUR: What makes you feel someone has a different case?

MS. CHIOCCHIO: We were notified. We submitted to the building department. The Building Commissioner took that position back in September. In October we received the Planning Examiner report indicating that we had to come back to the Planning Board.

MR. ZAMUR: Reason being?

MS. CHIOCCHIO: The antenna model number we're installing at the facility is not the same antenna model number approved in 2001.

CHAIRMAN HOLMES: It's for LTE. We talked about this whole process. The LTE 4G, the enhancement for the services for the AT&T customers.

MR. JUSTINO: One of the struggles or the balancing act that I think the board and hopefully the telecommunications companies want to

1  
2 accomplish is something that, because  
3 they are all eyesores generally, to  
4 minimize or mitigate that. We know  
5 the Federal Law is extremely strong  
6 and does perhaps frustrate the  
7 population, so in an effort to keep  
8 good relationship between the City  
9 and the telecommunications companies,  
10 and the changes in technology and  
11 advancement, this is a decade ago  
12 that your approval was given, you  
13 know. There's that hope that what  
14 couldn't be mitigated ten years ago  
15 can be mitigated today. So that's  
16 the reason why we asked initially.  
17 Then unfortunately when the type of  
18 response that we received from the  
19 lawyer in an email or letter, what we  
20 don't see is to what extent and what  
21 tone the presentation was made to  
22 that landlord to try to accomplish  
23 the things that I just set forth.  
24 What we really wanted to see, was it  
25 written correspondence, was it soft

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sold.

MS. CHIOCCHIO: I understand what you're saying.

MR. JUSTINO: We would like to see AT&T and their representatives do everything in their power to talk to the landlord about what is trying to be accomplished here to try to make it happen.

MS. CHIOCCHIO: I appreciate that and that's the reason why we did go to the landlord after our last meeting. One of the other things that's occurred since the last meeting is some new Federal Legislation which supports our position that this is as of right and doesn't require zoning. So I'm sure my client would want me to make sure the board understood that this is preempted by Federal Law. They reached out to the landlord. They didn't soft sell it. They explained what would be required.

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MR. JUSTINO: Can you express to us in what way? Have you seen the correspondence? Were you part of the conversation?

MS. CHIOCCHIO: What I can share the landlord was contacted via email and followed up.

MR. JUSTINO: Can you characterize the email?

MS. CHIOCCHIO: In the email, we appeared before the Planning Board. They asked us to look at relocating the antennas to flush mount them to the side of the building. This would require drilling in the facade of the building to mount the antennas. We're going to drill into the person's building. They have to understand that's the case. The response was they don't want the antennas relocated.

MR. ZAMUR: The response was if I was the landlord, you just want to

1  
2 drill into my building to lower the  
3 antennas? Answer no. Mr. Landlord,  
4 we'd like to lower the antennas. The  
5 Planning Board is asking us to. It's  
6 going to look better, less of an  
7 eyesore. The building will look  
8 better. The neighbors wouldn't have  
9 to look at something that's an  
10 eyesore. If it was presented that  
11 way, well, maybe now that you say it  
12 that way, I would allow it.

13 MS. CHIOCCHIO: I can't say  
14 that's part of the communication.

15 CHAIRMAN HOLMES: What is your  
16 understanding? I'll ask the board  
17 for any other comments. I'll ask for  
18 our consultant to comment. You have  
19 to understand, I'd like you to  
20 understand this board's position is  
21 that this city has a lot of these  
22 type of facilities. So it's  
23 incumbent upon this board to do  
24 whatever we can to assist the public  
25 to clean up this mess, the

1  
2 telecommunications mess. We  
3 understand certain modification  
4 applications. In certain areas new  
5 applications it will be. We want to  
6 do due diligence to let people no.  
7 We want to inquire about it. There  
8 may be a better way this board can  
9 better communicate that to you and  
10 your applicants.

11 MS. CHIOCCHIO: My client  
12 understands that. When they're  
13 looking to modify facilities, they're  
14 looking at how they can do that  
15 without major interruptions, serious  
16 redesign of the facility, making sure  
17 they're not adding too much to  
18 something that's not -- I think they  
19 were able to do that in this case  
20 simply because it's all within the  
21 2001 special permit approval. I  
22 understand that the client  
23 understands that. They're working  
24 within the special permit they have.

25 MR. ZAMUR: You mentioned that

1  
2 as if they should get an award for  
3 ten years later making antennas and  
4 the same size as the ten years ago.  
5 I've been using mobile devices. They  
6 have been getting smaller and  
7 smaller. For you to say here they're  
8 trying their best, look what they  
9 have done, they have been able to  
10 keep it the same size.

11 MS. CHIOCCHIO: Your phone is  
12 getting smaller, but doing a lot more  
13 than it did ten years ago. The phone  
14 getting smaller, you can make calls  
15 and access the internet, the web and  
16 email. Load all the data. That's  
17 why the antennas --

18 MR. ZAMUR: The phone got  
19 smaller but the antenna got bigger?

20 MS. CHIOCCHIO: The same size.

21 CHAIRMAN HOLMES: Thank you,  
22 very much.

23 MR. EDWARDS: Well, I'm not an  
24 attorney. I'm an engineer. It  
25 pertains to towers, not anything



1  
2 about rooftop. One of our City Scape  
3 people is in a meeting with the  
4 individual who drafted that language  
5 and to be discussed further. The  
6 references just made is not a part of  
7 the rooftop on the situation. The  
8 final thing is, I think it's been  
9 clearly pointed out here, I think she  
10 went in good faith and made some  
11 inquiries about it. I don't think it  
12 was to the seriousness that the board  
13 inferred. Was the board that clear  
14 about it, that I can't tell you.  
15 That's my opinion.

16 CHAIRMAN HOLMES: Any other  
17 members of the board would like to  
18 say anything?

19 MR. GRIFFITH: Just a question.  
20 We're adding a new mount to the top  
21 of the building is that correct or  
22 no?

23 MR. ZAMUR: Three more, one in  
24 each sector.

25 MS. CHIOCCHIO: To existing

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antenna mount. The mount was part of the special permit.

MR. ZAMUR: The point is not visible.

MS. CHIOCCHIO: You can see it in the photo.

MR. GRIFFITH: Will the landlord get any additional revenue for the new nodes being there?

MS. CHIOCCHIO: Not to my knowledge.

CHAIRMAN HOLMES: Thank you. I will entertain a motion for the SEQRA determination. Do we have a SEQRA determination. I think we do.

MR. JUSTINO: It requires the Planning Board to make the determination.

CHAIRMAN HOLMES: Make a motion.

MR. GRIFFITH: Is there a visual impact for SEQRA. I make a motion we declare this application a neg dec in regards to SEQRA.

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CHAIRMAN HOLMES: Second.

MS. TROTT: Second.

MR. JUSTINO: I'm opposed.

CHAIRMAN HOLMES: One  
opposition. Ayes have it. I  
entertain a motion for the  
application.

MS. SNYDER: Make a motion we  
approve the application as it has  
been already approved in 2001 and  
this is now the completion of a nine  
unit installation on the roof and  
it's three additional antennas added  
to the six that have already been  
installed.

CHAIRMAN HOLMES: Second?

MR. ZAMUR: Can I make a  
comment?

CHAIRMAN HOLMES: I don't think  
right now. Second.

MR. GRIFFITH: Second.

CHAIRMAN HOLMES: All those in  
favor? Those opposed? The ayes have  
it.

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MR. ZAMUR: I just want to make a comment. I didn't oppose this. I'm not necessarily for it, but I didn't oppose it because we're going with the belief that I believe it's the City's, I'm not going to say fault, maybe their lack of vision for not sunseting these type of applications. Ten years later, 50 years later, you can't say 50 years ago you gave us this approval. Doesn't work like that. I believe we're going to be working with Counsel and the City Council to make sure in the future these type of applications sunset, so you guys have a specific amount of time to do the work. As technology changes, if there was a mistake or something that was used back ten years ago, we'd like to see an improvement done, that we're not sort of blind sighted and have to go along with the waive as we just did. I wanted to make that

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comment.

MS. CHIOCCHIO: What do you mean by sunset?

MR. ZAMUR: If you have an approval for let's say nine antennas, that you put the nine antennas up within a certain amount of time.

CHAIRMAN HOLMES: Thank you.

MS. CHIOCCHIO: Thank you for your time.

CHAIRMAN HOLMES: We'll go to Item 6, Public Hearing. 6.1, case 1-2012, 240 East Seventh Street, Section 169.40, Block 4048, Lot 1. The application of Castoleum Corporation by Engineer Michael McGarvey, proposing to construct an addition to the existing structure located in the RMF-15 Zoning District, which requires site plan review. SEQRA determination: This action is uncoordinated review, classified as unlisted action. Wherein the Planning Board must

1  
2 render a SEQRA assessment prior to  
3 deliberating on this matter.

4 Good evening, Mr. McGarvey.

5 MR. LONG: Before the applicant  
6 speaks it should be stated on the  
7 record whether or not the applicant  
8 met the public notification  
9 requirement. Did the applicant meet  
10 the notification requirements?

11 SECRETARY: Yes.

12 CHAIRMAN HOLMES: Any  
13 correspondence from city agencies for  
14 this application?

15 SECRETARY: Yes. From the fire  
16 department. Following comments are  
17 being submitted. As long as the New  
18 York State Fire and Building codes  
19 are followed, all necessary permits  
20 are in place, the fire department has  
21 no objection to this application.  
22 Westchester County Planning Board.  
23 Site plan to allow less than  
24 5,000 square feet of new or renovated  
25 floor area and less than

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2 10,000 square feet of land  
3 disturbance on property within 500  
4 foot of the boundary of a city, town  
5 or village, the boundary of an  
6 existing proposed state park,  
7 recreation area or road, right-of-way  
8 and existing or proposed county  
9 drainage channel line, the boundary  
10 of state or county owned land on  
11 which public building institution is  
12 located or the boundary of a farm  
13 land in an aggregate district, all  
14 applications given positive  
15 declaration pursuant to SEQRA must be  
16 referred as a complete application.  
17 This is from Westchester County  
18 Planning Board.

19 CHAIRMAN HOLMES: Any further  
20 correspondence?

21 SECRETARY: Yes, I have several  
22 consents. One from Thomas Ciminello,  
23 Stanley Fleischman, Anthony Speradino  
24 and Ronald Bolmer. That concludes  
25 the correspondence for this

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application.

CHAIRMAN HOLMES: Thank you,  
madam secretary.

MR. MCGARVEY: Good evening,  
Planning Board members. My name is  
Michael McGarvey. I'm here tonight  
representing my client Castoleum  
Corporation, located 240 East Seventh  
Street, on the corner of East Seventh  
Street and Burtel. Currently the  
building is approximately about 2200,  
2300 square feet. There's an outside  
area for storage. There's an  
existing shed, open shed. If you  
drive down East Seventh, look between  
the building and the shed you see  
some material stored out there. They  
make lubricants and disinfectants.  
If you drive on Burtel Avenue, look  
behind the building, you see the  
skids, raw materials used in the  
manufacturing of the lubricant and  
disinfectants. What my client is  
looking to do is remove the open shed



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2 and create approximately a three, a  
3 less than 3000 square foot addition,  
4 block addition connecting to the  
5 existing manufacturing building.  
6 Everything is one story. The  
7 addition will be again 1 story,  
8 twenty-four and a half feet high.  
9 Just for the maneuvering of the skid  
10 to be piled on top of each other with  
11 the barrels for the lubricant and  
12 disinfectants. For the Board's  
13 information, we have already, maybe a  
14 little backwards, we have already  
15 gone to the Zoning Board. We  
16 required a variance for parking,  
17 on-street parking. We'll have a  
18 required loading dock in the front,  
19 in the storage area and we also did  
20 receive ARB approval last month.  
21 There were a couple of conditions on  
22 there. We got the approval with some  
23 conditions, which we were happy to  
24 agree to.

25 CHAIRMAN HOLMES: Are the

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variances approved also?

MS. CHIOCCHIO: Yes, sir. The parking, I forget exactly, we went down from 26 to 0. There's ample parking on the street. We proved it at the meeting. We sent in pictures of the street parking during the day, various times of the day. This is a very low traveled area, even though it is an industrial area. There's junk yards around there. There's decent buildings in there. There's some traffic. There's none on Seventh Street outside of my client's building.

MR. GRIFFITH: What is the size of the shed?

MR. McGARVEY: 1000 square feet. We're talk taking down the thousand square foot shed. The whole area is 100 percent impervious. The rooftop or blacktop. We're taking down approximately 1000 square feet of rooftop. We're getting

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approximately 3000 square feet of new rooftop. I have a net of 2000 square feet of new rooftop.

CHAIRMAN HOLMES: What is the zero condition to the impervious surface?

MR. MCGARVEY: I have designed Cultrec infiltraters to take the water from the addition on the new building, the 3000 square feet, have it going into the infiltraters in front of the building in the driveway.

MS. SNYDER: Do you have any landscaping?

MR. MCGARVEY: The industrial area is not big on landscaping. We have a tree grows in Brooklyn right here in the front left-hand corner of the property. That's an existing tree that will remain. I know that the Planning Commissioner was asking if we can do something more. We're built out to the property lines.

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There's a little bit of area here on the north side of the property. I could possibly, you know, put a two-foot plant in there. I'm not sure what else we can do.

MR. JUSTINO: Is this your property here where the orange yellow containers are?

MR. MCGARVEY: Yes. Those are totes. We'll be enclosing that so you wouldn't see any of that stuff.

MR. JUSTINO: There's a wall.

MR. MCGARVEY: That's going to be gone. We're taking in the new addition. That area will be part of the addition. That's my client's property.

MR. JUSTINO: Your building is going to be flush with the printing company next door?

MR. MCGARVEY: Yes.

MR. JUSTINO: And the lush evergreen.

MR. MCGARVEY: That's not us.

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MR. JUSTINO: Isn't that in front of your property?

MR. McGARVEY: None of it is my property. You're absolutely correct, that's the side of my client's property, yes, sir.

MR. JUSTINO: There is no sidewalk or there is sidewalk?

MR. McGARVEY: There's sidewalk there, but it's overgrown.

MR. JUSTINO: Is there room to plant there?

MR. McGARVEY: Whatever can be put in there, if you make a definition or condition to putting anything outside between the curb line, between the sidewalk line and my client's building, I'm sure somehow we can plant something in there.

MR. JUSTINO: Has the DPW looked at the sidewalk? Looks like there is no sidewalk there.

MR. McGARVEY: There is a

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sidewalk, yes. The sidewalk in the front, as well.

MS. SNYDER: Was there any discussion with the ARB?

MR. MCGARVEY: No, there was not. We explained to them it was an industrial zone. We explained the whole place is 100 percent impervious. You know, I don't want to say it doesn't get foot traffic, people walk by to and from their jobs. This particular building does not get any walk-ins. It's not a general store or anything else. It's all mail order and everything is mailed out. Nobody comes into the store. There is no retail at all in the store.

MR. JUSTINO: Here's a better shot of the property. I can't tell whether the sidewalk is just --

MR. MCGARVEY: The sidewalk.

MS. SNYDER: Is that going to be replaced by the building?

1  
2 MR. MCGARVEY: It's extending  
3 straight down here. This will be  
4 there, will be a couple of feet  
5 between the building and edge of the  
6 sidewalk. If you want plantings in  
7 there, I will be happy to tell my  
8 client.

9 MR. JUSTINO: We understand  
10 it's all industrial.

11 MR. MCGARVEY: Just because  
12 it's industrial, doesn't mean it  
13 can't look industrial.

14 MR. ZAMUR: I understand the  
15 use of an industrial zone. What type  
16 of use is happening in the industrial  
17 zone. However, there's a landscape  
18 requirement in the city provisions.  
19 You know, it's been really laxed and  
20 kind of no one really has pushed it.  
21 This is a different time, a different  
22 area. Everyone needs to make an  
23 effort in all municipalities,  
24 landscaping, new tree plantings.  
25 It's certainly going to happen here.

1  
2 I would like the language to change  
3 more than you're going to try to make  
4 an effort, versus we'll put a  
5 requirement on it. The fact it's an  
6 industrial zone doesn't mean it needs  
7 to be ugly. When people drive  
8 through, if I was going to open up a  
9 manufacturing next to you and I see  
10 the place looks like, hey, maybe I  
11 might by a property owner in Mount  
12 Vernon. It's for the betterment of  
13 the community.

14 MR. MCGARVEY: I agree  
15 100 percent. I wasn't trying to  
16 imply because it's industrial it  
17 should look like hell. It's an  
18 existing condition. This isn't like  
19 we're coming in new and going to move  
20 to Mount Vernon and put up the  
21 building. This is unfortunately what  
22 we have here. It is 100 percent  
23 impervious. I will talk to my  
24 client. If you put a condition and  
25 you want a couple of more trees,



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we'll put a couple of more trees.  
I'd like to put in trees or if you  
tell me to do something that's not  
going to die. The loading area here,  
we'll have large tractor trailers  
coming in and out of there. I'm not  
a tree guy to be honest with you.

MR. ZAMUR: When we say  
landscaping, doesn't necessarily need  
to be evergreen shrubs.

MR. MCGARVEY: A line of  
shrubbery along the north property  
line, absolutely. If that's what  
you're looking for, absolutely.

CHAIRMAN HOLMES: I don't mean  
to belabor this. I don't want to  
miss the question.

MR. ZAMUR: Make a  
recommendation.

CHAIRMAN HOLMES: I'm going to  
open the public hearing. Any member  
at this time, I will ask for any  
members of the public who would care  
to come forward to speak either in

1  
2 favor or against the application and  
3 that's for the application 240 East  
4 Seventh Street. Again any member of  
5 the public would like to speak in  
6 favor or opposition to this  
7 application? Please, note there is  
8 no one from the public coming forward  
9 at this time. If that's the case, I  
10 will open to the board any questions.  
11 If not, I will seek a motion.

12 MR. JUSTINO: You know, I'm not  
13 sure that it would be best if we make  
14 a motion just this minute. I know  
15 the owner would love to move forward  
16 with the project. Our comments about  
17 trying to beautify the area with some  
18 shrubbery or whatever, is something  
19 that we would like you and the owner  
20 to take a look at the property and  
21 come back with something. I think  
22 the project in and of itself doesn't  
23 look like it has any other real  
24 issues that I can see. Before we go  
25 and approve something subject to some

1  
2 plan, we have no idea what it looks  
3 like, whether it's even feasible. If  
4 the sidewalks are narrow, there is no  
5 room to put anything, we wouldn't  
6 require it. We would like to see  
7 input from your client addressing  
8 that concern.

9 MR. ZAMUR: I would agree to  
10 that. Furthermore, just stating that  
11 it needs to be significant in terms  
12 of not one bush in the corner.

13 CHAIRMAN HOLMES: Does the  
14 applicant have any questions about  
15 what the board is requesting?

16 MR. MCGARVEY: Believe me, Mr.  
17 Long has been great. He mentioned  
18 this to me. I can't put ten pounds  
19 of potatoes in a five pound bag. Is  
20 there anyway, do you have any kind of  
21 enforcement officer or tree warden?

22 MR. ZAMUR: I'll tell you --

23 CHAIRMAN HOLMES: What I would  
24 recommend, you contact staff in the  
25 Planning Department and the staff can

1  
2 refer you to any other city agencies  
3 that have that expertise or  
4 definitely our plan administrator.

5 MR. JUSTINO: Why are you  
6 struggling with this request?

7 MR. MCGARVEY: To be quite  
8 honest, this is going on a long time,  
9 much longer than my client thought.  
10 He wanted to put a little addition on  
11 the building. We have been going  
12 through this now for six months,  
13 approximately. So he's looking to  
14 just get the thing out of the ground  
15 and get it done. If you tell me that  
16 this is we're not going to get  
17 approval until somebody approves what  
18 you put in, I'll accept that. It's  
19 kind of open-ended. I would hate to  
20 come back here again. My client is a  
21 little wacky. He doesn't understand  
22 the process with municipalities, how  
23 can you go so far and you can't do  
24 this.

25 CHAIRMAN HOLMES: That's why he

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has you.

MR. MCGARVEY: Exactly. Thank you. But if there's any way we can get an approval pending somebody with knowledge of plants to come out here and say everything is done, I will make a second submission to Mr. Long. He can forward that.

MR. JUSTINO: With all due respect, you insinuated Mr. Long was speaking about some landscaping.

MR. MCGARVEY: Yes, he did.

MR. JUSTINO: Why you just, you have come before us and didn't address it, saying we're being unreasonable, that you would like to move this forward, honestly we're as a board sensitive to making the process as brief as possible, but sometimes things like this come up. They need to be addressed. What happened prior, we can't change. I really --

MR. MCGARVEY: I do understand.

1  
2 I don't want to misspeak. Mr. Long,  
3 we had some meetings. Mr. Long  
4 mentioned to me, which when I called  
5 him, he said there's a couple of  
6 issues I'm going to make note to the  
7 Planning Board. There's the sidewalk  
8 issue and some tree landscaping.  
9 Again, where am I going to put it?  
10 If you tell me put this along the  
11 northern edge, I certainly will.

12 MR. ZAMUR: What is the board's  
13 opinion? I would volunteer to go  
14 take a site visit at the place.

15 MR. MCGARVEY: I'll go with  
16 you.

17 MR. ZAMUR: Take a look and  
18 bring it back to the board and make a  
19 recommendation.

20 CHAIRMAN HOLMES: Make a motion  
21 to table this to the next meeting,  
22 until such time a site visit will be  
23 made. The applicant can work with  
24 staff to further hash out what type  
25 of landscaping can be added to this.

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Is that something that's amenable to the board? All I need is a motion to table.

MR. JUSTINO: We're trying to address the applicant's concern about tabling.

CHAIRMAN HOLMES: I thought I heard the applicant was open to what the Commissioner mentioned.

MR. ZAMUR: He's open on a condition.

MS. SNYDER: Accepting whatever conditions you impose.

CHAIRMAN HOLMES: Restate the position.

MR. ZAMUR: We would put a landscaping condition that would be attached to this approval, be conditioned upon us or him fulfilling a landscaping provision we accept.

CHAIRMAN HOLMES: Are you prepared to make that motion?

MR. MCGARVEY: Before we make the C of O.

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MR. JUSTINO: I want to clarify something. Can you tell us what the condition of the sidewalk is here? Do we know?

MR. MCGARVEY: That's a question for the applicant.

MR. JUSTINO: DPW did not look and make any comments.

MR. LONG: DPW did not make any comments, not regarding the sidewalk.

MR. JUSTINO: Meaning we can make that a condition.

MR. GRIFFITH: Go out and make the recommendation. Mr. Chair, before you sign the plans, he has to sign the plans before they move forward. Make sure the recommendation that our Planning Board member has addressed is in those plans. I'm going okay with making that conditional.

CHAIRMAN HOLMES: I'm not okay with that. I don't know if Counsel would be okay with that. What I'm



1  
2 looking for is one of two things.  
3 Either table this and we'll do that  
4 so that when you come back to the  
5 next board meeting then we'll have  
6 done this properly and you will have  
7 the necessary adjustments or  
8 additions to the plan. Either that  
9 or entertain a motion to the board  
10 based on the conditions. Those  
11 conditions have to be made in the  
12 motion.

13 MR. JOHNSON: The conditions be  
14 specific.

15 CHAIRMAN HOLMES: Yes.

16 MR. JOHNSON: You need to have  
17 a meeting of the minds, otherwise it  
18 will cause problems.

19 CHAIRMAN HOLMES: Those are the  
20 two choices.

21 MR. ZAMUR: The landscape  
22 conditions is one and the condition  
23 of the sidewalk be another.

24 MR. JUSTINO: I think it needs  
25 to be addressed. I'm a little

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confused what the Chair is saying.

CHAIRMAN HOLMES: Either table it or I'll entertain a motion that has all the conditions, but the conditions have to be specific.

MR. GRIFFITH: I'm not sure. I didn't visit the site. To me it's the industrial zone. I don't think putting the landscaping there.

CHAIRMAN HOLMES: I'm kind of reluctant. I have to relook at the site. See if we have a planning board member to look at the site and make that determination. Let me clarify. The applicant has requested and is asking for a determination. I'm giving him the choice that this board is open to either come to an agreement or we'll entertain a motion to approve it tonight with the necessary specific direction.

MR. GRIFFITH: Yes. I'm willing to make that motion with specific recommendations regarding

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the plantings and the sidewalk.

CHAIRMAN HOLMES: I'll entertain that motion.

MR. GRIFFITH: That's fine. 90 percent of the project we approve, except for the plantings and the condition of the sidewalk and any plantings that may need to be done on the curb cut or within the site.

MR. ZAMUR: That's correct.

CHAIRMAN HOLMES: I don't know. I'll refer to Counsel. Is that specific enough, do you think, for the motion or would we require additional specificity?

MR. JOHNSON: I'm trying not to put my personal opinion there, but I understand taking into consideration what Commissioner Griffith had said, it's an industrial area. Point to a couple of places on the plans where you want something. That would be better. If you do it the other way, it's subject to another person's

1  
2 interpretation. It needs to be very  
3 specific what we want the person to  
4 do. If we think we can do that  
5 tonight, take a quick look at the  
6 plans, put a few trees here.

7 MR. ZAMUR: We give you an  
8 option to stick around until we move  
9 everything else forward.

10 MR. GRIFFITH: Table it to the  
11 next month.

12 CHAIRMAN HOLMES: Second.

13 MR. ZAMUR: I second.

14 MR. JUSTINO: You may come back  
15 from that and say there's really no  
16 place, it doesn't make sense. We may  
17 ultimately say it doesn't make sense,  
18 because the sidewalks are narrow, the  
19 buildings are at the property line.  
20 It would be nice. We don't want to  
21 pre condition three trees, if it's  
22 impossible to. It may be in your  
23 best interest.

24 CHAIRMAN HOLMES: All those in  
25 favor? All aye. Unanimous.

1  
2 We'll go back for a second,  
3 return back to item 2 which is case  
4 2.1, if the applicant has arrived.  
5 Please, come forward. Application  
6 case number 1-09, 116-122 West First  
7 Street, section 165.69, block 3052,  
8 lot 6, 7, 8, 9 and 10, located within  
9 the neighborhood business zoning  
10 district, by Architect Sabir,  
11 Richardson & Weisberg Engineering  
12 LLC, requesting an extension of time  
13 for the Planning Board to  
14 rehabilitate the four story building  
15 for mixed use purposes. The original  
16 approval was granted on March 4,  
17 2009, which expires March 3, 2011.  
18 The applicant now seeks a two-year  
19 extension of time from March 4, 2011,  
20 to expire on March 3, 2013. Good  
21 evening. Give us a reason why you're  
22 in need for an extension of time?

23 MR. SABIR: We want to  
24 apologize for being late. We thought  
25 the meeting started at eight. Good

1  
2 evening. Kevin Sabir, the architects  
3 and engineers on the project. To  
4 answer your question, we need the  
5 extension to finish the construction  
6 of the project. The project was  
7 constructed, I want to say, maybe 40,  
8 50 percent and has been on hold for  
9 about a year.

10 CHAIRMAN HOLMES: Do you  
11 anticipate that you will complete the  
12 construction within this two-year  
13 extended time period?

14 MR. SABIR: Absolutely.

15 CHAIRMAN HOLMES: Do I have a  
16 motion?

17 MR. ZAMUR: Does he really have  
18 two years or really one? It's really  
19 one. Do you anticipate completing  
20 this by March 3, 2013? It's two  
21 years from the date of the previous  
22 one.

23 CHAIRMAN HOLMES: You already  
24 used up a year.

25 MR. JUSTINO: Your letter to

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the Planning Administrator states that you're going to continue the project.

MR. SABIR: That's correct.

MR. JUSTINO: States that your timeline to start construction is April, May of '12 and complete by mid November of this year. Are you confident you'll be able to accomplish that?

MR. SABIR: Yes. Yes.

CHAIRMAN HOLMES: The bottom line is 2013, March 3, 2013.

MR. MCGARVEY: By March 3, 2013, yes. Unless a natural disaster.

CHAIRMAN HOLMES: Entertain a motion for the applicant to seek a two-year extension of time.

MR. GRIFFITH: Make a motion to grant the extension of time for two years from March 4, 2011 to March 3, 2013.

MS. SNYDER: Second.

1  
2 CHAIRMAN HOLMES: Unanimous.

3 6.2, Case number 2-2012, 8

4 Cedar Street, Section number 165.30,

5 Block 1036, Lots 1 and 2 and it is

6 for the application of Cedar Manor,

7 LLC by Attorney Hannah S. Gross of

8 Gross & Stabile, LLP, proposing to

9 demolish existing one family dwelling

10 on lot two, to create accessory

11 off-street parking facility for

12 multi-family building located on lot

13 1, which requires site plan review.

14 SEQRA: This action is coordinated

15 review and classified as unlisted

16 action. Therefore the Zoning Board

17 as Lead Agency assessed the

18 environmental significance. The

19 Zoning Board issued a negative

20 declaration on February 15, 2011.

21 Good evening.

22 MS. GROSS: How are you all

23 tonight? Make sure I did all my

24 notices.

25 CHAIRMAN HOLMES: Did you do



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all your notices? I will ask the secretary, has this applicant satisfied the public hearing notices?

SECRETARY: Yes, they have.

CHAIRMAN HOLMES: Do you have any correspondence to read into the record?

SECRETARY: Yes, I do.

CHAIRMAN HOLMES: Please do.

SECRETARY: Following department, the fire department requests no parking signage in the rear in the proposed parking lot area. We would like the signs posted for the southern end area passed the parking lot, behind the building. The architectural plans have it labeled tax lot one, concerning 80 Cedar street, the fire department records show there is a 275 gallon oil tank in the premises. This must be removed before the demolition of the premises, by a company licensed by the Mount Vernon Fire Department.

1  
2 There is a fee to be paid to the  
3 Mount Vernon Fire Department for the  
4 removal of the oil tank. Police  
5 Commissioner, the Department of  
6 Public Safety has reviewed the  
7 attached application for area  
8 variances to 80 Cedar Street. The  
9 applicant is proposing the  
10 construction of a parking lot to  
11 supplement parking to a multi-unit  
12 apartment building located at 485  
13 Gramatan Avenue. The undersigned  
14 finds that the proposed parking lot  
15 will assist and alleviate significant  
16 parking deficiencies in the area and  
17 will not create a significant traffic  
18 or safety issue. The Department of  
19 Public Safety has no objections to  
20 this proposal as submitted. I have  
21 several objections. Lucille  
22 Frabizzio, Mr. And Mrs. Vincent D.  
23 Lynch Senior. Karen Cavanagh. Carol  
24 Argamaso. Glenda Pollard. That's  
25 it.

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CHAIRMAN HOLMES: Thank you.

For the record, please note that all of the responses will be submitted into the record in their entirety. For the sake of the hearing we did not read everyone in full.

MS. GROSS: Good evening. This is an application for site plan approval. We have already gotten zoning approval for this project. We're talking about 485 Gramatan Avenue, an apartment house, 85 units, constructed in the late '20's. Has a Certificate of Occupancy as no, zero parking spaces, because in the '20's there was no parking requirement. There weren't that many cars. The other premises is 80 Cedar which is currently improved by a one family house. The proposal to demolish the one family house, use the part of the apartment house property behind the building, together with the lot from the house, to create off-street

1  
2 parking facility for twenty-five  
3 vehicles, to be used by residents of  
4 the apartment house. Both lots in  
5 the RMF-15 District Zone. The  
6 applicant Cedar Manor LLC is  
7 represented by Paul Defao. Mr. Defao  
8 is here. In case there are any  
9 questions, he'll be able to address  
10 those. I think that the Board is  
11 probably familiar with the front of  
12 485, since it's on a prominent  
13 corner. You know, well, it is a  
14 beautifully maintained property,  
15 lovely landscaped areas in the  
16 courtyard and in the front and very  
17 nice retaining wall. Creating the  
18 parking facility in the rear, the  
19 same values will be applied, but  
20 there is no particular area within  
21 the parking facility itself for  
22 landscaping. This was gone through  
23 with the Zoning Board. The issue  
24 before the Zoning Board were  
25 impervious surface, secondary side

1  
2 yard and the landscaping requirement  
3 and the fence, although I think we  
4 actually changed that out to a fence  
5 that did not require a variance. We  
6 have a proposal for aluminum picket  
7 fence over a retaining wall on this  
8 side. Along this boundary, which is  
9 the east side and the south side, a  
10 six-foot privacy fence. The privacy  
11 fence along this boundary, the  
12 eastern boundary will be atop a  
13 two-foot retaining wall. We're going  
14 to regrade the parking lot to make it  
15 as level as we can, to drain  
16 properly. Between the level of this  
17 parking area and the top of the fence  
18 will actually be eight feet. There  
19 be there will be a lot of separation  
20 between the parking facility and the  
21 house next door. We had agreed and  
22 added to the plans we were in the  
23 zoning process. We had shown it to  
24 you when we were getting  
25 recommendation to the Zoning Board, a

1  
2 landscaped area here. This area is  
3 currently 100 percent paved. We're  
4 going to open up an area back here  
5 in, we call it the southeast corner  
6 of the original property, the  
7 apartment house property and create a  
8 7 foot by 48 foot planting area,  
9 install two trees and shrubbery. We  
10 indicated tree choices in the  
11 application. The choices were  
12 specifically taxes and boxwood for  
13 the shrubs, a couple of Canadian  
14 hemlocks for the trees. Those are  
15 trees we anticipate will do all right  
16 there. It's kind of shaded. The  
17 apartment house is close on one side.  
18 This property line, the neighbors  
19 have fences. You can see the fences  
20 in some of the photos that we have  
21 given you. We had to pick trees and  
22 shrub species able to survive in part  
23 shade. We agreed it was part of the  
24 conditions we'll install a new tree.  
25 This is the new one on east Cedar

1  
2 Street. These are existing trees.  
3 We're not taking out any trees in  
4 connection with the application.  
5 Twenty-five parking spaces, one of  
6 which is handicap accessible space.  
7 There was a question in the comments  
8 regarding space for it, there was a  
9 question whether his comments were  
10 about this space marked 14.

11 MR. LONG: Yes, that's the one.

12 MS. GROSS: It might take  
13 excessive maneuvering to get out of  
14 space 14. We had a pow wow. We  
15 think it's not terribly difficult.  
16 If you go into space 14 nose first,  
17 you have to back up further when you  
18 make the turn. The easier way to do  
19 it would be to come in, turn to the  
20 driver's right and then back into the  
21 space. Then you can go out very  
22 easily. Because there is no space  
23 across from it, there's a lot of  
24 backing room for that space. We have  
25 to maximize the spaces, because we're

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proposing twenty-five spaces for an  
85 unit apartment house.

CHAIRMAN HOLMES: What are the  
width of the spaces.

MS. GROSS: 8 foot 9, a piece.  
The handicap 8.6 with 8 foot access  
area. These are 8.6. These are 8.6.

CHAIRMAN HOLMES: The length.

MS. GROSS: The lengths are  
eighteen, all eighteen. This is our  
engineer. In terms of space sizes,  
they're all minimum eight and a half  
by eighteen. The next side would be  
8.9 by 18. The backup is 24 feet,  
which generally meets the standards  
for parking. There isn't any reduced  
parking maneuvering on this site.

CHAIRMAN HOLMES: Thank you.

MS. GROSS: We wanted to point  
out to you a couple of more aspects  
of the site plan. The fire  
department has asked us to, I  
believe, they want us to keep this  
area open for the fire lane. You



1  
2 know, it's the fire department. They  
3 want that. They're going to be  
4 cooperative as can be. Obviously,  
5 we're going to comply with the code  
6 demolishing the house, taking out the  
7 oil tank. That goes without saying.  
8 They said it, so I have to say it  
9 too. Our plan includes drainage and  
10 lighting plan. I'm going to ask Mr.  
11 Fustini to explain to you there were  
12 technical questions raised in staff's  
13 comments. One of them was regarding  
14 a comment on our plan that the  
15 drainage is still preliminary. Mr.  
16 Fustini can explain why it's  
17 preliminary in regard as to the  
18 design.

19 MR. FUSTINI: The intent of the  
20 drawings as it exists today, the rear  
21 yard is currently connected to the  
22 City's storm sewage system. We want  
23 to keep that system intact and  
24 connect the new impervious surfaces  
25 to the City's system. We received

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2           comments that the infrastructure is  
3           in the City's right-of-way. We were  
4           petitioning the board to gain  
5           approval to connect to the City's  
6           system. I'm not sure who would make  
7           that decision. Is that something we  
8           talk to the DPW about?

9           MR. GRIFFITH: Where else would  
10          you put the storm water if you didn't  
11          connect to the City's storm water  
12          system?

13          MR. FUSTINI: Dry well would be  
14          the alternate.

15          MR. LONG: If I can provide a  
16          point of clarification, the applicant  
17          is proposing two dry wells on the  
18          outside of the applicant's property,  
19          which would make it have the  
20          applicant constructing in the City's  
21          right-of-way.

22          MS. GROSS: You want to see  
23          where the dry wells are. Isn't that  
24          one? That's a catch basin.

25          MR. LONG: The catch basins sit

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outside of the applicant's property  
in the right-of-way.

MS. GROSS: No, I don't think  
so, Mr. Long. Show me what feature  
you're looking at, looking at the  
dropped curb on either side? On  
either side of the driveway there's a  
dropped curb, to allow, you know,  
handicap accessibility.

CHAIRMAN HOLMES: Wait for the  
clarification.

MS. GROSS: I'm kind of  
perplexed. I'm not seeing any catch  
basins outside.

MR. ZAMUR: You're proposing to  
tie it into the City's storm drain  
system?

MS. GROSS: If we can get  
permission.

MR. JUSTINI: We do not have  
dry wells outside the property.

CHAIRMAN HOLMES: Any other  
questions in terms of the drainage?  
You mentioned that you were

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regrading.

MS. GROSS: Yes.

CHAIRMAN HOLMES: Any anticipated increase or changes in the water or the runoff by grading?

MR. JUSTINI: No, we just calculated the entire site or the areas to be paved as impervious surface, it approximates to 8,000 gallons of water.

MR. GRIFFITH: Which way are you pitching the water towards?

MR. JUSTINI: Towards the building, in order to follow the contours would remain pitched at the entrance, towards the building, but also pitched back. The residents' property, which would give us the taller eight foot high separation, the two foot retaining wall along the east, with the 6 foot fence on top of it. So from our side, from the side of the building you would be looking at an eight foot wall or two foot

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wall with the 6 foot fence. From neighbor's property they would be looking at a six foot fence.

MR. ZAMUR: There's a masonry element, basically cedar is going that entire perimeter?

MS. GROSS: This side is going to have a two foot retaining wall. The easterly side of the driveway, a retaining wall to keep the levels.

MR. JUSTINI: To maintain the grade.

MR. ZAMUR: In the back?

MR. JUSTINI: In the back wall here.

MR. ZAMUR: Just a fence.

MR. JUSTINI: It's a modular wall. They currently have the same exact system around the front. We're going with the same system.

CHAIRMAN HOLMES: Those are the two main drains, the ones on the west side of the lot?

MS. GROSS: This is a drain,

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this is a drain.

MR. JUSTINI: A French drain here.

MS. GROSS: Drain here, drain here, drain here. We're showing, I believe, adequate drains. The question is whether we need to construct a dry well or get the permission to go into the storm sewer. Since we're on an elevation, obviously the water would run down into the storm sewer. We would seek that concept. If not, we do the dry wells.

MR. JUSTINI: Of course.

MS. GROSS: The other aspect you want to speak to was the lighting question.

MR. JUSTINO: Back up a second. There's a lot of things going on. I won't remember all my questions. Is there detail on the wall, masonry wall within the plans that I'm missing? Is it towards the back?

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MR. JUSTINI: There's an elevation. Take a look at the detail. There's the area right there, that detail, that shows the height capability.

MS. GROSS: It's going to be the same material, same construction as the existing retaining wall on the front of the property.

MR. JUSTINO: The front the property?

MS. GROSS: And Cedar Street there's a retaining wall there.

MR. JUSTINO: Has ARB looked at it?

MS. GROSS: It's currently the same quality you would see in the front of the building, we're going to carry it all the way around.

MR. JUSTINO: The fence on the masonry wall is vinyl aluminum. Wood or vinyl privacy fence. It sits directly behind the wall, doesn't sit on the wall itself.

1  
2 MS. GROSS: Get out the picture  
3 again. I will show you. There are  
4 two different types of fence. This  
5 fence is between 485 and 80 Cedar.  
6 This fence does not belong to my  
7 client. It belongs to an adjoining  
8 owner. It is not the type of fence  
9 we're proposing.

10 MR. JUSTINO: There was a  
11 picture in here with, looked like a  
12 cedar fence. I can't find it. It  
13 was on the back.

14 MS. GROSS: It's in the back of  
15 80 Cedar Street. It's a type of  
16 fence.

17 MR. JUSTINO: You're taking  
18 that down.

19 MS. GROSS: The one at the  
20 back.

21 MS. TROTT: Is it this one?

22 MR. JUSTINO: Yes.

23 MS. GROSS: The wood fence is  
24 not ours. I have to check the  
25 survey.



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MR. JUSTINO: That's fine.

MS. GROSS: In this area everybody has a fence. This is a type of fence. I'll show it to my client. Is this the type of fence we can consider? I apologize. It's very difficult to get much of anything to show in the pictures. This is a cedar fence, looks six feet tall with eighteen inch border at the top. One of the things, what he need from the board is whether we should have piercing at all. One of the primary purposes of the fence is avoid headlights being visible on the adjacent properties. Headlights should not be a problem at that height. I know that's one of the key missions with the fence.

MR. JUSTINO: If I can understand, the fence you're proposing is not going to be on top of the masonry wall?

MR. JUSTINI: It begins at the

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say same height elevation, but sits directly behind the masonry wall. This kind of block system does not allow for a fence insert. It sits behind.

CHAIRMAN HOLMES: On your property?

MR. JUSTINI: On our property.

MR. JUSTINO: Cedar Street is going to have the masonry wall and going to turn back and border the eastern part of your property, the masonry wall for the entire perimeter of the property? I was trying to understand.

MR. JUSTINI: On the northeast end, south portions of the property.

MR. JUSTINO: Point on the drawings.

MR. JUSTINI: Starting this point to make up for an elevation change here. It's a garden wall. Two feet or less becomes garden wall.

MR. JUSTINO: It will be at

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grade on the back side of it?

MR. JUSTINI: Zero zero. This is the starting point. This is a coping stone and at this point it's two feet high.

MR. JUSTINO: What continues, does the wall continue?

MR. JUSTINI: Two feet high all the way down to this point.

MR. JUSTINO: Two feet high?

MR. JUSTINI: Yes.

MR. JUSTINO: The fence you propose is behind that?

MR. JUSTINI: Sits behind the modular block wall system. It's generally staggered, so you would sit the posts on sonar tubes and that would sit directly behind the wall.

MR. JUSTINO: Do we have detail what the fence looks like here?

MR. JUSTINI: Six foot high privacy fence, vinyl or wood, preferably vinyl as a maintenance consideration. They sell vinyl

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fences, white.

CHAIRMAN HOLMES: Posted at a height of eight feet?

MR. JUSTINI: The top of the fence would be eight feet.

CHAIRMAN HOLMES: The top of the fence will have two feet separation between it and the footing and the base.

MR. JUSTINI: Well, the fence, actually it will be easier to point out on the drawings.

CHAIRMAN HOLMES: In order to have eight feet, you need two feet below with no fence.

MR. JUSTINI: Start with the two foot high wall. Directly behind the wall itself you have a six foot high fence.

MR. JUSTINO: The neighbor is looking at.

MR. JUSTINI: Six-foot.

MR. JUSTINO: Where is the grade here for the neighbors to look

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at, looking at the back of the wall and the post and the fence sitting up above the ground.

MS. GROSS: No. The retaining wall retains the neighbor's yard.

MR. ZAMUR: I can see where this is going. I wrote down maybe fifteen questions I have regarding this. I think that, I don't believe that you're properly prepared for all the questions we have in terms of your diagrams, your descriptions, the types of fencing, better description, let's say on the masonry wall. It's a modular block. It is what it is.

MR. JUSTINI: I don't know what it is you think we can possibly give you more of.

MR. ZAMUR: I have tons of questions.

MR. JUSTINO: We're looking for details on it.

MS. GROSS: Match the modular block retaining wall already in

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place.

MR. ZAMUR: You have a diagram of it?

MS. GROSS: You have photos.

MR. ZAMUR: The diagrams of the modular. I can see in the background looks like brick.

MR. GRIFFITH: The building has the same type of wall around the perimeter. They're going to continue what is already there. I can envision this.

MR. ZAMUR: There's a lot of other questions I have.

MS. SNYDER: There's a detail of the wall in the driveway.

CHAIRMAN HOLMES: I'm going to open the public hearing and bring it back.

MS. GROSS: I wanted to get a couple of things, because Mr. Long was so kind as to give us the comments. There's a question regarding security and preventing non

1  
2 residents from parking in the spaces.  
3 There's going to be a lift gate much  
4 like every other building around  
5 there, will be a list of appropriate  
6 car stickers, some way for the  
7 superintendent to identify cars. My  
8 client says he favors having the  
9 super doing the enforcement rather  
10 than getting a tow contract company.  
11 As far as lighting, we have submitted  
12 the lighting plan that indicates  
13 we're at .1 foot candles at the  
14 perimeter. There was question  
15 raised, we went back to his  
16 photometric estimator. There will be  
17 no light passed the fence. It's not  
18 going to happen, because of the way  
19 the lighting fixtures are aimed down.  
20 Question raised about garbage and  
21 refuse. No change to the way we're  
22 handling it now, which is totally  
23 inside the building. We told you  
24 that this is strictly for parking for  
25 residents, no commercial vehicles, no

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car repair, no car washing, no other kinds of activities.

CHAIRMAN HOLMES: Will spaces be rented to any non resident?

MS. GROSS: No, only to residents.

MR. ZAMUR: Are the residents paying for the spaces?

MS. GROSS: The residents will pay for the spaces. That's fairly standard for residents to pay for that kind of amenity.

MR. ZAMUR: It makes sense to maximize it and not make proper provision for landscaping.

MS. GROSS: No There is no price we can charge to make the investment directly profitable. The reason this is a valid investment, it reinforces the apartment house and makes it a more viable apartment house by making the apartments more attractive. Even if you aren't going to get a space, the fact you can be



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2 on awaiting list for the parking  
3 space is an inducement to pick this  
4 building as opposed to a building  
5 that has no parking. We need that  
6 inducement. We have experienced  
7 longer than typical vacancy periods,  
8 difficulty in renting. The first  
9 question people ask after they get  
10 through the rent and how many rooms,  
11 is there any parking.

12 MR. ZAMUR: I can tell you the  
13 writing on the wall. I understand  
14 there's public comment. I almost can  
15 anticipate where it's going. I don't  
16 feel, I don't see it now from what  
17 you've presented, that you've made  
18 adequate commendations here. You're  
19 taking down the house in the  
20 residence area, you're putting  
21 parking. The residents need parking.  
22 I don't see enough of a consideration  
23 in terms of, I wouldn't want to live  
24 next to a parking lot with cars  
25 buzzing in and out, headlights, the

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2                   unsightliness of it. I don't see  
3                   with a fence how you're going to  
4                   accommodate the neighbors and how  
5                   you're going to make it unsightly. I  
6                   mean more sightly than what you're  
7                   presenting here.

8                   CHAIRMAN HOLMES: Let's go to  
9                   public hearing. I believe we have  
10                  satisfied notification; is that  
11                  correct?

12                 SECRETARY: Yes.

13                 CHAIRMAN HOLMES: I'll open it  
14                 up to any member of the public who  
15                 wishes to speak in favor or against  
16                 the application of 80 Cedar Street,  
17                 please come forward one at a time.

18                 State your name and address for  
19                 the record.

20                 LOU MAGGIOTTO: My name is Lou  
21                 Maggiotto. I'm associated with the  
22                 firm of Nobile, Magarian & DiSalvo,  
23                 located at 111 Kraft Avenue,  
24                 Bronxville. We were retained today.  
25                 I represent a next door neighbor

1  
2 Eveline and Roger Feldman. They  
3 bought the property in September.  
4 They have two little children. They  
5 didn't know this was something that  
6 might happen. We're playing catch-up  
7 right now. I'm here tonight. I'm  
8 not really ready for a dialogue. I  
9 can mention some points here, a  
10 number of which have already been  
11 brought up. We're here to hope that  
12 the public hearing will be continued,  
13 give us a chance to dialogue with  
14 Counsel, and see what can be done to,  
15 these are the neighbors, the next  
16 door neighbors and so unless you  
17 don't want to hear some detail from  
18 us, we'd be much better prepared at  
19 the next hearing. Maybe some of  
20 these we're going to raise, we can  
21 resolve. What would you like at this  
22 point?

23 CHAIRMAN HOLMES: If you are  
24 prepared to we can go. If you prefer  
25 then there is a high likelihood there

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will be a continued public hearing.

MR. MAGGIOTTO: I would not like to take up any time here. I'm not as prepared as I'd like to be. I thank you.

MR. ZAMUR: I have a couple of questions. Is your property next to the house to the left or behind.

MRS. FELDMAN: Eveline Feldman. This is my husband Roger. We thought we were the owners of 312 East Cedar Street located along the easterly side.

CHAIRMAN HOLMES: The contiguous neighbor, the next door neighbor of lot number two?

MRS. FELDMAN: Yes. 12 East Cedar. Goes 8 to 12.

CHAIRMAN HOLMES: I was referring to the lot. Don't worry about that. You're the next door neighbor.

MRS. FELDMAN: Indeed. We enjoy it so really very much.

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CHAIRMAN HOLMES: Thank you.  
At this time we'd like to make  
comments.

MR. MAGGIOTTO: We brought a  
lot of pictures and all the beautiful  
trees come down. We're concerned  
about the fence. We'd like to look  
into the storm water issue. There's  
an issue of water already.

CHAIRMAN HOLMES: It's most  
important that you said you were  
recently retained. My question is  
that is the applicant aware that the  
next door neighbor has just recently  
retained Counsel?

MS. GROSS: No. We found out  
when we got here tonight. Nobody  
called.

CHAIRMAN HOLMES: That's new to  
you tonight?

MS. GROSS: Yes.

MR. MAGGIOTTO: We were  
retained today. We're familiar with  
Miss Gross and I'm sure we can have a

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dialogue with her.

CHAIRMAN HOLMES: I'm sure you can. Any other members of the public who wish to speak in favor or opposed to this application? Give me your name.

MR. LYNCH: Vincent Lynch. I own the house with my wife. I've been there over 50 years. I bought the house on the block because it was quiet, lightly traveled residential street. I owned two houses at one time on the block. You want to put a parking lot in a residential area. To me, I can't see why you're entertaining the idea of doing that. It's a residential street. There's a plus and minus. Plus, the landlord of the apartment house is going to make the rental more attractive by offering parking spaces, therefore he's going to gain some financial gains. He's not being inconvenienced by any extra traffic. You're putting

1  
2 forty cars in the lot. You're adding  
3 more emissions.

4 CHAIRMAN HOLMES: 25.

5 MR. LYNCH: More emissions.  
6 There's street parking that the  
7 people are using now that are going  
8 into the lot. The people parking two  
9 blocks away, they're using those  
10 spots. You're adding more cars.  
11 You're going to a residential area,  
12 adding cars. Now it's a heavily  
13 traveled street. It's no longer a  
14 residential area, as far as I'm  
15 concerned. He's got the plus. On  
16 the other hand, the homeowners have  
17 this, we're going to have devalued  
18 properties, financial loss,  
19 inconvenience of cars, noise going up  
20 and down the street, the fumes, it's  
21 an inconvenience to us. It's not  
22 fair. So we've got that. I've been  
23 here before. Did they ever do a  
24 traffic survey on Gramatan Avenue,  
25 twenty five cars coming up the street

1  
2 trying to go across? The drivers are  
3 not to courteous. They block the  
4 roadway. You're waiting there. I  
5 relish the fact why should I be  
6 inconvenienced because the wishes of  
7 the few is going to make the many  
8 suffer. It doesn't work that way. I  
9 don't appreciate that. I think if  
10 you go ahead and allow this, you're  
11 going to do a disservice, not only to  
12 the homeowners. I worked hard. I  
13 paid my money to buy a house on a  
14 quiet street. They're going to make  
15 it into a heavily traveled street.  
16 That's not fair to the homeowners.  
17 The only person who will have a plus  
18 are the apartment owners. That's it.

19 MR. ZAMUR: Are you across from  
20 the lot, are you across the street?

21 MR. LYNCH: Three houses up,  
22 across the street.

23 CHAIRMAN HOLMES: Any other  
24 members of the public wish to speak  
25 in favor or opposition to this plan?



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MS. STRONG: I'm Barbara Strong. I live on East Grant Street.

CHAIRMAN HOLMES: House number?

MS. STRONG: 22. I don't use that street at all because it's dangerous to cross over Gramatan and if you do put a parking lot behind that building it's going to be a lot of accidents. What I do, I go up Broad Street if I have to get to my house. That's how I feel it's going to be a lot more accidents. It's going to be noisy, a lot more fumes.

CHAIRMAN HOLMES: Thank you very much.

MENDY: I'm going to try to express what I really feel about the parking area.

CHAIRMAN HOLMES: You're doing fine.

MENDY: Mendy. I live behind them, lot 3. My mother lives with me and she's an older lady. I think it's very, very busy the street.

1  
2 It's a one-way street and we try to  
3 be quiet and try to be nice with  
4 everybody. We like our neighborhood.  
5 It's going to be very busy if they  
6 put the parking in that area. Well,  
7 I do not degree. I don't know, my  
8 mother is old and she walks very  
9 slowly. We used to walk around.  
10 Once a car almost hit her and I'm  
11 very afraid about it.

12 CHAIRMAN HOLMES: Your address  
13 again?

14 MENDY: 16 East Cedar Street.

15 CHAIRMAN HOLMES: Any other  
16 members of the public wish to speak  
17 in favor or opposition to the  
18 application? I'll entertain a  
19 motion. Any other questions we have  
20 for the applicant as the applicant  
21 returns?

22 MS. SNYDER: Are there any  
23 traffic analyses?

24 MS. GROSS: No because we're  
25 not bringing any new cars into the

1  
2 neighborhood. All twenty-five cars  
3 to be parked in the lot already live  
4 in the building. Actually in trying  
5 to do an analysis, you have to  
6 imagine what happens now, how many  
7 times do they go around, how many  
8 block before they find appropriate  
9 street space, versus they will drive  
10 into their own space. While there  
11 will be more traffic going  
12 specifically to this location, it  
13 will reduce the number of trips going  
14 around the block hoping a space will  
15 open up. The note that the Police  
16 Department specifically was actually  
17 positive in saying they had no  
18 objection. It would provide more  
19 parking in an area where there's a  
20 shortage. I want to speak to the  
21 neighborhood just briefly. Both lots  
22 are in the RMF-15 Zone. There's an  
23 accessory use allowed in the RMF-15  
24 Zone. How to deal with the  
25 landscaping. You know, in the best

1  
2 of all possible worlds, the lot would  
3 be a little wider and do a landscape  
4 strip along the east side and still  
5 fit in adequate parking. It's not.  
6 To have the aisle that we need,  
7 there's not space to do landscaping.

8 MR. ZAMUR: . That you need for  
9 twenty-five cars, not twenty cars.

10 MS. GROSS: There is no way to  
11 do the twenty cars. You need the  
12 aisle to park on both sides.

13 MR. ZAMUR: You can do  
14 twenty-five cars and you cannot do  
15 twenty.

16 MS. GROSS: Put in a planting  
17 strip.

18 MR. ZAMUR: I didn't say where  
19 the twenty spots would be  
20 necessarily. You're telling me with  
21 a straight face, there is no way you  
22 can do twenty.

23 CHAIRMAN HOLMES: She didn't  
24 say that.

25 MS. GROSS: You want a planting

1  
2 strip along the east border. You use  
3 the spaces as headed spaces. You get  
4 back maybe five parallel spaces. You  
5 destroy the parking lots utility, go  
6 from having twenty-five to having  
7 twelve or thirteen. There isn't a  
8 twenty option, if you had a planting  
9 strip.

10 MR. ZAMUR: I haven't  
11 considered all factors, angle parking  
12 and all.

13 MS. GROSS: Angle, it is not  
14 appropriate. You need to come in one  
15 direction and go out the other. You  
16 have to have the 90 degree parking or  
17 parallel. If you do parallel, how  
18 many spaces can we fit in along this  
19 side?

20 MR. JUSTINI: Parallel spaces  
21 require 21 to 22 foot space, that  
22 would be one parallel space.

23 MR. ZAMUR: The option you  
24 mentioned again, you said something,  
25 I can't wrap my head around either,

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twenty-five or twelve. You're talking about if we had landscape provision on the east wall.

MS. GROSS: You can't. I'm explaining that to you.

MR. ZAMUR: What I'm saying is that that wasn't the only -- I didn't pose that.

MS. GROSS: I'm suggesting to you it was looked at. That was why we agreed to do the additional landscaping.

MR. ZAMUR: That's not the only wall or only corner that could be landscaped. The neighbors have a very valid point, plus a lot of other open questions I have. I feel that we have to table this and work with staff in terms of the questions.

MS. GROSS: If you have questions, ask them. We'll do our very best to answer them for you. We're not trying to be evasive.

CHAIRMAN HOLMES: Did we

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satisfy you?

MR. JUSTINO: Maybe you can answer it or I may need staff. What are the parking rules on Cedar from Gramatan to your driveway, is there parking on the street there?

MR. JUSTINI: Yes.

MS. GROSS: I believe there is.

MR. JUSTINI: We'll reduce one curb cut.

MR. JUSTINO: Do you know how wide the street is?

MS. GROSS: Probably on the survey. Fifty, which is a standard street in Mount Vernon. More than adequate for the one way traffic it has.

MR. JUSTINO: Not that I'm recommending this, I'm thinking about it, if it's at all feasible, it may not be, whether the parking lot was there, the traffic could only make a left out of the parking lot and Cedar be a two way for the first hundred

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feet, so nobody goes through the neighborhood.

MS. GROSS: I understand what you're saying to avoid having the trips down the block.

MR. JUSTINO: Right.

MS. GROSS: I think you have the trips down the block.

MR. JUSTINO: Consider it before you respond to me.

MS. GROSS: It's not my call to make a street two way.

CHAIRMAN HOLMES: Before I entertain a motion to adjourn the public hearing for this case, I will ask that, do you have any information that will show what the emissions are currently and what they will be in the concentrated area and what you will have done to abate it?

MS. GROSS: I don't know it's necessary. We have a house here burning oil. That house has cars that park in the driveway. We have a



1  
2 driveway here that's a couple of cars  
3 there all the time. Usually the  
4 super and vendors, management from  
5 the building. Me, when I come and  
6 take photos use the parking on that  
7 driveway. It's not as if there are  
8 no cars here. I don't think it's  
9 going to be --

10 CHAIRMAN HOLMES: What I will  
11 ask is to be prepared to address that  
12 question, as well as noise, with the  
13 additional increase of noise, to be  
14 able to address those.

15 MR. JUSTINO: The list of  
16 things to address, if you could, I  
17 guess the plans state that they are  
18 preliminary, the drawings issued at  
19 this time for zoning review only, not  
20 for construction. We'll need, if  
21 you're going to submit a plan, it has  
22 to be something we can consider to be  
23 construction.

24 MR. JUSTINI: The only  
25 outstanding item would be connect to

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the sewer system.

MR. JUSTINO: That's fine, as long as you state that on the drawings.

CHAIRMAN HOLMES: I recommend that you have conversations with the staff to determine which city agency will give you that authorization.

MR. ZAMUR: You mentioned about the lighting, that the lighting would not -- would stop dead at the property line and not bleed onto the adjacent properties. Do you have an elevation of that lighting?

MR. JUSTINI: There's a site drawing.

MS. GROSS: Yes.

MR. ZAMUR: Let me say when you talk about the business of taking down a house, an existing house in a residential neighborhood to put a use such as a parking or any other thing, it's a pretty major deal. I feel that you didn't come really prepared

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to address all the concerns that the neighbors have rightfully come here concerned about with it. If it was next to your house, I'm sure you would feel the same way. We keep fighting for the twenty-five spaces. That maybe something that you could go and say we want twenty-five spaces, that's all we're here to do.

MS. GROSS: I did not say that. I said to you we explored whether there were alternatives and the zoning variance based on the determination making a functional parking lot making a difference.

MR. ZAMUR: Not the neighborhood, just the building.

MS. GROSS: It makes a difference for the neighborhood. Let me suggest, look at the photos, look at the photos. You can see this apartment house and the apartment house over here looms over the houses. It's not a secret there's an

1  
2 apartment house at the corner. This  
3 is not a change. It's a relatively  
4 minor change, while I feel bad for  
5 the neighbors. We had our variance.

6 MR. ZAMUR: You say it's good  
7 for the neighbors. I didn't hear one  
8 testimony for you, except for your  
9 team. So everything else I heard  
10 from the neighbors was in opposition.

11 CHAIRMAN HOLMES: Motion to  
12 adjourn this public hearing.

13 MS. TROTT: Yes.

14 CHAIRMAN HOLMES: Unanimous to  
15 adjourn public hearing.

16 Item 7, recommendation from the  
17 Zoning Board of Appeals. 7.1, Number  
18 1550-Z, 130 Mount Vernon Avenue,  
19 Section 164.68, Block 1063, Lot 1,  
20 located in the CB commercial business  
21 zoning district. The application of  
22 Rella Fogliano, by Architect Michael  
23 DePasquale, requesting a variance to  
24 construct an 11 story mixed use  
25 structure. The Zoning Board is

1  
2 seeking guidance from the Planning  
3 Board concerning: Safe, adequate and  
4 convenient traffic circulation, both  
5 within and without the site and the  
6 protection of environmental quality  
7 and preservation and enhancement of  
8 property values in the neighborhood  
9 area. SEQRA determination, type II.  
10 The Applicant does not require any  
11 SEQRA assessment. Do we have an  
12 application for this?

13 MR. LONG: This is a  
14 recommendations process to a  
15 representation is that the board  
16 makes it's recommendation based off  
17 the information submitted by the  
18 applicant to the board. The intent  
19 is that the board receive the  
20 information and that the package that  
21 you received about a week ago and to  
22 make your determination as to a  
23 recommendation based solely off the  
24 information submitted.

25 CHAIRMAN HOLMES: My

1  
2 understanding that's not what we  
3 discussed last time. We'll go with  
4 that, open up the board discussion  
5 based upon what we discussed and the  
6 discussions during the work session.  
7 Any questions?

8 MR. ZAMUR: No.

9 CHAIRMAN HOLMES: Any  
10 questions?

11 MR. GRIFFITH: Any comment to  
12 the board. The Zoning Board is  
13 seeking guidance from the board for  
14 those two bullet point issues.

15 MR. JUSTINO: If I could state  
16 these recommendations from other  
17 boards become a little dicey in that  
18 we don't have all the detail. We  
19 would surely look at this plan like  
20 we would look at any plan that comes  
21 before us and consider the vehicular  
22 flow, the parking issues and  
23 landscaping and all the issues that  
24 the Planning Board is responsible to  
25 review.

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2 MS. SNYDER: We're aware this  
3 is a heavily trafficked area. When  
4 we get the information that's  
5 pertinent to the traffic circulation,  
6 we'll carefully examine it to make  
7 sure there's adequate arrangements  
8 for the proper vehicular and  
9 pedestrian circulation.

10 CHAIRMAN HOLMES: Any other  
11 comment?

12 MR. ZAMUR: I agree.

13 CHAIRMAN HOLMES: I think we  
14 have captured sufficient comment for  
15 the Zoning Board.

16 We'll come back to item 4.1,  
17 combine it with 7.2. Calendar 4.1,  
18 1694-Z, 100 Lorraine Terrace, Section  
19 165.59, Block 2095, Lot 23, located  
20 in the R1-7 zoning district. Bayview  
21 Real Estate Consultants by architect  
22 Edward J. D'Amore, is requesting is  
23 requesting variances to construct  
24 multi-family dwelling composed of  
25 18 units and accessory off street

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2 parking. The Lead Agency must be  
3 determined prior to rendering any  
4 decisions. The Zoning Board has  
5 transmitted Part I of the EAF, a copy  
6 of the application and Lead Agency  
7 notice to all involved agencies. The  
8 intent to have an agreed upon Lead  
9 Agency within thirty calendar days.  
10 I will also read 7.2. 7.2 calendar  
11 1694-Z 100 Lorraine Terrace, Section  
12 165.59, Block 2095, Lot 23, located  
13 in the RI-7 zoning district.  
14 Application for Bayview Real Estate  
15 Consultants by Architect Edward J.  
16 D'Amore to construct is requesting  
17 variances to construct a four story  
18 multi family dwelling composed of 8  
19 units and accessory off street  
20 parking. The Zoning Board is seeking  
21 guidance from the Planning Board  
22 concerning: Safe, adequate and  
23 convenient vehicular and pedestrian  
24 traffic circulation both within and  
25 without the site and protection of



1  
2 environmental quality and the  
3 preservation and enhancement of  
4 property values in the neighboring  
5 area. SEQRA determination Type II.  
6 This action does not require any  
7 further SEQRA assessment.

8 MR. LONG: Take all the  
9 information submitted in the packages  
10 the board has received, the  
11 information, the Zoning Board is  
12 looking for your guidance as to  
13 whether or not you have any comments  
14 pertaining to how and point to things  
15 to consider, as they seek to render a  
16 decision about the application.

17 CHAIRMAN HOLMES: SEQRA  
18 determination first. I think because  
19 we have notification from another  
20 board seeking Lead Agency or asking  
21 us for our interest. Am I  
22 interpreting that correctly?

23 MR. JUSTINO: What is this  
24 property zoned?

25 CHAIRMAN HOLMES: R1 through 7

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residential.

MR. ZAMUR: Single-family  
residential.

CHAIRMAN HOLMES: Does this  
board have any opposition to the  
Zoning Board's interest, if I believe  
I read correctly the Zoning Board  
interest in being Lead Agency.

MR. GRIFFITH: We don't have to  
make a determination.

MR. LONG: Lead Agency I'm  
talking about. I mean the Lead  
Agency.

MR. GRIFFITH: Who has the  
decision making?

MR. LONG: The Zoning Board.  
It's a single family zone. The  
applicant is proposing multi family.  
The Zoning Board carries the heavier  
weight.

MR. JUSTINO: They're able to  
issue a use variance?

MR. LONG: Yes.

CHAIRMAN HOLMES: 4.1.

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MR. ZAMUR: I have a problem with that.

MR. GRIFFITH: In this case, this property is adjoining single-family homes and an existing multi-family dwelling. The only real issue with this property is that the access comes from a road that drives through the single family residences. That's my concern here. The heavier listing is on the Planning Board.

MR. D'AMORE: Lorraine Terrace is a multi-family street, not single-family.

MR. ZAMUR: You missed the point. The traffic has to come through a single family area. Lorraine Terrace is a deadend street. Also the fact given that the parking situation on that street is dyer at best right now and turning to get back out of the street is not easy either. So the impact more residential, with more residences,

1  
2 more cars and more traffic, plus the  
3 fact that I believe when it comes to  
4 the protection of property values in  
5 the neighborhood area that protects  
6 it greatly. Therefore I agree with  
7 Commissioner Griffith that we to have  
8 the heavier lifting.

9 CHAIRMAN HOLMES: Entertain a  
10 motion.

11 MR. JUSTINO: Perhaps it should  
12 be a City Council move, because it is  
13 not zoned for multi-family. You  
14 know, it's being completely rezoned.  
15 Perhaps that's even out of the  
16 purview of the Zoning Board. I'm not  
17 sure if we should be even taking on  
18 the Lead Agency until that zoning  
19 issue is clarified.

20 CHAIRMAN HOLMES: What is the  
21 pleasure of the board?

22 MR. JUSTINO: Let's hear from  
23 the rest of the board, those who  
24 haven't opined.

25 MR. ZAMUR: What are you

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saying?

MR. JUSTINO: William made a point, there were two or three comments, it would make sense to hear from the other members who haven't given their opinion so we can find a direction to go into.

CHAIRMAN HOLMES: May I offer a recommendation to the board. I recommend I think that the board is divided on the step for lead agency. I believe that I observed that the board believes that this body has appreciable amount of work to do and may have the majority of work to do in comparison to the other land use agencies with regard to this application ultimately. That being the case, I think that there needs to be a little more discussion, deliberation perhaps.

MS. SNYDER: We need more information and more dialogue with the other agencies. What is the

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start of the 30 days from this, Mr. Long? How much is left on the 30 days?

MR. GRIFFITH: Not enough until the next meeting.

CHAIRMAN HOLMES: I will need Counsel to give me an indication as to whether or not this board will lose it's opportunity to apply for lead agency if we exhaust the 30 days.

MR. JOHNSON: Will you lose the opportunity to act as Lead Agency if you lose the 30 days? I'm sorry.

CHAIRMAN HOLMES: I'm reading from staff's comment about the intent is to have an agreed upon Lead Agency within thirty calender days. Is that thirty calender days mandatory or statutory or a desire?

MR. LONG: That's State Law 30 days.

CHAIRMAN HOLMES: What are the ramifications if we exceed the

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30 days?

MR. JOHNSON: That would be something I have to research.

MR. LONG: If the board exceeds the 30 days, the board has 30 days to respond about the Lead Agency. If the board does not respond, basically what it means, the Zoning Board can assume the right to Lead Agency and the Planning Board doesn't have any objection to it.

MR. JUSTINO: Can we request of the Zoning Board to not make a decision based on our concerns?

CHAIRMAN HOLMES: I have an idea. I will recommend this to the board, I will recommend where you were going, I will recommend that we do not make action tonight and reach out and instruct staff to reach out to the Zoning Board. I will reach out to my counter part on the Zoning Board and see if we can make arrangements to extend the

1  
2 discussion. I think this discussion  
3 and impact of this application to  
4 this community warrants us taking  
5 that time.

6 MS. TROTT: That's fine.

7 CHAIRMAN HOLMES: Okay. So  
8 we'll table 4.1 to the next meeting  
9 and --

10 MR. ZAMUR: If we have to act  
11 before the next meeting, what are our  
12 options?

13 MR. LONG: We advocate our  
14 position. I don't think that will be  
15 the case. I think that we'll be able  
16 to work out something, have  
17 negotiations about the Lead Agency.

18 MR. ZAMUR: What if the  
19 position right now that we agree to  
20 move forward, we would like to become  
21 lead agency on it, at least we're in  
22 and if they have opposition, they  
23 have the next 30 days.

24 CHAIRMAN HOLMES: That I'm open  
25 to.



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MR. ZAMUR: That would be the safest.

CHAIRMAN HOLMES: Give me a motion.

MR. LONG: For clarification, the Lead Agency response is March 26th.

CHAIRMAN HOLMES: 7.2, comment on the board's response to 7.2 to the Zoning Board.

MR. GRIFFITH: I think they go hand in hand. If we're going to be Lead Agency, we don't have to respond.

MR. LONG: Two different thing.

MR. GRIFFITH: They still need to make a decision.

CHAIRMAN HOLMES: They're asking us for comment. They're two different requests.

MS. SNYDER: We can object to this request to be Lead Agency and then discuss it.

CHAIRMAN HOLMES: What I'm

1  
2 asking the board right now is focus  
3 on 7.2 and come back to 4.1 for the  
4 Commissioner to give us his  
5 information.

6 MR. JUSTINO: Can I clarify  
7 Janet's comment? If we reject the  
8 Zoning Board's request for Lead  
9 Agency and not ask for it --

10 CHAIRMAN HOLMES: They're not  
11 making a request. They're asking us  
12 what our desire is.

13 MR. LONG: The Zoning Board is  
14 basically saying they want to be the  
15 Lead Agency. They're asking if any  
16 other board or agency object to them  
17 being Lead Agency, meaning that  
18 particular board or agency wants to  
19 be the lead agency.

20 MR. JUSTINO: Say we object and  
21 want to be.

22 MS. TROTT: Make a motion and  
23 say that.

24 MR. JUSTINO: That's okay.

25 MR. JOHNSON: The Zoning Board

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has a stronger case for being the  
Lead Agency.

CHAIRMAN HOLMES: We  
established that's not the case in  
our opinion.

MR. ZAMUR: I make a motion  
that the Planning Board rejects the  
proposal by the Zoning Board to  
become the Lead Agency and that the  
Planning Board assumes that position.

MR. GRIFFITH: I second that.

CHAIRMAN HOLMES: I presented  
an amendment as opposed to reject. I  
would offer that change of wording  
that the Planning Board -- as opposed  
to reject the Zoning Board asked us  
do we object. We object to the  
Zoning Board lead agency initiative  
and why.

MR. LONG: What you're saying  
is you don't necessarily need to  
state that you object to them being  
the lead agency. You basically need  
to state that you feel you should be

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the Lead Agency.

MR. ZAMUR: I propose a motion that the Planning Board shall be the lead agency on this project.

MR. GRIFFITH: Second.

CHAIRMAN HOLMES: All those in favor? All opposed.

MR. JUSTINO: Aye.

CHAIRMAN HOLMES: Two opposition. The ayes have it. 7.2, comment to the Zoning Board of appeals.

MR. GRIFFITH: I asked to be Lead Agency. Why am I going to comment?

MR. LONG: Two different questions.

MR. ZAMUR: We need more information even to comment on this.

CHAIRMAN HOLMES: It's appropriate to comment, but specific to the request for comment based upon that board's remand, which is for variances. The response should be

1  
2 similar to that made on 130. As a  
3 Planning Board when we have more  
4 detail, we'll be looking at the  
5 issues that are our responsibility,  
6 such as vehicular and pedestrian flow  
7 and storm water runoff and all those  
8 issues that we'll look at in a  
9 methodical fashion.

10 MR. LONG: The Zoning Board is  
11 asking you, because the Zoning Board  
12 is the one who essentially sets what  
13 the parameters are.

14 CHAIRMAN HOLMES: The variance.

15 MR. LONG: They're things they  
16 should consider as making the  
17 definition setting those parameters.

18 MS. SNYDER: This is a deadend  
19 street and once vehicles have  
20 ingressed, there will be a logistical  
21 issue for egress.

22 MR. LONG: Traffic flow,  
23 traffic circulation.

24 MS. SNYDER: You have a point.  
25 You're reaching a deadend, unless you

1  
2 create a cul-de-sac, there is no  
3 natural logical turnaround.

4 MR. D'AMORE: That's not  
5 accurate. Could I make a comment to  
6 the board? I'm the architect for the  
7 project. Can I make a comment?  
8 Architect for the property. I  
9 understand that the way the  
10 presentations are made to the  
11 Planning Board and recommendations  
12 and things like that have changed and  
13 evolved over the years. In years  
14 past when the Zoning Board asked for  
15 a comment from the Planning Board,  
16 the architect and the attorney and  
17 the owner would be here to make a  
18 presentation to explain what the  
19 project is, not letting the papers  
20 speak for themselves. It's a  
21 complicated project. It took eight  
22 drawings to make the preliminaries to  
23 present it to you. You folks might  
24 not all be architects. Somehow that  
25 has evolved and changed. To evolve,

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I might say devolve. You're now asking for less information. We think that the Planning Board recommendation to the Zoning Board is important, that if you folks say we think it's a good project, we think it should go forward, the Zoning Board will take that into their consideration when they make a decision. If you're saying we don't think it's a good idea, the Zoning Board will take that into consideration. It's a recommendation you can make. The importance we feel your opinion is and considering the amount of money involved here, client bought the property, paid an architect, paid an attorney, has development costs, he has a lot of front end soft costs, for you not to hear what the project is about from an advocate of the project, is closing down the property owner's chance to make a presentation. We

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don't think that's right.

CHAIRMAN HOLMES: Let me explain something to you. I appreciate your comments. Let me explain, give you an explanation which I think will make you understand the why behind our change. The change in our policy is not limited to just restricting the presentation or changing the presentation. One of the reasons why we're changing it, we found the process between the two boards was not serving the clients, nor was it serving the community. We're changing the way we're going about it and that is changing up the dialogue. However, the ultimate considerations I think will be complete. The Zoning Board will give full consideration for the variances that the applicant seeks. You will get full consideration for any of the site plan or other considerations that



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2 apply to this board. The change in  
3 our policy, our process will not  
4 change that.

5 MR. D'AMORE: As a matter of  
6 fact, as I'm hearing the discussion,  
7 I'm hearing things, if I made a  
8 presentation would be answered  
9 affirmatively and you don't have that  
10 information. All you have is your  
11 interpretation of the plans. You  
12 don't have the presentation.

13 CHAIRMAN HOLMES: What I want  
14 to explain to you, what will change  
15 now, some of the comments that used  
16 to come from these boards, based on  
17 that old process will not happen  
18 anymore.

19 MR. JUSTINO: Go ahead.

20 CHAIRMAN HOLMES: What this  
21 board is better prepared to do now is  
22 make professional comments to the  
23 other land use board that are more  
24 appropriate to them and better  
25 positioned for the request that was

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2 made to us. In the past there were a  
3 whole lot of comments made, probably  
4 not germane to the request. That  
5 will change.

6 MR. D'AMORE: You're making  
7 comments with less information.

8 MR. JUSTINO: For  
9 clarification, this project is not  
10 before us for planning review.

11 MR. LONG: That's correct.

12 MR. JUSTINO: It is just the  
13 Zoning Board asking for any  
14 particular recommendations that we  
15 might have.

16 MR. LONG: That's correct.

17 MR. JUSTINO: We're not denying  
18 your due process for presenting it to  
19 the Planning Board. Until the  
20 variances are determined, if there's  
21 the inability for the variances to be  
22 agreed upon, this project will not  
23 come before the Planning Board. Is  
24 that correct?

25 MR. LONG: That's correct.

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2 MR. JUSTINO: We do not want to  
3 start commenting on a project that  
4 may not look what it looks like now  
5 or even come before us. We would  
6 rather see it in the state that it is  
7 going to be ready for planning  
8 review. Perhaps you had a little  
9 more to say in the past at this point  
10 in time, I'm not sure.

11 CHAIRMAN HOLMES: Go ahead.

12 MR. D'AMORE: The board in the  
13 past times, when there were all  
14 different faces on the board before  
15 each of you were appointed to the  
16 board, they had, the board had two  
17 functions, the board one gave comment  
18 to the Zoning Board on questions just  
19 like this and then secondarily, when  
20 the project came back for site plan  
21 review, they would make other  
22 comments. Some projects have zoning  
23 variances attached to them, never  
24 come to you for site plan review.  
25 One or two family houses, in cases

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2 where there is no parking spaces  
3 added. They might need a variance.  
4 Your opinion is often times  
5 requested. In this case it will come  
6 back to you. I think they're asking  
7 you to make a comment and you're not  
8 availing yourselves of all the  
9 information out there to hear what  
10 the project is about.

11 CHAIRMAN HOLMES: Our change in  
12 policy applies to the latter, the  
13 second, not the former.

14 MR. D'AMORE: Clarify that.

15 CHAIRMAN HOLMES: It applies to  
16 the people who come before us for  
17 site plan review, not the ones who  
18 will never come before us. Any other  
19 questions? Any other comments? We  
20 were finishing on the comments for  
21 7.2.

22 MR. ZAMUR: The other one that  
23 I had to the Zoning Board, is that in  
24 regards to part two, the protection  
25 of environment quality and

1  
2 preservation and enhancement of  
3 property values in the neighborhood,  
4 that property would back  
5 single-family houses. The impact  
6 that would have on the property  
7 owners adjacent to the property,  
8 adjacent on the back side. There's  
9 issue of I know that the proposed  
10 property is going to be built on a  
11 ridge, for all intent and purposes.  
12 Therefore the environmental impact  
13 there that would make drainage, also  
14 other factors that would --

15 CHAIRMAN HOLMES: We'd have  
16 concern.

17 MR. ZAMUR: We have concern.

18 CHAIRMAN HOLMES: Should those  
19 issues not be properly abated.

20 MR. GRIFFITH: Has there been a  
21 presentation to the Zoning Board?

22 MR. LONG: The applicant  
23 submitted an application to the  
24 Zoning Board. That's where the  
25 public hearing lies at this point.

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CHAIRMAN HOLMES: You're currently in an adjourned public hearing in front of the ZBA?

MR. D'AMORE: Yes. We're happy to give this board additional information.

CHAIRMAN HOLMES: We'll also make sure you get the full text of the questions. We'll make sure there's any clarification.

MR. GRIFFITH: If we become lead agency would the presentations be made to us first?

CHAIRMAN HOLMES: It's mute. They made one presentation.

MR. LONG: That's with the Zoning Board. What will happen now, there's a process that will have to take place to determine who's going to be the Lead Agency, the Zoning Board or Planning Board. I have to get back to you.

MR. GRIFFITH: Do you know what the answer to that is, what happens

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now?

MR. LONG: What happens is that  
it's going to end up going to the  
State DEC. I'll find that out.

MR. GRIFFITH: Make a motion to  
adjourn.

CHAIRMAN HOLMES: Motion to  
adjourn unanimous.

(Adjourned 9:22 P.M.)

CERTIFICATION

This is to certify that the foregoing  
is a true and accurate of the Meeting as  
taken and transcribed by me.

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Joseph Jacoby  
Court Reporter

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