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TRANSCRIPT OF  
TOWN OF EASTCHESTER PLANNING BOARD MEETING  
JANUARY 26, 2017

HELD AT: Eastchester Town Hall  
40 Mill Road  
Eastchester, New York 10709  
7:00 p.m.

BOARD MEMBERS IN ATTENDANCE:  
CHAIRMAN JAMES BONANNO  
MARK CUNNINGHAM, MEMBER  
PHILIP NEMECEK, MEMBER

EASTCHESTER EMPLOYEES IN ATTENDANCE:  
MARGARET UHLE, DIRECTOR OF PLANNING  
ROBERT TUDISCO, DEPUTY TOWN ATTORNEY  
JAY KING, BUILDING INSPECTOR  
MICHAEL VERNON, ASSISTANT PLANNER

Dina M. Morgan, Reporter  
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THE CHAIRMAN: Sorry for the delay.  
Good evening. Welcome to the Planning Board meeting for the town of Eastchester for January 26, 2017. If everyone would rise for the Pledge of Allegiance, please.  
(Whereupon the Pledge of Allegiance was said.)  
THE CHAIRMAN: There are two members that won't be attending tonight, Bill West and Robert Pulaski. The other members you see are here; Mr. Phil Nemecek.  
MR. NEMECEK: Present.  
THE CHAIRMAN: Jim Bonanno is here.  
Mark Cunningham.  
MR. CUNNINGHAM: Present.  
THE CHAIRMAN: Just for the record, there is one application that has been adjourned that we will not be doing tonight and that is 600 White Plains Road. That's adjourned for the evening.  
So the first application tonight is an open application, 16-30, 760 White Plains Road.  
MR. IANNACITO: Good evening. My name is John Iannacito, an architect, and I'm  
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representing Keller Williams Realty Group this evening. With me tonight is Jamal Hadi, the owner and the applicant; John Kirkpatrick, the attorney for the project; and Andrea Connell, the traffic engineer for the project.  
Based on the comments that we received at the last meeting, we made a couple of revisions to the application. We reduced the proposed square footage of the addition by 665 square feet, which created a reduction in

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the parking requirement from 36 spaces to 32 spaces. Of those 32 spaces that are required today, 24 of them are preexisting non-conforming parking spaces that are required. So we've actually increased the deficiency by 8 parking spaces, but we're also adding 4 new spaces so we're actually increasing the deficiency by 4 spaces, but we still need a variance for the entire amount.

We also made some modifications to the previous parking layout to address some of the comments for the on-site parking access, and we'll have the traffic engineer explain some of those changes when she comes up.

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Also, as requested by the board, we submitted an aerial view of the subject property, which also shows the adjoining properties. Here is the subject property and then the adjoining; the bank, the restaurant, and another real estate office behind. We also prepared a plan, a site plan showing the adjoining properties in relation to the subject property and showing the traffic pattern and how the cars get in and out of each property. We also have an aerial view that shows the same site plan. Here is the subject property, the existing building. Primary access for this property is from White Plains Road through a shared driveway, which is shared by the corner property here which is occupied by a bank. The bank also has access on Reynolds Place. On the other side, the corner property is a restaurant which has access from Wilmot Road, and then the property behind here is a real estate office which also has access from Wilmot Road. All these properties are interconnected and cars can cross through from Reynolds Place out towards Wilmot Road. You can see that here on

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this. The aerial view also shows a diagram of the existing traffic patterns similar to what was shown on the drawing.

Here is the proposed subject property with the neighboring properties, this is the subject property showing the new footprint with the addition at the front and a reduction in the footprint at the rear. So we're going to demolish a good portion of the building at the rear to create more parking spaces, reconfiguration of the parking area. All the street access points will remain, and we will also be removing a retaining wall between the subject property and the restaurant property and re-grading the subject property to raise the grade in order to align with the restaurant property and maintain the through traffic as it is today.

At this point, I'm going to hand it

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over to Andrea and have her discuss some of the revisions that were done to the parking study, and then we'll be happy to answer any questions you might have.

MS. CONNELL: Good evening. My name  
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is Andrea Connell. I'm with VHB. We represent the applicant as the traffic/parking consultants for the project.

We had submitted a memorandum dated January 10th. It was in response to some of the concerns that were raised by the board, the board's consultant Maser, and also the public. Instead of going through every little detail in that memo, I just wanted to point out some of the key items of note.

As John mentioned, the size of the building has been reduced again; thereby, the size of the variance has also been reduced from 27 to 24. The columns that were previously in the parking area have been removed, and we've been able to make the spaces wider, which makes it easier for vehicles to pull in and out of the parking spaces. We're also maintaining the current access between the neighboring Tutta Bella, which had been shown on here as well. We also have agreed with the consultant's recommendations regarding that shared driveway to make it or sign it as one way and also to prohibit parking against the project building.

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One other thing that we did, if you noted in the memo, we had gone out on the Sunday before Christmas just to see how bad the parking is in the area, and we were pleasantly surprised to see that it was not as bad as some might have claimed that it should be.

We feel that the variance that we're requesting is not excessive, especially when you compare that to a variance that was recently granted to the property across the street at 777 White Plains Road. So the proposed expansion of the building combined with the elimination of the hair salon, it will minimally increase parking and traffic activity at the property, and we will be providing four more parking spaces as well. So essentially we're concluding that there is adequate parking capacity, both public and private, to accommodate the project as well as its neighbors. So we stand by our conclusion that the new parking area will operate satisfactorily with the wider parking spaces, and that the project will not adversely impact the adjoining properties either by parking

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issues or traffic issues. Thank you.

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MR. NEMECEK: Can you explain to me how the proposed leveling of the grade with the restaurant parking lot next door -- how does that address the parking situation; how does it make it better?

MS. CONNELL: The change in grade?

MR. NEMECEK: Yes, the change in grade.

MR. IANNACITO: If we look at the site plan, currently there's a retaining wall here which divides the Tutta Bella property and the subject property. So the grade on the Tutta Bella property is about a foot to 18 inches higher from the subject property except at the back here. It goes back up at this point so you're able to cross through. So by removing that retaining wall, we need to raise the grade in this area, which you can see the new contour lines on the site plan which shows the grade coming up towards the corner here. So any runoff will slope back down this way and then we're going to propose a linear drain here to capture any runoff from this property.

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So in order to maintain that access between the two properties, we need to raise the grade because we're pushing the building -- we're eliminating a good portion of the building at the rear here, so when we put these new parking spaces on both sides of the rear yard, the access aisle will be in middle here and we need to raise the grade in order to allow the cars to proceed through to the other. Without raising the grade, there will be a 12 inch step up.

MR. NEMECEK: Because you're proposing to put --

MR. IANNACITO: Remove that retaining wall.

MR. NEMECEK: -- To put parking spaces where the current -- yeah, where the current driveway that is at grade, roughly, where you can pass through right now.

MR. IANNACITO: The problem is the parking on Tutta Bella extends right up to the end of the retaining wall. So with the removal of that retaining wall, we're going to re-stripe this area here, relocating two spaces

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in this corner, and eliminating two spaces here. So the Tutta Bella lot will not lose -- their parking count will not change, it will remain the same, we're just shifting two spaces up.

MR. NEMECEK: Correct, because you're moving the access point down.

MR. IANNACITO: The wall right here, right, where the existing parking is, because this parking here is moving down to here

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because the building is getting cut back.

MR. NEMECEK: So the net effect on the Tutta Bella parking is zero; they'll just be moved --

MR. IANNACITO: Here's the two new spaces up here. You see that on this aerial here. On the proposed plan, I actually put the two cars in.

MR. NEMECEK: I got it now. It's a necessity to change the grade because you're moving the access point.

MR. IANNACITO: Right. If we didn't change the grade, the cars would no longer be able to go through. By making this a one way

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access here, the cars will need to go in both directions. Also, the owner uses five spaces at Tutta Bella in the morning hours, so to allow his clients to park in here and then the pedestrians to walk back over, it makes sense to create that access here.

MR. NEMECEK: Mr. Iannacito, I also am interested in a more specific description of the reduction from the prior plan that was shown to us of 600 and something square feet; show me where on the building plan.

MR. IANNACITO: We were also proposing to reduce the size of the building on the ground level, but we were going to cantilever the second and third floor over and have columns. We've eliminated that entire cantilever, so that's where the 600 square foot reduction came in. So we won't have any more columns, we won't have any more covered parking in the rear. The building will just stop and go up.

MR. NEMECEK: And how, if at all, does that affect the number of individuals who were going to be using the building at any given

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point? I know we had heard at our last meeting that part of the purpose of the renovation and expansion was to put meeting rooms in, you know, where educational seminars could be provided and meetings could be held. How does the reduction in the proposal, the 600 plus square feet, affect the usage of the building, because ultimately it does plainly change the equation as to how many additional spaces you would need to be conforming, that piece is clear, it's just math, but in terms of practical effect, is the reduction by 600 plus square feet going to have a commensurate reduction in the number of people who are anticipated to be using the facility at any given point?

MR. IANNACITO: I think that's something that maybe John Kirkpatrick or Jamal could answer. The building being reduced in

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size on the second and third floor, those spaces previously were shown as offices.

THE CHAIRMAN: You know what, before we talk to John, maybe you could sort of explain it, because I think this all sort of  
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factors in to what the rooms that are being created on the plans are going to be used for, because as I look at the parking -- and we could talk about the parking for awhile -- but looking at the plans, I'm still not sure -- and I read the description that's been given to us -- I'm not sure what's going to be what room and how many people are going to be there, because I've seen up to 25 people are going to be utilizing the space on Monday mornings and there ain't no 25 parking spots provided anywhere.

MR. IANNACITO: True, yes.

THE CHAIRMAN: There are not any, sorry.

MR. IANNACITO: The classroom that's being proposed I guess --

THE CHAIRMAN: Can you just go floor by floor and point out the rooms and what they're noted as, because reading what was sent to us we were told there's only one more person that's going to be in this space.

MR. NEMECEK: I think we were told one more permanent employee.

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MR. IANNACITO: Everyone else comes and goes throughout the day.

MR. NEMECEK: Plainly the thought of classrooms --

THE CHAIRMAN: One more person is -- I don't know what that means. It means there's one more permanent employee, but I don't know how that affects parking except there's one more person that has to park. Maybe you could go through what the rooms are that you laid out.

MR. IANNACITO: Sure. On this drawing here, we show the existing condition and the proposed. On the lowest floor, this space is used for a hair salon today, so that use is being eliminated all together.

So now by pushing the building out towards the street, we're going to be able to access the building at grade level. Right now you can't. You have to go up a flight of stairs to get up to the main floor and this floor here is completely below grade. So at grade level by pushing the building forward we're going to be able to walk into the

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building just like the bank next door. So

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we're going to have a new entry vestibule, a reception area, and a couple of offices and conference rooms.

THE CHAIRMAN: So four offices?

MR. IANNACITO: Two offices, two conference rooms, and a reception waiting area.

THE CHAIRMAN: Okay. So two offices on the ground floor. How many are now on the ground floor?

MR. IANNACITO: It's just a hair salon.

THE CHAIRMAN: Yes, I know, but -- okay. Right. Next floor.

MR. IANNACITO: The second floor is currently used as a smaller training room in the back, which is going to be the same use as the new training room. No offices on this floor. A kitchen staff room back here.

THE CHAIRMAN: So training room, I guess movable seats?

MR. IANNACITO: Yes. It's like a classroom for seminars.

THE CHAIRMAN: Right, and that's the  
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room where Monday mornings it's stated that there will be people coming in there but there's no additional offices. Is there an office existing on that floor?

MR. IANNACITO: There's an office, a conference room, a waiting area, a training room on that floor.

THE CHAIRMAN: There's a smaller training room. So what's the difference in square feet between the training rooms?

MR. IANNACITO: It's three times the size.

THE CHAIRMAN: For the new training room?

MR. IANNACITO: Yes.

THE CHAIRMAN: So how many people in that training room now?

MR. IANNACITO: How many people in the training room?

MR. TUDISCO: Put your name on the record, please.

MR. HADI: My name is Jamal Hadi. I'm the principal broker for Keller Williams Realty.

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Right now we average between 8 to 10 people in our training room. We have 6 tables and chairs around. The challenge we face today is that it's very narrow. It's 30 feet long by 11 feet wide. The new training room, I believe, is 30 feet long and 24 or 25 feet wide. So it allows us to just have easy access and more comfortable seating.

THE CHAIRMAN: Okay. Thank you.

MR. IANNACITO: So that was the first

floor.

MR. NEMECEK: It's a little more than double the size; right? If the dimensions are correct, it's a little more than double the size?

MR. IANNACITO: We're looking at 25 by 35.

MR. NEMECEK: Okay. So it may be closer to three times, two and a half to three times. Okay.

THE CHAIRMAN: Then the next floor.

MR. IANNACITO: The next floor, existing we have open desk area and offices in the back; one, two, three, four small offices.

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This is going to be open desk area; one, two, three offices; one computer room; and another conference room.

THE CHAIRMAN: So it's the same number of offices, it's just bigger.

MR. IANNACITO: Three larger offices.

THE CHAIRMAN: So now the same question about the open desk area -- which is the open desk?

MR. IANNACITO: Right here. It's slightly larger also. It's 25 by 25. This probably is 25 also, it's just not as deep.

THE CHAIRMAN: So open desk area is sort of nondescript; what exactly is it?

MR. IANNACITO: It's like cubicles -- cubicles for the staff to sit at or for real estate agents that come and go.

THE CHAIRMAN: So that's the temporary space that the narrative spoke of; people come in, they do what they do and they --

MR. IANNACITO: Sit at their desk, go through files.

THE CHAIRMAN: So how many cubicles are there now?

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MR. IANNACITO: That I'm not sure of.

MR. HADI: When we design the furniture, we factor in about, you know, 5 feet by 5 feet for a comfortable one person. So whatever the dimensions are, you divide that and that will give you maximums without factoring in the aisles.

MR. IANNACITO: What we could do is for the next submission I can draw the cubicles and give you an exact count. These cubicles are standard size.

MR. NEMECEK: I have a question about the -- I think we referred to them as independent brokers or independent contractors -- you said most of them have some sort of home office but they may also come to your office to do work to meet with prospective home buyers or whatever. These independent contractors, are they effectively free agents,



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they work -- they sell homes for you, they sell homes for somebody else or are they just exclusively at your --

MR. HADI: They're independent contractors, so technically they could leave  
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any time but usually they're associated with one brokerage.

MR. NEMECEK: Okay.

THE CHAIRMAN: So one more question about the operations. While you're here, maybe you can answer it. When this training is being conducted Monday mornings, are the cubicles on the upper floor also being used by someone who is not attending the seminar and is an agent, temporarily an agent comes in, those cubicles may be filled also?

MR. HADI: No, typically not. Most when we're having our classroom or our meeting, they're all at the meeting and then they all disperse. They either go back to their desk or they leave.

MR. NEMECEK: Tell me a little bit more about how the brokerage operates in terms of the independent contractors. First of all, with the expansion of the building, do you also envision having more contractors, more brokers, more independent contractors, or is that number going to stay the same with the hope that maybe it will grow gradually with the business?

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MR. HADI: It's a very -- you know, real estate is very difficult as you all know.

MR. NEMECEK: Cyclical.

MR. HADI: That's exactly it. So obviously we would love to have more successful realtors, but there's competition and different companies offer different incentives, but one of our valued propositions is to obviously provide them with a good work and office environment. Although most people work from home or they go out with clients, it's still good to have a place that they could call home and refer to as a place of work. So the hope is to grow, however, scaling down the building and reducing the back is going to come at a cost of not able to perhaps attract more, but that's just the nature of the business. It isn't a ratio of space to people, it's more of are we able to provide them with employees. The question of one more employee is meaning that we're three employees now, we're going to go to four full-time employees, and I'm high. Most real estate companies operate with two employees. So I know although you might think

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one is very small, four employees in a real

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estate office is typically very high. So I'm hoping that I'm going to attract more, but I think that the --

MR. NEMECEK: Getting back to the very broad question about how the business operates from -- obviously, we've identified a concern in particular about parking, and it will help us evaluate this application to know a little bit more about how your business works on a practical level. In particular, you mentioned you have three full-time employees now and you'll have a fourth with the expansion. The wild card here is the independent contractors, the brokers who have an association with -- they have a contract with your company; how often are they on site? How often are they, quite frankly, in need of a parking space? Plainly, you have educational seminars and one would think the brokers would be encouraged to attend those, maybe, as you said, a place where they could call home and work from. From a practical standpoint, what is their typical usage -- what is the typical usage? How many

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brokers do you have on site at any given point? How frequently do the brokers typically come to the office when they come to the office? Do they use the office on weekends at all? Tell me.

MR. HADI: Well, most real estate -- I could say that we would have on average about eight people in the office at any given time. I mean, that's just people that love to come and work from an office. You're always going to have those individuals. The industry is known for a lot of people coming in and out. They're either picking up paperwork, dropping off paper, or they're giving checks in or they're picking up checks so they could get paid. So in an hour you might have -- and I'm guessing here but I might be close to accurate -- you might have two to three more individuals coming in within the hour and leaving.

MR. NEMECEK: The eight people who are typically there are the four permanent employees plus --

MR. HADI: It would be the three  
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employees -- yes, with the employees, and then about three to four people coming in and out within an hour.

MR. NEMECEK: And obviously that can fluctuate.

MR. HADI: Without a doubt. I mean, there are hours when no one is coming in. Most of the action happens between -- in the morning. What makes a real estate career an attractive one is that you have flexibility.

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So a lot of people with kids that can be home with their family usually are in the office in and out when the kids go to school and then they go back home.

MR. NEMECEK: During normal school hours.

MR. HADI: That's exactly it. The relationship that we have with Tutta Bella is that we're able to utilize their spaces during the morning hours where most people have time to come in and out, and they're able to use our parking spaces in the evening where we're not using them.

Plus, as John mentioned, we do have  
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permit parking where some of my -- I have two parking spaces that are permanent parking spaces that my employees use now, and I only secured those two permits since I started this application and it has lessened the burden on the building as well.

So John also mentioned not having the hair salon there as well. I think overall providing the additional parking spaces and the nature of the industry that we're in, I'm not going to say there's no issue with parking, there will always be an issue with parking, but I think it's more than good enough for us.

MR. NEMECEK: Believe me, I appreciate your candor. I could tell you're speaking as honestly as you can. So typically there are eight people, there may be a couple more people coming in during the hour to pick up checks, two or three people.

MR. HADI: Correct.

MR. NEMECEK: When are you most utilizing the building, most fully utilizing the building, namely -- I know you're talking about expanding the classroom area, typically

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how many -- how many times a week, how many times a month, how best to express it in a temporal sense, you let me know, but how often are you going to have bigger groups of people there for some form of an educational seminar?

MR. HADI: We host weekly meetings and that's usually on a Monday morning. That's why I mentioned before that's where the largest number will happen because that's when you attract the most and you're going to deliver whatever message and whatever class, whatever program you're running, and then they go on about their day. The meeting starts at 9:00 a.m. and by 10:30 the building drops to the normal number.

MR. NEMECEK: Is there an expectation that your brokers are supposed to be at that meeting, or is it targeted to, you know, a particular skill that some brokers are maybe

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new, they might be encouraged to attend?

MR. HADI: We can't mandate people to attend meetings, so people come in and out. There are times we have 12 people at a team meeting and there are times we have 20 people

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at a team meeting. We can't mandate it. According to the state, you could never mandate it. So we just hold it and if people show up, you have to do the meeting for 10 people or 12 people.

MR. NEMECEK: Right now you have one weekly meeting?

MR. HADI: That is correct.

MR. NEMECEK: Is that expected to change?

MR. HADI: No. No. I would hope to continue that meeting.

MR. NEMECEK: But it would still be one meeting, you're not going to now have a daily meeting?

MR. HADI: I'm sorry.

MR. NEMECEK: You're not expecting to -- if we approve this application -- to go from having one meeting and now that you have a bigger meeting space now you're going to have five meetings?

MR. HADI: No. The expectation is not have more meetings. The expectation is to have them out there working and selling houses.

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THE CHAIRMAN: But if it happens that you need a second meeting --

MR. HADI: I'm sorry.

THE CHAIRMAN: But if it so happens that you need a second meeting in that week, you will, obviously, conduct it.

MR. HADI: If there is a need for it, without a doubt. Only if there is an emergency or something happens where there are changes in rules and regulations where we have to get them back in and just deliver the message. Outside of that, you stick to what you have.

THE CHAIRMAN: So how many independent contractors work in your office?

MR. HADI: Right now?

THE CHAIRMAN: Yes.

MR. HADI: I have a hundred people associated with me.

THE CHAIRMAN: Okay. So they know -- so you're saying that --

MR. HADI: By the way -- so when I say that, they're not all full-timers. Full-time maybe there are 18.

THE CHAIRMAN: Are they just

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independent contractors for your agency or are

they --

MR. HADI: That's correct. I have two locations as well. I have one in the Bronx and one here in town.

THE CHAIRMAN: So it's not like brokers from other agencies are going to come to these seminars, they're the folks that --

MR. HADI: Typically it's for our own internal people.

MR. NEMECEK: The one hundred is for both locations combined?

MR. HADI: No, just for my location here.

MR. NEMECEK: Oh, just for this location?

MR. HADI: Yes. They're licensed in New York State. They live in Westchester County, Putnam County, Dutchess County, the Bronx, New York City. It's just I have all their realtor licenses.

THE CHAIRMAN: Okay. So although we said earlier that the folks in the cubicles upstairs -- the cubicles upstairs are vacant

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when the training is done, I can't believe that someone might not just come in and want to work and not go to the seminar on Monday morning.

MR. HADI: Typically if there is a meeting happening, the message is clear that if you're in the building, you want to sit at the meeting and listen to what we have to say. I could never say it would never happen because that would be a lie, but I could say that 99 percent of the time they're sitting at the meeting. There are certain circumstances where they have to go out and deal with an emergency or a situation where they have to leave, but it would be disrespectful if they're in the building and not at the meeting.

MR. NEMECEK: I think you've answered my questions about the business operation.

THE CHAIRMAN: So this gentleman is going to talk about -- we still have the traffic person here -- you're going to talk about the next --

MR. NEMECEK: We have to hear from the lawyer.

MR. HADI: Can I sit now?

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THE CHAIRMAN: Yes.

MR. NEMECEK: Thank you.

MR. IANNACITO: Do you want to see more of the drawings, the plans?

THE CHAIRMAN: No. Let's hear from the lawyer.

MR. IANNACITO: I think the only floor that we didn't cover is the upper floor, which is basically the same as the floor right below it with the one big open space and then offices

around.

THE CHAIRMAN: You know what I do want to see but not right now -- just remind me before we're over -- have we looked at the front elevations on this building?

MR. IANNACITO: I think initially.

MR. NEMECEK: We've definitely been consumed with parking.

MR. IANNACITO: Here's the existing front elevation and this is a big stone wall here. So you have to go up some stairs to get to this level. By pushing it out, we're going to have a brick base, a new entrance here. This is going to be a glass facade. So it's a

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mixture of different materials; glass, brick, some cedar siding. So it's more contemporary.

THE CHAIRMAN: We do like the work you've done in town, so I imagine this will follow suit. Do you have an elevation showing adjacent properties; have you prepared one?

MR. IANNACITO: I didn't do a street facade. I could do one.

THE CHAIRMAN: Yes, because it would be great to see the other places, see how it falls.

MR. IANNACITO: The back is very contemporary.

THE CHAIRMAN: That's probably why you did the glass.

MR. IANNACITO: There are flat roofs also, so it should blend in pretty good.

THE CHAIRMAN: Okay, great. Okay, you're up.

MR. KIRKPATRICK: Thank you, Mr. Chairman. I'm John Kirkpatrick. I'm really just here to answer questions. When it comes to the design and traffic, that's for the others. Are there any legal questions that I

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could answer?

THE CHAIRMAN: Yes, of course.

MR. NEMECEK: I think we had a question about the easements.

THE CHAIRMAN: Easements and cross easements and all that good stuff. So we could talk about parking for a long time, but I think it's about cross traffic and how that's being maintained or what's to --

MR. NEMECEK: I think the aerial, actually, the one with the green arrows --

THE CHAIRMAN: It's right there.

MR. NEMECEK: Yes, that one. That one is the best one.

THE CHAIRMAN: So, I mean, this is great and everything and we understand how it works now and how it's proposed, but there is really nothing in place that ensures that should someone want to change it, it could be

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changed at any time.

MR. KIRKPATRICK: That's correct, it's informal at this point. There is an easement agreement between Keller Williams and the Capital One Bank that allows both to use the  
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driveway coming in. The driveway is half on one property and half on the other. There is a little T shape at the end that would allow one to turn around and go back out the driveway. That doesn't actually happen. Everybody comes in one way and exits either out towards the bank, particularly if you're a bank customer, or out the other way.

Mr. Hadi has been trying desperately to get in touch with the right person at Capital One Bank. It's a big company, it's hard to get a response. He will absolutely undertake whatever you want to keep trying, but that's what it is.

As far as Tutta Bella goes, the restaurateur will be happy to give an agreement with Mr. Hadi because they're going to use each other's property. Apparently restaurant patrons also use the bank property, and, as far as we know, there is no agreement about that. That's just the way it is. Perhaps the bank likes the fact that there are cars in their lot at night. We don't know. This is the kind of arrangement that, frankly,  
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is wonderful planning. Instead of requiring everybody to have all of the parking they might possibly need, if you could have some kind of shared parking where the maximum use for the various different properties varies, then you cut down on total number of parking spaces that are needed. This is the kind of thing I think that the Zoning Board was looking at when they gave the variance across the street, 777, where there is restaurant use and there's retail use and the maximum requirement for both is not at the same time.

So Mr. Hadi will undertake whatever agreement is necessary to cooperate fully in any future agreement that guarantees the access among these properties. At this point, he could only deliver himself and the Tutta Bella restaurateur.

MR. NEMECEK: I don't think we have any doubt about Mr. Hadi's sincerity in doing anything that's within his power to make this work. The concern that we had at the last meeting, though, is we heard in particular from a representative of the realty company that  
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owns the 777 property and we also heard from a

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Lord & Taylor representative, both of whom -- while neither one could precisely connect Keller Williams' customers to the usage of their properties, the parking lots on their properties for parking, there certainly was a conspicuous accumulation of parking away from the main building, the Lord & Taylor building, and the stores that seem to gravitate toward the bank and the Keller Williams properties, it was in that direction. So that is a concern that we are attempting to deal with here is what can be done to discourage use by, in this instance, the Keller Williams' customers and employees from using the parking lots of other nearby businesses.

MR. KIRKPATRICK: Well, it's awfully tough to control the public. All of us have probably had the experience, I know I have, that I park in the drug store parking lot and I buy something in the drug store and then I walk down to the bagel shop and buy something in the bagel shop, but I'll leave my car parked at the drug store. Is that a violation?

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MR. NEMECEK: I don't think that's the problem. I think that -- we actually spoke and I remember asking the question to the 777 representative, I think my question was, do you have a problem if someone goes across the street to the bank, takes out a lot of money, and spends it at all of your shops, and he said, of course not. I think the concern is they're using the parking exclusively without using their business, which is not your scenario, not your example.

MR. KIRKPATRICK: Mr. Hadi can control the brokers to that extent. It may be like herding cats generally trying to run a brokerage office, but he can make it a requirement of them holding their license with him that they simply never park in those lots. I cannot unfortunately promise you, and I don't think Mr. Hadi would try to promise, that he is going to try to control customers. They may well say they're intending to purchase something at 777 or the Lord & Taylor shopping center, who knows, but he can control his brokers.

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THE CHAIRMAN: So if there were to be agreements or the agreements that we're looking to see, the agreements would be between Tutta Bella and KW, and KW and the bank; those are the agreements?

MR. KIRKPATRICK: We can definitely deliver an agreement between Tutta Bella and KW, and we could promise to keep trying with the bank and to cooperate in the future if there is an effort to -- for instance, to



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include the Claire Leone parking lot, which is next to Tutta Bella. All four of those are basically interconnected but there are no rights to park in the Claire Leone parking lot.

MR. TUDISCO: I had a question here. With respect to the agreement that you don't foresee an issue getting, have you discussed with them their willingness to have it recorded as an easement on the property? The reason I ask this question is because there may be an excellent relationship between the realtor and Tutta Bella, but if the Tutta Bella building gets sold and, for instance, a different use comes in to play there and that prospective  
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purchaser decides to seek a parking variance for what their plan is, an easement recorded against the property would directly be relevant to that applicant if, in fact, it happens. So that is a question that I have.

MR. KIRKPATRICK: We can try. We can't promise that one. We know we can deliver Tutta Bella, the present tenant of that property, the Tutta Bella Restaurant, they've said yes.

MR. NEMECEK: And there's every reason for them to because it's a symbiotic relationship, they get benefit out of it too.

MR. KIRKPATRICK: Exactly.

MR. NEMECEK: But I think Mr. Tudi sco's question is actually something that was going through my mind as well. You plainly do have a very strong relationship right now with Tutta Bella, and if another restaurant moved in one would think that the situation would -- that the benefits to both of you would be identical assuming it's a restaurant that operated roughly the typical hours of a restaurant, but if it had a different use,  
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having an easement running with the land, obviously, with the property, is more valuable, because this board can't be in the business of policing the parking. It's difficult enough for the police to police the parking, much less this board. So the more legal certainty we can get, the more comfortable we are.

MR. KIRKPATRICK: Let me ask a question. If it were a change of use, wouldn't that come before your board for site plan approval?

MS. UHLE: Only under certain circumstances. Just a simple as of right change of use that does not require a variance may very likely not come before the board. It would depend on the use.

MR. KIRKPATRICK: I was just thinking that, you know, there's an opportunity for your board or the Zoning Board to ask them why they

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wouldn't want to do an agreement with Keller Williams and make it permanent, because, again, shared parking is a benefit to everyone.

MR. NEMECEK: But if it were a new business with a -- a different business than a  
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restaurant, let's say another realtor moved in that had similar time demands, they don't need the parking at 9:00 at night.

MR. KIRKPATRICK: I can't argue with that.

THE CHAIRMAN: Such agreement would address the communication of cars across the different lots in addition to the parking agreements? It would have to address both.

MR. KIRKPATRICK: Oh, yes, definitely. Yes, because if we're going to make that driveway one way, then it's necessary to exit somehow. It's got to be either through Tutta Bella or through the bank and that's what we want to do.

THE CHAIRMAN: Similarly, the bank would have to agree to have KW traffic coming across their parking lot?

MR. KIRKPATRICK: Yes. We do share -- they don't have much of a driveway without us because the driveway actually is half on their property and half on our property. So I think once we can find the right person to talk to, we have a good chance.

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THE CHAIRMAN: So the biggest question -- and I don't know if you're the one to answer it, maybe, John, you could help me -- the question is: Those people that come in for the seminars, where do they park? Where do they expect them to park?

MR. KIRKPATRICK: When we got the greatest number of people there, where do they expect to park, right?

MR. HADI: As of now, they park on the side of the building, which we're not going to be parking going forward, in the back of the building, Tutta Bella, and the municipal parking lot, as well as there's parking available on the corner of Webster and Reynolds there's also street parking. I could honestly say there is plenty available parking.

MR. CUNNINGHAM: But I will say if --

MR. HADI: Parking is challenging, sir.

MR. CUNNINGHAM: -- If we monitored it, it would probably all be in Lord & Taylor's parking lot. We all live in this community. We know what happens at Tutta Bella. The

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traffic in there is a business that works from

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4:00 in the afternoon until 10:00 at night, that parking lot is totally full. There's times that you can't even get into the parking lot because people pull in and want valet, you can't enter that space.

So with all that being said, I mean, in all fairness to the letter I've seen, I was not at the first meeting, when you take the building and double the square footage of it, it's anticipated that the occupancy is just doubled. So whether we have a seminar on Monday morning or this, that and the other thing, people are looking for convenience. They're going to drive up to that space and go to the easiest space that they can park in and then go into the seminar or their office or whatever else it is. To me, there should be some stipulation probably made with the folks across the street, including him, when this whole thing goes forward as far as an agreement goes. To me, there's not enough parking in that lot to accommodate everything that is going to happen.

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MR. HADI: I --

MR. CUNNINGHAM: Well, I mean, like I said, probably most of the people that will come to that property are parking on the Lord & Taylor side.

THE CHAIRMAN: I think we all understand what the issues are.

MR. HADI: I just want to say for the record I do not support people parking at Lord & Taylor. I do not promote it.

MR. CUNNINGHAM: We understand that. It's just --

MR. HADI: I just wanted to make sure.

MR. CUNNINGHAM: If you can't get into that parking lot, so where would you? Go.

THE CHAIRMAN: What you also said is you could certainly ask your agents not to do that but you can't enforce that. It's great that you would try, I'm sure you would endeavor your best, but at the end of the day your brokers are going to park where they want to park even at risk of --

MR. HADI: I have some control. I wouldn't say I have no control. I have some

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control.

THE CHAIRMAN: Okay. I've asked all my questions.

MS. UHLE: We have our traffic engineer.

THE CHAIRMAN: Right.

MR. GREALY: Philip Greal, Maser Consulting. I think the board has addressed a lot of our comments that we had. We received a new submission last Friday, and also, I guess,

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some of these drawings today that shows the composite of the three sites, which is very critical. That's really the focus of a lot of our comments in terms of functionality.

The first item on our list was about cross easements. The three sites work together today, but it's informal and I think something needs to be done to formalize that. You've already discussed it, because if one of those connections gets closed off with a change of use, how does this site function.

I think the applicant's engineer had responded to our previous memo from November 22nd. We haven't prepared a new memo  
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yet. The 22nd memo had focused on the other issues, not just the number of parking spaces but the usability and accessibility of the parking spaces, which they've addressed and we're comfortable with it. They provided us with turning diagrams showing how a vehicle would turn into the spaces. Just for clarity, since the last submission, this new plan increased the width of the parking spaces from 9 to 10 feet 4 inches, so that provides more room for a vehicle to turn into, and they provided us with diagrams, I think they should be submitted to the board as part of the package because it's important to see that. They also provided examples, because now this drive aisle here is 15 feet whereas -- just under 15 feet -- where 25 is what's required. The diagrams they provided us with demonstrate how vehicles can get in and out of those spaces, and they also provided three examples, two of which are right here on this aerial, of locations where similar properties function with that type of drive aisle. One is right near Tutta Bella here. The other is at the  
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corner of Reynolds, which is 774 I believe it is. So the dimensions here, these spaces and the drive aisle, you have a similar situation to what is proposed here so the board could get a feel for what it is. It's not a standard drive aisle but with the increased space width of the parking space itself, you can maneuver in and out of those spaces. So they addressed that issue.

They addressed the issue of providing the cross connection pretty clearly, and they've shown where those two spaces would be moved to so I think that's fine. You know, from a functionality standpoint these three sites work together. The restaurant uses this parking and even the bank parking in the evening. Everybody kind of knows that.

In terms of the report, there was mention about the 25 agents being on site, you

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know, for that one hour on Monday morning. Again, I think if those easements are in place, you can accommodate the bulk of those on site and in the two spaces that they have, but I think, you know, the tendency people will park,

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as you indicated, in the closest space. Across the street at 777 if that's Monday morning at 10:00, those spaces are open, okay. They're not open in the middle of the day, which is problematic. Same thing at Lord & Taylor, if somebody parked there at that time in the morning, those spaces are typically open but an hour later those spaces are prime spaces. So I think from a practical standpoint the applicant has shown that there are spaces in the area and maybe there isn't as much demand, they provided photographs. Absolutely there's times where -- and that's how the shared parking that Mr. Kirkpatrick referred to works. That's why the current Keller Williams and the restaurant work well together, because in the morning you have the ability to park there.

So with respect to that 25 people being on site and parking, one question I had is: Is there an ability to maybe have two separate meetings so that you don't have 25 at once? Tonight was the first time I heard of what the purpose was. One of the things in terms of parking management is to look at how

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you could spread it out more. I don't know if it's possible, but if you could limit the number where you have two different meetings or you have a meeting on Monday, which is half the number of people, and Tuesday, then you don't have people parking off site as much.

One of the other issues I guess is -- and this ties into the easements -- going forward that if there is a change in use of this building and there's only the eight parking spaces, you know, you could have another office use in here, and I don't know how the town's code works relative to that, this is not a special use permit so they don't have to come back in, but clearly that office space could be occupied differently, and that's just something I think the board needs to be aware of when they make their determination, and it's really probably more for the Zoning Board when it gets there.

So I think the applicant has addressed our technical comments relative to accessibility of parking spaces, they clarified the issues we had in terms of control of

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driveways and how this interrelationship works.

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I think there is still the issue of if you're going to have 25 people on site at one time, you're not accommodating them here on this site. That's really what it boils down to.

Let me just see. As I said, we haven't done a formal memo other than our 22nd memo. These are just kind of the key items that we had focused on. Again, just the future use of the building and, you know, on page 13 of the report -- of the VHB report talks about the 25 agents on the site at 10 to 11 on Mondays. So I think you've discussed that enough, but those were kind of the key points that we had.

THE CHAIRMAN: Let me just ask you one question since you're up there. I'm staring at those two aerials and in addition to any agreement that would be made with Tutta Bella about going back and forth, there's those two spots that have been moved.

MR. GREALY: So those two spots right now basically they're right where the -- right here. So the drive aisle that's here is

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shifting down, so these two spaces would have to move there. So that would be part of the agreement with Tutta Bella. So that's something that would change their site.

THE CHAIRMAN: Was one also eliminated there? There's those two, but then if you go across the -- actually, in the one above there's a white car. Right, that car, that spot.

MR. GREALY: No. In terms of the cross access, it's just here. That's the only change that we're, you know, suggesting has to be done is to provide this cross connection which takes these two spaces and moves them up. In terms of -- oh, this one here?

THE CHAIRMAN: Yes.

MR. GREALY: In terms of being able to back in and out, yes, there would be a shift there of that space. I believe what I had seen was a plan that squeezed it in over on the side. So you're shifting one other space around.

THE CHAIRMAN: That's what I'm observing.

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MR. GREALY: So that white car which is here would be eliminated, yes.

THE CHAIRMAN: So Tutta Bella would have to be willing to re-stripe their parking lot?

MR. GREALY: Right, over in this area too, correct. That's correct.

THE CHAIRMAN: So that's part of the agreement?

MR. GREALY: Yes.

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MR. TUDISCO: A couple of things. Actually, it's a good point that the parking expert brought up in terms of the use of the building, 25 people coming in at any given time it sounds like that would be an overflow, it probably sounds like a good idea in theory to break it up but that's really not enforceable in any way, and it may create other traffic flow problems if you're having two meetings instead of one meeting. From an enforcement standpoint, I don't know how you would do that.

The other issue that really was raised is that you are looking at the proposed use for the class, there are going to be some different

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offices in the building, but if the applicant sells the building and it becomes attorney's offices or a medical building, that may change what's going on there. So that could very well be an issue at some point.

THE CHAIRMAN: So theoretically, if Keller Williams moves out, another office occupant moves in, utilizes all the office space there, we wouldn't have to address the parking issue?

MR. TUDISCO: I don't know that you wouldn't have to address it, but you're not dealing with the same numbers. You are basing your decision on what's being proposed right now.

MS. UHLE: Just let me clarify because some municipalities do require when there's a change of occupancy, that people come back before the Planning Board. Eastchester, if it's a permitted use and you're not increasing the parking requirements, then there's no necessity -- and if it's not a special permit use, then there's no necessity for you to come back before the board. So, for example, if

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Keller Williams were to vacate the building and attorneys were to occupy the building, because that has the same parking ratio and because it's an office use as well, it would not come back before the board. So the way our zoning law is written, it says that attorney's offices require 1 space per 200 square feet and real estate offices require 1 space for 200 square feet. So we allow that change of use as long as it's a principal permitted use and as long as you're not increasing the parking demand from a zoning compliance perspective.

THE CHAIRMAN: Great. Thank you.

MR. GREALY: Thank you.

THE CHAIRMAN: Okay, this is an open public hearing, so now is the opportunity to address the board regarding this application.

MS. CHI OCCHIO: Good evening, Chairman, members of the Planning Board. My

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name is Lucia Chiocchio, and I'm a partner of Cuddy & Feder and we represent Lord & Taylor. I'm joined tonight with Kyle Raffo, who is the director of real estate for Lord & Taylor. We were here last month and obviously you've heard  
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our concerns about the parking and the significant parking variance that's needed for this project.

We did have an opportunity to look at the revised materials. We sent a letter in today. Basically we're continuing our objection to this application specifically for the off street parking for a lot of the reasons that you were discussing this evening. It's human nature, as Mr. Cunningham indicated, for people to, if they don't find parking, well, what's the closest, what's the most available parking nearby. In this situation, it's Lord & Taylor. That Lord & Taylor parking area right on Wilmot Road is prime parking for Lord & Taylor customers. So folks would be using that parking lot without Lord & Taylor's permission, which is a concern for Lord & Taylor who owns and maintains that parking lot for their retail customer.

One of the other issues that was discussed tonight which is also a concern is if the applicant can secure the agreement to share the parking in that whole area and demonstrates  
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that all potential parking for their uses can be accommodated on that area, what happens in the future? We talked a little bit about that. That's a concern for Lord & Taylor for exactly the same reason, that there would be this tendency to use the Lord & Taylor parking lot because there's insufficient parking in this area.

Frankly, we're continuing our objection to this. It's a situation where there's physically just not enough room for what's there now. We know that the existing non-conforming situation is causing these off site parking problems. To expand the building would just exacerbate that. It's just not physically -- there's not enough room to accommodate the parking and the proposed expansion.

So we would ask if you do refer it to the Zoning Board of Appeals for the variances, that you do so without a recommendation. Thank you.

MR. NEMECEK: I have a question for you. In the letter of today's date in the  
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final substantive paragraph there's a statement



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here that local zoning code prohibition on increases in parking non-conformities along with the standards for obtaining parking variances as set forth in New York State Law put into serious doubt whether any expansion of the existing building at 760 White Plains Road can be legally achieved irrespective of the applicant's goals and representations to the town. Is your firm representing that neither this board nor the Zoning Board of Appeals can legally grant a variance here?

MS. CHI OCCHIO: What we're suggesting or what we're saying is that so far the evidence in the record in our opinion doesn't meet -- well, it obviously doesn't meet the zoning standard -- and it wouldn't meet the balancing test for the variances.

MR. NEMECEK: Okay. So it's a legal argument?

MS. CHI OCCHIO: I'm sorry.

MR. NEMECEK: So it's a legal argument?

MS. CHI OCCHIO: Correct.

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MR. NEMECEK: Thank you.

THE CHAIRMAN: Great. Thank you.

Public?

MR. LEONE: I'm Doug Leone from Claire Leone Real Estate, the property adjacent to the subject property. I guess that statement you just read meant a lot: Does the code meet anything; how much variances are there; what percentage of a variance are we going to grant; what is the variance for; what does the code cover?

MR. NEMECEK: We don't grant variances here, the Zoning Board does.

MR. LEONE: Just to make a statement on what it all means, I look at this proposal and I kind of see it as folly, and that's why as a neighbor Jamal asked to me not to say anything about it and to support him in this, but when I see it negatively affecting the whole area, it is a concern to me and then I'm a bad neighbor if I don't object to something that I think is going to negatively affect everyone that is there.

Also, today I was walking by the

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building and I decided to count the cars, and I took a picture of it, but there were nine cars parked here and six cars back over here.

THE CHAIRMAN: Can you point in the existing, the top -- maybe just point to where you're referring to up here.

MR. LEONE: (Indicating on photograph.)

MR. NEMECEK: We are talking about easements and the applicant is in the process,

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I believe, of attempting to address the concerns of this board that I think have been very thoroughly expressed.

MR. LEONE: I see real life concerns. I see the plans in real life. If there are nine cars parking there at 2:30 in the afternoon, where are the rest of the cars going to fit? (Indicating on photograph.)

MR. NEMECEK: We also just did hear from Mr. Grealy, whose specialty is traffic and parking, and he took a look at the plan, and remember, we're talking about a portion of the building being removed so there is going to be more space back there. Mr. Grealy, who is

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independent, he's the consultant retained by the town at the expense of the applicant --

MR. LEONE: Can I ask Mr. Grealy?

MR. NEMECEK: Mr. Grealy has opined that this appears to be -- with the slightly extended 10 foot 4 inches as opposed to 9 feet -- that this should work. He looked at the turning radiuses, he looked at the submission, he made a recommendation that the submission should become part of the record. While I certainly respect your viewpoint that it looks like we're cramming too much in here, I, for one, have to defer to the expert.

MR. LEONE: Can I ask the expert a question?

THE CHAIRMAN: Before you answer that, you also said that you can barely fit three cars on your lot, but --

MR. LEONE: I don't see how anyone could -- (indicating on photograph.)

MS. UHLE: Those are perpendicular spaces. You're parking parallel. So those are perpendicular. A typical space in Eastchester is 9 by 18, these are 10.4 by 18. So I think

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that there isn't a question that the five cars can't fit. It's 10.4 feet times five.

MR. NEMECEK: 10 foot 4 inches, so that's actually 10.33 feet.

MR. CUNNINGHAM: So it's under 2 feet. 52 feet.

MS. UHLE: 52 feet.

MR. LEONE: When you parallel park --

MS. UHLE: No, you're not parallel, you're perpendicular. That's what we're saying, you parallel park on your side of the property but that's perpendicular spaces there.

THE CHAIRMAN: That's pull in.

MS. UHLE: Those are just the dimensions. So those are larger than a standard parking space.

MR. NEMECEK: They were tighter on the last plan, but that issue appears to have been addressed. Look, we hear you about your

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concern and we know that this is a tight space, and I think you spoke last time and I think you made the point about your belief that this is too much. I think we all understand your viewpoint.

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THE CHAIRMAN: Could you just put that other one back up, please?

MR. LEONE: Sure. When I counted nine cars there today at 2:30 in the afternoon, whatever the experts say, I'm saying what I see.

I have other concerns about the front of the building. Is that zoned for four stories?

MS. UHLE: Yes, it meets the height requirements. I can't remember how -- we can tell you in just a minute what the maximum building height is. Four stories, yes.

MR. IANNACITO: Anything within 150 feet of a residential area can only be two and a half stories. So you have -- from the subject property you have your property, you have the fire department, which is not a residential zone, the next property is the residential zone. So you take the dimension -- we did a radius from the corner to the building. I don't have that diagram with me, but I can bring it to the next meeting.

MR. LEONE: Would that be a direct  
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line?

MS. UHLE: It's from the building. I think, John, if you're in an RB district, you're allowed to be four stories or 45 feet.

MR. IANNACITO: Unless you're within 150 feet of a residential district.

MS. UHLE: Unless the building is within 150 feet.

MR. IANNACITO: Right, the building.

MS. UHLE: And you did that analysis; correct?

MR. IANNACITO: Yes.

MS. UHLE: The answer to his question is he can be four stories or 45 feet.

MR. IANNACITO: I know I had the diagram somewhere, I just don't have it with me. I could bring it to another meeting.

THE CHAIRMAN: No, that's fine, I think you've answered the question.

MR. IANNACITO: You got two lots that are over 50 each, so that's already 100, and then you got the setback to the rear property line to the new building is 52 feet, now you're at 152 feet.

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MS. UHLE: I believe John already

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confirmed that with us, but we'll ask him to do it again. It's a residential district not property.

MR. LEONE: It's half and half. Okay, those are my concerns. I'm concerned about the congestion in the area and actually the safety. (Indicating on photograph.) Thank you.

THE CHAIRMAN: Thank you.

MR. ALBRECHT: Good evening. My name is Andrew Albrecht. I'm with Urstadt Biddle Properties, who are the owners of 777 White Plains Road.

I don't know, I guess it depends on which side of the fence you're on, we have good news and bad news for people. We still have strong issues and strong concerns with the off site parking. We know it's an issue. It's been an issue since before this application came forward to expand the building.

At the same time, we also recognize as a retail center across the street that, yes, parking cycles uses and parking demands change from hour to hour through a day. We see where

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the applicant has made an effort to hear the complaints or the issues at hand, make some accommodations, cut back a little of the building, add parking spaces, and try to make a bad situation better without actually ever being able to solve it. And so while we still want to go on the record as having concerns about where people are going to park, I think at this point given what the applicant has done to compromise and try and address some of those issues, that we as the property owners across the street would not oppose an application to the board. We would still go on record saying that we are going to continue to monitor our property. We're spending a little bit of money up front to actually put in some cameras to take a look and keep an eye on that area. If we see that there is this kind of habitual offender thing building up, we'll tow some cars. They say, hang one scare a thousand. It might work for some people. We also recognize that probably one of these days you're going to get a notice from us that we're going to want to change and get a parking variance. It's

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going to come full circle. We appreciate his work of trying to get this problem addressed, so we won't oppose it.

MR. NEMECEK: Thank you. Thank you.

THE CHAIRMAN: Thank you. Any other comments from the public?

MR. PINTO: Good evening. Vi to Pinto, 120 Bella Vista Street in Tuckahoe, but I also am a member of the Eastchester Italian American Club, which sits caddy corner down there, and

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our VFW uses Capital Bank.

It's nice to hear the owner of 777 say that, you know, he's willing to work with the applicant trying to meet all the metes and bounds and please everybody's concern. It's always been my belief, having served in elected office many years, to try to be including rather than excluding. Keller has been a wonderful community representative as well. I know the seniors have had fundraisers there, I know people who have worked for them. I know that maybe Lord & Taylor -- and when you mentioned it, Mr. Cunningham, I wonder if you guys have been there to see and witness

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firsthand people walking across the street on Wilnot going elsewhere than Lord & Taylor, and their parking lot does have one area where I notice myself people like to park close to the front door in that little area right across from the fire department, but if you could be just concerned with meeting the needs as they presently stand, there is parking on Bell, there is parking on Reynolds, and there are some houses on Webster and those homeowners have the same concern, but I don't know if you've ever received any complaints from them because of abnormal or excessive abuse of the street parking.

So I just think that it's a good company, and I don't know that you're going to be able to get a variance, you know, an easement without the property owners themselves, because you can only live for today with that kind of an easement. If something changes, then that's going to have to be dealt with somewhere in the future when that occurs.

As far as the gentleman who said there's a common drive, my question is: With

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the common drive, does not the property line go back to the end so that the person who owns Capital Bank can not build right up to that property given the fact that it's, you know, a common drive and maybe concern can be given about turning and things of that nature.

You have a task in front of you that, you know, you have to make a decision, and I would hope that somewhere along the line everybody in the town would say, you know, this is a community that has worked well together, and they have been very good tenants and community representatives for the senior citizens, and I am one of the Tuckahoe senior citizens who is a member, I don't use it all the time, but they do benefit from the fundraisers they have. They have been good community representatives whenever groups have gone and asked them for donations. So not that

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that has the ultimate decision to be made but, you know, if you had one person who's across the street at 777 is it? I know, you know, a lot of people park there, maybe they walk down the street just to avoid putting the quarter in  
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the meter at the municipal lot, but you do have the municipal lot right next to you, and CVS, you got another municipal lot on Bell Road, and it would behoove the realtors who are looking for the building to work with maybe Lord & Taylor, and Lord & Taylor, you must have some signs up that say, exclusive parking and violators would be towed or fined, and that puts another burden on you, but if that's the decision Lord & Taylor wants to go in, then certainly they have that right to do so. If the gentleman at 777 is willing to put in cameras to just see, maybe that could be done before the final decision is made and it goes to the Zoning Board. If that being the case, then Mr. Keller has to make sure that his realtors coming for a conference are well aware of that fact, and it behooves them not to park in Lord & Taylor subject to a tow, and, you know, we all know that towing is expensive and that fines are expensive. While they have the immediate area -- now if I'm going to park there at the town parking lot right next to CVS, that's a hop, skip, and a jump on a  
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Monday, I certainly would rather park there for the couple of dollars it cost me, or if there is any permit spaces still available, that does have a doubled layered lot, and the common drive allows us to use the Italian Club facility by enter and exiting through the down property on the upper level.

So that would be the only thing I would have to say. I didn't come here to speak about this, but I just want you to know that, you know, it's always good when people could talk and try to barter and see if there is something they could make out. I listened to the traffic expert say that there's -- you know, many efforts have been made to meet the concerns and the criteria that's set for this property to have the expansion. The fact that they moved the building up, the fact that they tried to very honest with you. You have a good decision to make or bad decision depending on whose side you're on. Thank you.

MR. NEMECEK: Thank you.

THE CHAIRMAN: Thank you.

MR. NEMECEK: Always nice to hear from  
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a long time public servant and well respected

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one, Mr. Pinto.

THE CHAIRMAN: Great. So no more comments from the public?

(No comments.)

THE CHAIRMAN: Good. So then we have to decide what to do next.

So I believe that what's -- we're focusing on the site plan and the circulation of the cars on the site. The zoning and the variances is a separate issue. Right now I believe that we have to further address what actually goes on with the circulation of the cars, the parking, and have that all wrapped up to our satisfaction before we move this forward to the zoning for their review of the variances.

MR. NEMECEK: Do we have a running list of what it is that we still need? I know, Mr. Iannacito, you promised, for example, an illustration of how this proposed construction would compare to the neighboring properties.

MR. IANNACITO: I can do that.

MS. UHLE: I have a list of things.

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One thing I just want to be clear, I'll put it to the head of the list is, did you want to see any actual draft agreement or written agreement with Tutta Bella or continue pursuing any kind of agreement with the bank?

THE CHAIRMAN: I think it's whatever needs to be in place to ensure that the proposed traffic flow pattern and parking remains. I don't know what exactly that it is.

MR. NEMECEK: I think there are two levels. Actually, Mr. Pinto hit on one them. It may be difficult to get an easement depending on who the actual owner is of the property because that runs with the property.

MR. IANNACITO: Correct.

MR. NEMECEK: It may be an enforceable agreement between Tutta Bella and Keller Williams to maintain -- while they both have property rights -- to maintain whatever the parking agreement is, but unless that runs with the property, we could face the risk of one or the other businesses changing. So I think Mr. Kirkpatrick is going to see how far he could take that and hopefully be able to report back

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to us.

MR. TUDISCO: The easements are important for two reasons, and correct me if I'm wrong, Ms. Uhle, but for your purposes with site plan approval the easements in terms of the flow of traffic that goes between the sites, they will also be relevant for the Zoning Board in terms of the parking variances that they're going to have to decide. So I think they are an integral part of what you're

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Looking at as well as what the Zoning Board is going to be looking at. So they are going to be necessary.

MR. NEMECEK: I don't think we're saying that in the absence of an easement don't even bother coming back, but it certainly -- that would be the -- provide us the most level of comfort if you were able to obtain an easement because that's legally binding and runs with the property. That would be something that would provide us with the greatest level of comfort that maybe we can move forward at least knowing that that's secured, those spaces are secured and that flow  
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is secured.

MR. IANNACITO: So the easements would basically just take care of the cross access through the property, it's nothing about sharing parking?

THE CHAIRMAN: Hold on. No, I would like to have something in writing --

MR. NEMECEK: That may not be the --

MR. IANNACITO: That might be --

MR. NEMECEK: That could be a separate contract.

MR. IANNACITO: Because all of these other properties are probably non-conforming also.

MS. UHLE: I think a lot of the application says, you know, if we could continue to maintain our property easements, or if Tutta Bella agrees that we could re-stripe, or if the bank agrees that this could be one way. So far it seems like the applicant is very willing to accommodate the concerns of the Planning Board, but we don't have any evidence that Tutta Bella or the bank are willing to other than historical evidence. I think even

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back at one of the original Zoning Board meetings the Chairman at that point said, we want something beyond just a handshake and whatever form as a legal document the attorneys think is most appropriate. So I think it's just something a little more concrete than just an informal agreement.

MR. NEMECEK: I think Mr. Kirkpatrick will know what -- you'll know what to do and just push it to whatever the greatest level you're able to and let us know what you're able to do.

MS. UHLE: So I think that was probably one of the more important things, and then you had asked that Mr. Iannacito show the actually cubicles on the proposed plan to get a sense of how many would fit in there.

THE CHAIRMAN: Existing and proposed. Existing and proposed.



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MS. UHLE: Also, some kind of street elevation showing the proposed building in relationship to the two adjacent buildings. That's actually it. Mr. Grealy had mentioned the turning diagrams being provided to the  
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Planning Board. Is this it?

MR. IANNACITO: Yes.

MS. UHLE: We received those. That was actually it with regard to the additional information that you requested.

MR. IANNACITO: How about the thing that came up about having two meetings?

MS. UHLE: You know, I agree with the town attorney, as soon as I heard -- with all due respect to Mr. Grealy -- as soon as I heard him recommend the two meetings, I have such concern with any conditions that my department can't enforce. There is no way that we would really be able to determine whether they were having one meeting or two meetings. So that I personally don't feel very comfortable with.

MR. IANNACITO: Okay.

MR. NEMECEK: It's something for the business to keep in mind if the application is granted and if there are continuing --

MS. UHLE: It could certainly be a recommendation. I think there's a difference between a strong recommendation and an actual condition that has to be enforced, and I think

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that would be very difficult to enforce.

MR. NEMECEK: And it's not even clear to me that you're not just making it worse by spreading the pain to multiple days as opposed to taking your medicine all at once.

MR. TUDISCO: Also, there is essentially no way to enforce how many people go to the Monday meeting versus the Thursday meeting. It may be kind of scattered. The Zoning Board in considering the parking variances can look into that request, but my advice would be the same as Ms. Uhle, it's unenforceable, there's no way -- potentially it could make it worse or better, you don't know. I think in theory it's a great idea.

THE CHAIRMAN: I almost believe that as long as that meeting space is there, it could be utilized in any way they wish on whatever day of the week as frequently as they want.

MR. TUDISCO: From an enforceability standpoint, you're absolutely correct.

THE CHAIRMAN: So it's nice to think it's Monday between 9 and 12, but we really

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have to be a little bit more considerate of the

whole --

MR. NEMECEK: But the nature of the business and what we heard this evening is consistent with my understanding of how a real estate brokerage works, that a number of the independent contractors, because flexibility is a main draw to be part of its business, that you do get people who are concerned to be working during hours when their kids are in school. So there is an incentive in the business itself to hold the meetings at times that are not peak hours for a restaurant and may not even be peak hours for a retail operation.

THE CHAIRMAN: Okay, so we're good.

MR. IANNACITO: We're adjourned to next the meeting.

MS. UHLE: So you'll keep the public hearing open until the next meeting.

THE CHAIRMAN: And we'll continue it. Thank you for your preparation. Thank you for your sincere input. It certainly helps us. We certainly would like to work on this with you.

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Next application is 16-60, 134 Garth Road, Cooked & Company.

MS. UHLE: That's also John Iannacito, so maybe give him a minute.

MR. CUNNINGHAM: John has a busy night.

THE CHAIRMAN: He has all three?

MS. UHLE: Yes.

MR. NEMECEK: John, we have a very sizeable viewing audience here and at home, so if you want to run ads for your business.

MR. IANNACITO: It's a busy night tonight, yes. Hopefully, this one won't take as long.

Good evening, again. My name is John Iannacito. I'm an architect and I'm representing Mr. Herbert Lindstrom, the owner of Cooked & Company.

We are proposing interior alterations and expansion of the existing restaurant located at 134 Garth Road. The proposed scope of work includes expansion of the existing restaurant into an adjacent space that was previously used as a dental office. The

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outlined portion in pink here is the existing restaurant and the yellow is the expanded area, which used to be the dental office.

This application was presented to the Planning Board on October 27th, 2016. At that meeting, the board had no objections to the application and a referral was made to the Zoning Board for an area variance.

The application was presented to the Zoning Board on November 10th, 2016 and

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approval was granted on January 10th, 2017. A variance was granted for the number of off street parking spaces. The existing parking is currently non-conforming with a total of 13 spaces required. The change of use here increased the required parking by one space. So the variance was granted for 14 parking spaces and zero were provided. We are here this evening for a final review and an approval for the amendments and also for the alterations and an amendment to the existing special permit.

Earlier this week or actually yesterday in the conversation with Margaret, I  
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was informed that a complaint was filed with the town about this location, and it was about the location of the trash bins on the outside. Typically he puts his trash bins in this easement that exists at the rear of the property which allows the garbage truck to pick up the trash off of Grayrock Road. So I spoke to both the owner of the restaurant and the owner of the building earlier today, and they told me that they're going to change their routine and they're going to keep the trash inside the building from now on and only pull it out on days when scheduled pickups are. They've also increased the scheduled pickups to four times a week, they recently did that, and they're willing to go to six times a week, if necessary, in order to avoid the buildup of garbage.

MR. NEMECEK: How many pickups a week are there presently?

MR. IANNACITO: There was two and they've increased it to four.

MR. NEMECEK: It has already been increased to four?

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MR. IANNACITO: Yes.

MS. UHLE: As of today.

MR. IANNACITO: Recently. Herb told me today that they're schedule for four pickups in a week.

MS. UHLE: It's all the restaurant waste, the food waste, everything?

MR. IANNACITO: Yes, that's all the restaurant, because the remainder of the building is actually picked up by the town. They put their garbage out on Garth Road --

MS. UHLE: Okay.

MR. IANNACITO: -- the higher elevation of the building, and that's picked up by the town. It's a nail salon, a dental office, a cleaners. So it's a very minimal amount of waste. The restaurant has its own private sanitation pickup four times a week.

MS. UHLE: And they just put it in

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typical kind of waste recyclables?

MR. IANNACITO: Yes. He said typically they put in bins. Recently, someone stole the bins and there is a police report out there that someone stole his garbage bins, so  
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that's why it hasn't been in the bins. He recently purchased new bins. So he's going to keep them in the bins and they're going to roll them out on the morning of pickups. Usually he was putting it out from the back of the building out to the curb the night before. He's going to do it in the mornings now from interior out to the curb and bring the trash bins back in when it's picked up.

MS. UHLE: Do you know what times it's picked up in the morning?

MR. IANNACITO: He wasn't able to nail down a time on the schedule. The sanitation company said sometimes they get backed up on other pickups so they couldn't give him an actual time, but we could ask them about a window of time and maybe he could kind of figure that out.

MS. UHLE: So now all the trash and recyclables will be kept inside --

MR. IANNACITO: Inside.

MS. UHLE: -- overnight and then they'll be brought out to the curb in the morning --

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MR. IANNACITO: In the morning.

MS. UHLE: -- on pick up day.

MR. IANNACITO: Right now it's scheduled for four times.

MS. UHLE: And then it will be picked up and they will bring the --

MR. IANNACITO: Bring the bins back in.

MS. UHLE: -- containers back in as soon as it's picked up.

MR. IANNACITO: Right. I looked at some of the pictures that you gave me, and it looks like a lot of that was black garbage bags without the bins and I could see that being an issue.

THE CHAIRMAN: Has the resident's concern been since the bins were swiped?

MS. UHLE: My understanding is it's just that it's been constantly or it's often out on the sidewalk and left there overnight or for a day or so. So it just gets kind of disgusting.

MR. IANNACITO: This is just a conversation we had. I don't know if you want  
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to make it a condition.

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MS. UHLE: I think, in all honesty, it should be a condition, especially if the restaurant is willing to comply with it.

MR. IANNACITO: They're willing to go to six days a week.

MS. UHLE: Otherwise, it's something that is difficult for us to enforce without it being a condition of approval, and I also think for a restaurant, especially when you're dealing with food waste and stuff, it's a reasonable condition.

MR. NEMECEK: And especially when you're proposing to effectively double the size, that would presumably also result in a significant increase in the waste. So it does become a bigger issue.

THE CHAIRMAN: So we're going to make that a condition.

MS. UHLE: Okay. We'll say at this point four times a week. I mean, in all honesty, four times a week they have it out on the curb less because you'll be keeping it in.

MR. IANNACITO: Once he expands, he  
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may have to go to more days --

MS. UHLE: For his own benefit, yes.

MR. IANNACITO: -- because he doesn't have the area to put a large container. So he has to put smaller trash bins inside and roll them out. Plus, they get too heavy.

MS. UHLE: That was another question I had, because it just looks like there's numerous bins. It would be nicer if there were just one dumpster.

MR. IANNACITO: He actually talked to the owner of this property down here to see if he could actually put a container on that property, but he wouldn't give him permission for it. They just come in and pick it up once in the morning.

THE CHAIRMAN: Those containers can be lifted into a truck; right?

MS. UHLE: I don't know how the private carter does it, but something else might be able.

MR. IANNACITO: I'm sure the private carting company has a restriction on the size.

THE CHAIRMAN: Anything bigger you  
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can't use a truck.

MR. IANNACITO: Sometimes they have a lift for smaller containers to pick it up.

THE CHAIRMAN: Is that what's used now?

MR. CUNNINGHAM: It seems like it's slightly larger than a residential pail.

THE CHAIRMAN: My point being, if there is something that needs a forklift, that's a big truck, how does it come in; how

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does it move; how does it get out?

MR. IANNACITO: They usually bring it out to the curb. This easement here goes all the way out to the --

THE CHAIRMAN: Oh, and they just move it out onto the right of way?

MR. IANNACITO: Right. Right now he used to have the trash cans here and he would roll them out. Now they're going to keep them inside and then roll them out in the morning. I believe those pictures were actually taken out at the curb; right?

MS. UHLE: It looks like it.

MR. IANNACITO: Those photos show the  
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trash out at the curb.

MR. CUNNINGHAM: Yes.

MR. IANNACITO: He's just got to do a better job of bringing them in.

THE CHAIRMAN: So this is sort of good, we usually talk about parking.

MR. IANNACITO: This is a different issue.

MR. NEMECEK: I didn't hear you correctly, Mr. Iannacito, you require 14 and you're providing 0?

MS. UHLE: So I think -- not to speak for you -- I think this was really the one and only issue. So as a condition, the trash can really only be out on the morning that it's going to be picked up and then the bins are not allowed to remain there for any extended period of time. They need to be brought in as soon as the trash is picked up and we'll say four times a week.

MR. IANNACITO: If he could come to an agreement with the owner of the other property to provide something larger on that property, he'll go that route also.

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MS. UHLE: Maybe any significant change to that routine let us know so we that we don't receive complaints that now they're doing something differently. I think you could change it as long as it's less of a nuisance.

THE CHAIRMAN: We have a public hearing, so let's just see if there is any public. There is an open public hearing, so if there are any comments from public.

MR. CONTRERAS: I'm Robert Contreras, I'm the owner of 132 Garth, LLC, the building next door.

So his store is at 128 Garth Road and I don't understand why the garbage is on Grayrock Road. If you want him to take care of the garbage, let him put it out in front of his store for pick up. He's been putting it out on my property, all right, which I have nothing to do with this store. When I called up and

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complained the other day, they said, well, you don't own the sidewalk in front of your store. That's the response I got.

MR. IANNACITO: From who?

MR. CONTRERAS: Heather.

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MS. UHLE: From the Highway Department.

MR. CONTRERAS: It's very simple, simple solution --

MR. NEMECEK: Come step up to the mic.

MR. CONTRERAS: Their store is on 128 Garth Road, have the garbage picked up in front of their store, and they'll make sure it gets picked up every day and make sure it's clean. They dump it in the back yard where they're not looking at it, it piles up. They leave it out Sunday night and it will stay there until like Wednesday or Thursday.

MR. NEMECEK: I think there may be parking issues. Is there an open space in the front of --

MR. IANNACITO: The way this building is, the whole building sits on Garth Road. This little easement here is the only access to Grayrock. There's another property right behind, but it is a much lower elevation. As you drive down Garth Road and make the turn onto Grayrock, Grayrock is probably like another two or three stories down.

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MR. NEMECEK: Grayrock goes down to the train tracks; right?

MR. IANNACITO: This restaurant, he brings the trash down to the basement and then rolls it out.

MS. UHLE: And you said that all of the other stores do put their trash out on Garth Road and that happens to be picked --

MR. IANNACITO: It's much less.

MR. NEMECEK: That's also picked up by the town.

MR. IANNACITO: That's the town. The town is not going to pick up the restaurant waste.

MS. UHLE: The town is no longer picking up for commercial properties. There are some people that were grandfathered in.

THE CHAIRMAN: Just so I know, where is this gentleman's property?

MR. CONTRERAS: My building is here. I have a 3 foot easement here.

MR. IANNACITO: His building -- I don't know if you guys remember the nail salon way back?

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MR. NEMECEK: Yes.

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MR. IANNACITO: So there's a little sliver that's actually on Garth. The majority of his building is actually on Grayrock. There's another building in front on Garth which has a tavern on the corner, a butcher, a deli, and hair salon, that's actually on Garth. So the only entrance you have on Garth is the parking garage and the nail salon, everything else is accessible from Grayrock.

MR. CONTRERAS: And everyone takes care of their garbage in front of their own store.

MR. IANNACITO: The storefront for Cooked & Company is on Garth.

MR. CONTRERAS: That's where they need to put their garbage.

MS. UHLE: Where they're putting the garbage now on Grayrock, is that their property?

MR. IANNACITO: It's not. They only have an easement to cross over the adjacent property below.

MS. UHLE: So they have an easement

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for egress, and then they're putting it on the sidewalk which somebody had indicated is a public sidewalk. That's interesting.

MR. IANNACITO: But it's not the front of their property.

MR. CONTRERAS: It's either on Yuki's property or my property. They should just keep it in front of their store.

MR. IANNACITO: Yuki is the guy who owns the auto repair?

MR. CONTRERAS: If you make an agreement with him to put it on the other side, opposite side of my building, I don't have a problem with that. From what I understand talking to Heather, he doesn't want to help him.

MR. IANNACITO: He probably has to talk to Bill. Bill owns the building.

MR. CONTRERAS: Whatever he's got to do, as long as the garbage is not on my property sitting there. One of the problems with it on my property is I'm trying to re-rent the gym and people see all the garbage. With the bags there, they stain the sidewalk and

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everything and you don't even want to know what it smells like in the summer.

MS. UHLE: I'm assuming that's why they don't want to put it out in front of the restaurant.

MR. CUNNINGHAM: Exactly, but they have to take care of it.

THE CHAIRMAN: They can't put it in front; right? Sounds like they can't put it in front.



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MS. UHLE: Why not?

THE CHAIRMAN: Because a private carting service would have to pick it up.

MS. UHLE: I just want to clarify something, the private carting service could pick it up on Grayrock or Garth. It's probably --

MR. CUNNINGHAM: Is there an access issue getting it out the front? Is there an access issue? Do you have to bring it through finished space?

MR. IANNACITO: To go out to the front, you have to go through the restaurant. The kitchen is in the back and there's a stair

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back here that leads down to the basement and then they could go out. That's basically the second fire egress and it also leads down to some spaces in the basement. There's really no space to put it anywhere. That's why when I spoke to them, they agreed to bring it inside. So storing the trash inside is not a problem, it's where do you put it on the day of pick up. That's really the question.

THE CHAIRMAN: So this gentleman clearly has a good point, he doesn't want it in front of his property. Where can it go if it doesn't go there?

MR. IANNACITO: The only frontage they have is Garth. They don't have a frontage on Grayrock.

MS. UHLE: So I can understand why a restaurant may not want their own garbage in front of a restaurant space because aesthetically it's not attractive for anybody. But on the other hand, I believe that numerous businesses throughout town put their trash out at the sidewalk in front.

MR. IANNACITO: This is basically the  
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second means of egress for this building.

MS. UHLE: We're trying to say -- I think the board is wondering if it's appropriate to say it has to be out front.

MR. NEMECEK: Mr. Iannacito just mentioned earlier --

MR. CUNNINGHAM: We have some other restaurant vendors here. Do you guys take yours out and put it on the street on White Plains Road out front?

(Discussion from the audience.)

MS. UHLE: You have a private carter pick it up?

MR. CUNNINGHAM: And you bring it out.

MALE VOICE: Around 8:30, 9:00.

MR. CUNNINGHAM: Pails are brought out to the sidewalk, it gets picked up.

MS. UHLE: That's what I was going to say as well. I think especially for a

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restaurant you may just have to arrange with the private carting that they have to get there early.

MR. IANNACITO: Seven days a week prior to 9:00 pick up and then --

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MS. UHLE: And do it in front.

MR. IANNACITO: Six days a week.

MR. NEMECEK: Mr. Iannacito, you did mention that you might be amenable to seeing if you could work this issue out and coming back?

MR. IANNACITO: Yes, not a problem, we could come back next month and give you a better answer.

MS. UHLE: Yes, because I can also see complaints from residents on Garth Road saying every night there's trash out in front. So it does seem like something you guys have to think about in more detail to see how you're going to accommodate that.

MR. NEMECEK: That seems to be the only issue.

MR. CUNNINGHAM: I mean, there's staff in early in the morning cleaning up, right, so this wouldn't necessarily have to go out the night before.

MR. NEMECEK: And have Bill talk to the guy, you know, who's next to your property to see if he's agreeable to it.

MR. CONTRERAS: If it's in front of  
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his place, you can guarantee it's going to be clean.

MS. UHLE: If it's six days a week, the volume isn't as much.

MR. IANNACITO: Six days a week, you're reducing the volume, right, so it should work out better. So I'll talk to them about a solution and we'll come back next month.

THE CHAIRMAN: So we're going to leave the public hearing open.

MR. IANNACITO: I think he wanted to make a letter here part of the public.

MR. CONTRERAS: Make this part of the record, please.

THE CHAIRMAN: Sure. It's more or less what you just --

MR. CUNNINGHAM: That letter is what you just said?

MR. CONTRERAS: It's a letter from my attorney, Cease and Desist. This has been going on since July.

MR. NEMECEK: Okay. We'll see if we could reach a solution. Come back next month.

THE CHAIRMAN: Final application is --  
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MS. UHLE: Give John a break again.

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THE CHAIRMAN: Do you want a five minute break? A quick break?

MR. IANNACITO: A quick break?

THE CHAIRMAN: I quick break, yes. Everyone needs a quick break.

MR. IANNACITO: I want to get home soon.

THE CHAIRMAN: We're going to take, Gary, a five minute break.

MR. NEMECEK: I'll listen to you, John.

(Short recess taken.)

THE CHAIRMAN: The next application is 17-02, 429 White Plains Road, Mickey Spillane's.

MR. IANNACITO: Yes. Good evening, again, John Iannacito, architect. I'm representing Mike Hynes and Stephen Carty this evening, the owners of Mickey Spillane's. An application on this project was approved in 2015, and we're here this evening to request approval to legalize some work that was done that wasn't on the previous approved

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application.

The work to be legalized includes a one story addition constructed at the rear of the kitchen at the rear of the property and concrete block walls constructed along the property lines on the side and the rear above the kitchen.

This is the main floor plan, the area that was finished. This is the concrete block that runs along the perimeter of the property line. This space was previously used as outdoor storage and it was partially covered. So during the course of construction they built up some block walls and new roof structure to make it an enclosed storage space.

MS. UHLE: John, can I just clarify something? The photographs that they have because they didn't have the proper permits and approvals, it's not finished.

MR. IANNACITO: It's not a hundred percent complete.

MS. UHLE: So they need to stucco the walls.

MR. IANNACITO: Right. They need to  
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make it all one level and then stucco it.

MR. CUNNINGHAM: What it looks like now?

MR. IANNACITO: Yes, that's not finished in the back.

THE CHAIRMAN: Is the roof on?

MR. IANNACITO: This space is completely done but the top of the wall is not completed. I'll show you on the elevation.

MR. CUNNINGHAM: It's just sitting on

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the foundation or it's just sitting on the sidewalk?

MR. IANNACITO: The roof?

MR. CUNNINGHAM: No, the block walls.

MR. IANNACITO: The block walls should have a footing. We're going to have to inspect those. Once we get to that point, we're going to have to file for a building permit and we're going to have to dig a hole to see if they go down 42 inches.

MS. UHLE: Again, they were constructing without permits and approvals, which meant there were no drawings and inspections. So in order to legalize it, first  
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they have to get the variances to allow them to build without meeting the required setbacks and then John will have to prepare as-built drawings and they'll have to investigate if the footings were installed properly.

MR. IANNACITO: Make sure it was installed properly.

On the second floor, we're looking to legalize the concrete block walls that run along the perimeter here, and these walls were constructed to better conceal the roof top equipment.

In addition to legalizing the work at the back of the property, we're also looking to request approval for the as-built front elevation, which was changed from the previously approved elevation. This is the approved elevation and the as-built that was constructed today.

The changes to the front include: Originally, we were going to recenter the entrance on the building and that work was not done. So the entrance will remain as it existed prior to the application. The height

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of the building was increased by the 2 feet. That still conforms to the zoning requirements. The decorative cornice along the top was not constructed. The windows above the new second story doors are smaller in height and the divided lights on the windows and doors were not installed.

The partially completed work at the rear of the property is going to require a couple of area variances for approval.

The first is the first side yard setback where the existing and proposed is 0 and the required is 10, a deficiency of 10 or a hundred percent.

The second variance is for the second side yard, which again is 0 and 10 is required, so a 10 foot variance or a hundred percent.

The rear yard variance, which is also proposed at 0 and the required is 30, a

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deficiency of 30 or a hundred percent.

The fourth variance is for the principal building coverage, the coverage is at 4,575 square feet and the required is 3,000 square feet, an increase of 1,575 square

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feet or 52.5 percent.

The fifth area variance is for the number of off street parking spaces. The previously approved application plus the new storage space behind the kitchen requires 19 parking spaces. A variance was granted in 2006 for 15 parking spaces, therefore, we're shy 4 parking spaces and need a variance for 4 parking spaces.

MR. CUNNINGHAM: I have a question with your front elevation. The reason the windows were just changed or there is something structurally why the windows had to come down?

MR. IANNACITO: The header?

MR. CUNNINGHAM: Yes.

MR. IANNACITO: I think there's space up there. I'm not sure why they --

THE CHAIRMAN: But they're also lower.

MR. CUNNINGHAM: I know steel went up, I didn't know if there was some structural reason why.

MR. IANNACITO: The reason we raised the height of the building is because originally we were going to put the duct work

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for that space at the rear of the property and run that under the floor, but they moved the equipment to the rooftop and then we needed to bring the ceilings -- we needed to build up a space to run the duct work in this area. So that was the overall increase. The height of the interior space stayed the same as the previous plan showed.

MS. UHLE: There wasn't really a particular reason why the windows are smaller, they were just installed --

MR. CUNNINGHAM: Different windows.

MR. IANNACITO: I guess they were just a different window, yes.

THE CHAIRMAN: But, as I said, they've also been lowered it seems, because I'm trying to strike a line across and it doesn't line up.

MR. CUNNINGHAM: The elevation line is lower on that one but the scale is right on both of the drawings.

MR. IANNACITO: Same sill height.

THE CHAIRMAN: Pretty close.

MR. IANNACITO: I can check it.

THE CHAIRMAN: Also, I don't know if

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you pointed out the skylight on the top is also

changed?

MR. IANNACITO: Well, that's the overall 2 feet that went up. The detail at the cornice. So the whole crown detail on the building changed. This cornice plus the crown detail here went to a much simpler flat.

THE CHAIRMAN: That's smaller too because that's the 2 feet.

MR. IANNACITO: Right, those windows were not as tall also and then they don't have the divided lights.

THE CHAIRMAN: You have to raise that too. Would that go over the building height if you raise that?

MR. IANNACITO: No, because the building height to that point is -- we could bring it up to 45.

MR. CUNNINGHAM: It's the same, it's just the elevation went higher, the main building, the parapet.

MR. IANNACITO: Okay. So we're here tonight for preliminary review and referral to the Zoning Board because we need to see if we

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could get legalization before we can do anything and also the facade. We have to see because it's different than what was previously approved.

THE CHAIRMAN: Let's just talk about the back first. Maybe you already talked about it, so because there is extra area added in the back --

MR. IANNACITO: Because that room behind the kitchen was an open space, it didn't get counted as part of the floor area. So once they enclosed it, it became part of the floor area and the calculation for that space is 1 parking space for every 150 square feet.

MR. NEMECEK: But from a practical standpoint that's really not going to change the usage, the number of people using it, it's storage. I understand where the calculation changes.

MR. IANNACITO: The tables will never or public will never go back there. It's behind the kitchen, storage for the kitchen. They would really have to change the whole layout of the restaurant.

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THE CHAIRMAN: That's just a floor area number that affects the parking.

MR. IANNACITO: Right. Because it's additional floor area, you still have to look at it as the same as the rest of the restaurant at 150 square feet per parking space.

THE CHAIRMAN: So zoning issues, variances, architectural review as far as -- we're only talking about the back, right, they have to look at the back elevation --

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MR. IANNACITO: And the front. On the previous application, the rear elevation had railings for screenage to conceal the rooftop equipment. So this here is going to be a more solid wall that's going to be stuccoed. So I think the appearance on the back once it gets stuccoed it will be a more monolithic finish, which is okay. It's just the front elevation is very different than what was approved. So we'll have to see what the Architectural Review Board says about that.

MR. NEMECEK: I have to say, I know we went through quite an involved process here, I know it was two appearances before the ARB and  
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there was very careful consideration of this facade. I went back and looked at the February 26th, 2015 final transcript of the hearing, and I remember commenting how nicely everything lined up and how nice it looked. I know I -- I live very close, I live right over here, I pass by that area and frequently see it, and it had been bothering me for awhile why it didn't quite look as nice as what I remember approving. It was only when the application came before me that I was like, now I see why.

MR. IANNACITO: A lot of the finishes just were stripped off.

MR. NEMECEK: Also, I mean, the door in the middle, that's a pretty -- that's literally the gateway to the restaurant and that didn't happen.

I have to say having heard -- I know with Mickey Spillane's there were members of the community who came forward and voluntarily gave testament to what good neighbors they were, and I can't help but feel this is almost thumbing your noses at the Planning Board. We approved a particular facade and this was the

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subject of quite a bit of negotiation, if you will, and two ARB meetings. It was carefully agreed upon. I'm just talking about the facade right now. I'm not even talking about the self help that was engaged in the back. It may well be something that Mr. Levy, who was here at every prior meeting, might agree with for all I know. I remember he did want you to do something --

MR. IANNACITO: He wanted more screenage, yes. He would have been here but he's out of town today. I think he tried to put a letter together or something but he might be at the next meeting.

MR. NEMECEK: There's a process. I think you understand that and I certainly think your clients understand that there's a process and we have a process in place for a reason. It certainly -- it's offensive, I think, to

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this board when the finished product looks so different from what we approved.

MR. IANNACITO: I'll have Mike answer that.

THE CHAIRMAN: Hang on, hang on.  
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MR. HYNES: Good evening, everybody, Mike Hynes, 431 White Plains Road.

Just to clarify on the facade at the front, as we were getting close to the end of this particular project, there are a lot of moving parts, as everybody knows, when you go to finalize some of this stuff. We are more than prepared to put back the facade. What happened was we had taken down the front sidewalk, we had taken down everything, and we knew at that stage we would have to go back and revisit some of the issues that we have here today. So we do plan, whatever the board says, we will put back the facade.

THE CHAIRMAN: I'm sorry, I don't understand what you're saying. Can you repeat that again?

MR. NEMECEK: Did you say you will go back to the approved facade?

MR. HYNES: Yes, absolutely.

THE CHAIRMAN: You'll go back to the facade on the left?

MR. HYNES: At the time when we were trying to get it open and there was a lot of  
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moving parts and we just again --

MR. CUNNINGHAM: Scaffolds up and you want to get the place open and --

MR. HYNES: Yes. We had taken down the sidewalk and it was a matter of safety getting up, you know, getting a cherry picker and we put that up as per plan.

MR. NEMECEK: Look, I absolutely understand with the explanation of the duct work that had to be done and that you raised it by 2 feet, it's still conforming, that's something that, I guess, happens in the process of construction. If you're representing that -- it will have to go through a full review process again, but as long as you're making that representation to us --

MR. HYNES: Absolutely.

MR. NEMECEK: -- I certainly am willing to work with you.

MS. UHLE: Well, I'm confused about something. Are you saying you're going to implement what was approved completely even with the center door and the cornice and --

MR. HYNES: With regard to the facade  
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in the front, the center door created a huge



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issue for us in regards to logistics and how people sit at the restaurant. It falls right into the center, so to get people in to make it A.D.A. compliant, we had to go about 60 inches inside the front. We toyed with all kinds of ideas, which John will attest to, of kicking out the doors to the front and getting people into the restaurant right and left was a huge issue because we would have lost a tremendous amount of revenue and table space that's directly inside the window as is. As you go into the left right now from the current existing condition, all the booths are to the left and these one, two, three, four windows just off that center door. That door is slightly off center. So for us it was a huge issue with revenue, a huge issue also with getting people logistically around, especially anyone with A.D.A. compliance, because it took right into too much of the restaurant. It was going right into the middle of the floor at the bar in the restaurant area. So while it looked fantastic on paper, logistically it was a

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nightmare for us. So, absolutely, I do agree with everybody that we would love to go back and make it, but we just couldn't afford to give up the space. We're landlocked as is.

MR. NEMECEK: So to qualify your earlier statement, you'd be willing to implement all of the features on the facade that was approved with the exception of the center doors?

MR. HYNES: Correct, if possible.

MR. IANNACITO: I don't know if we could raise the windows at this point.

MR. CUNNINGHAM: But if you still did the same thing and made them look --

THE CHAIRMAN: His comment is about something else.

MR. IANNACITO: The comment was, are you ready to implement everything but the center door. I don't think that's possible.

THE CHAIRMAN: Anything is possible.

MR. IANNACITO: We would have to buy new windows.

THE CHAIRMAN: That is exactly what we're asking you to do. There is no doubt

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about it, that's what we want you to do. That's what we want to see.

MR. NEMECEK: If we're willing to implement except for the door, except for the windows and except for the --

MS. UHLE: I think the cornice is a problem too.

MR. IANNACITO: We may have to adjust the height now because there is a lot more blank space here.

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MR. NEMECEK: I understand the height issue and we're willing to work with the applicant here. We're not going to ask you to cut 2 feet off of it. That's not --

MR. IANNACITO: You can achieve something here by making a bigger crown or --

THE CHAIRMAN: This is what we're going to do: We're going to probably talk about sending this to Zoning so you could talk about zoning and what's in the back. We're going to write a letter or we're going to send this out, write a letter and actually express our strong disapproval of that and we're going to also write a letter to the Architectural

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Review Board saying we want that elevation to be approved. You're going to take the windows -- you're going to take the existing and somehow you're going to make it look like the one on the left.

MR. IANNACITO: The bottom here can be done as long as they're willing to move the entrance to the middle. I think making these windows taller -- I guess it can be achieved also, it just takes a lot.

MS. UHLE: I think one of the potential problems is that to me the way this was presented as an application right now was this is what was previously proposed, this is what is constructed, and this is what we want to keep. I do know that almost a year ago now when this all came to light, that there may be ways that John could add enhancements so that it essentially looks the same with some modifications. I think the point is, it's such a prominent building and it has such potential to be something and right now I think -- especially the upper portion where the proportion seems a little bit weird,

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etcetera -- so I think the problem is this was sort of presented as an all or nothing alternative. Even though I understand the Chairperson would prefer the all alternative, if that's not possible then I think you need to give them something that at least addresses most of those concerns.

MR. IANNACITO: We did speak awhile back.

MS. UHLE: We did, yes.

MR. IANNACITO: I was under the impression let's file it this way and see where it goes.

MS. UHLE: Well, you're seeing.

THE CHAIRMAN: I haven't agreed that it's not possible because it is possible and that's definitely an option that I want to see, and I think I'm going to continue saying that's the option I do want to see. If it comes back

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here and the other members on the board want to disagree with me, they certainly can but that's certainly my opinion.

MR. NEMECEK: I think it's been built 2 feet higher to accommodate the duct work. I  
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think to ask them to reduce that is --

THE CHAIRMAN: Obviously, we're not doing that.

MR. NEMECEK: That I do want to make clear.

MS. UHLE: There is a significant difference in the cornice treatments and there's a significant difference in the proportions.

MR. CUNNINGHAM: He could make this work.

MR. NEMECEK: Give us some options. When in doubt, the closer it is to the very attractive building that we approved, that should be your guiding principle.

THE CHAIRMAN: And I do have to say those windows are just way too small. There is nothing you could do to make them bigger.

MR. IANNACITO: You could give them the appearance of being taller with trim.

THE CHAIRMAN: Your work is great in this town and you've done a lot to improve particularly in this area. I think that is a huge improvement to this area over there now,

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and I think that is not at all. That's how I feel. (Indicating.)

MS. UHLE: So you're going to refer them to the ZBA for consideration of the area variances, and then when you've completed the Zoning Board' review, you'll go to the Architectural Review Board. This board I believe asked me to just prepare a letter to the ARB indicating that they would like to see the facade as similar to what was previously proposed as possible. Once you're finished with the ARB, you'll come back to the Planning Board for the final approval.

MR. NEMECEK: We do rely very heavily on our fine Architectural Review Board. I know with this one in particular, this application, they took a lot of time on it, and I know the members of the ARB really spend a lot of time on these applications and remove a lot of the underbrush that we don't have to deal with and we rely very heavily on them, and I know I really liked the design as was presented to us. It's important both as a precedent for other applicants that we can't just allow people to

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say, now we got the approval, let's build it

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the way we want now. That's not the way it works.

MR. HYNES: I just to make clear that at this time that wasn't the intention by any means. What happened was, like with all buildings, when you see what's there and as you start investigating, you set out with a budget and the budget goes awry and you're trying to make do to get open knowing we would come back at some stage. Absolutely, we have every intention of making the building as beautiful as it could possibly be, but there is some parts of it, especially with the doors on the bottom -- I know that with everything like that he could bring the cornices down and get everything in proportion over the windows, but the doors as the center the way it's drawn on this particular plan here is near impossible for us to operate our restaurant with the doors in the middle, not unless we come back asking for a variance to kick out. We have property in the front of the front of the building, we could bring it out and put it in the center,

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that's very achievable. Otherwise, we're going to go all the way almost take 40 square foot off the inside of the building. We got the 40 square foot on the outside of the building but we didn't think it was going to look any way -- so logistically from an operational standpoint we wanted to make this work, trust me, otherwise, we wouldn't have spent all that money to draw it to get it there in the first place. But in reality, sometimes, you know, what looks very, very good on paper it's not working for us.

THE CHAIRMAN: It's those damn architects. It's the damn architects.

MR. HYNES: I would blame them.

THE CHAIRMAN: In the existing front elevation, the operational door for entrance is the one skewed to the right? On this existing, the as-built.

MR. IANNACITO: This leads to a staircase that goes upstairs.

MR. CUNNINGHAM: That's two forms of egress out of upstairs.

MR. IANNACITO: This is the door to  
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the bar.

THE CHAIRMAN: That's when you enter that the hostess is right there?

MR. HYNES: That's correct, right.

MR. IANNACITO: We did look at some options of building out but that would require additional variances.

THE CHAIRMAN: Mr. Cunningham had an idea that if you put a fourth door, not an operating door, just some dead lights to sort

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of make that more symmetric. It will look like that door.

MR. IANNACITO: There's a lot of things you could do with trim work and stone.

MR. CUNNINGHAM: Take those 12 lights and extend them so aesthetically it looks --

MR. NEMECEK: We have every confidence, Mr. Iannacito, that you will give us options that will work to rectify this problem.

MR. HYNES: Absolutely.

MR. CUNNINGHAM: As we pull into town, it's what we want to see and it looks good, but it looks great in the other one.

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THE CHAIRMAN: No, that looks great and this does not. Public hearing. Let me just open up the public hearing and then we will figure out what to do next.

MR. NEMECEK: Today only we're having you only comment on one application.

MR. CUNNINGHAM: Are you going to be a regular now?

MR. PINTO: Vito Pinto, 120 Bella Vista Street.

THE CHAIRMAN: I didn't open the public hearing. Procedurally let me open the public hearing. I don't mean to interrupt.

So I make a motion to open the public hearing on Application --

MR. NEMECEK: 17-02.

THE CHAIRMAN: 17-02.

MR. NEMECEK: Second.

THE CHAIRMAN: All in favor.

(All aye.)

THE CHAIRMAN: Good. You're up.

MR. PINTO: I'm so sorry I interrupted you. I'm here on behalf of our Commander and Chairman of the Eastchester Veterans

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Association, the owner of the building next door.

We were told that there was going to be some disruptions with regard to the walls on the side and in the rear, and if there's going to be any work done, we just wanted to let you know we'll work hand in hand with the town Planning Board and Architectural Review Board and the committee, the building inspector's office, understanding that we would like to have the back wall faced with stucco as well. The side wall we have windows that we already addressed the issue to the Building Department about perhaps closing them in because they do us know good looking at a wall right 6 inches adjacent to us.

So whatever you guys work out, it's good to see that, you know, you can make something look like it's real and still give

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the good appearance that you gentlemen had originally approved. As far as the back wall and the height next to our building, we have no objection with that being accepted by the Zoning Board when it goes there and that's the  
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side wall where it covers the balcony that is adjacent immediately to the side of our building and right to the rear and then the rear wall which goes on our parking lot right to the border of our parking lot. So if there is any work that's got to be done as far as checking the footing, we just want to be apprised of that so we have the least disruption with our tenants below.

That's all we really wanted to share with you. Margaret knows us well enough and we'll work with you in any way we can, with Piper's Kilt, and with the Mickey Spillane's group to make sure that the corrections are made properly and least disruptive to our tenant. Thank you.

MR. NEMECEK: Thank you.

THE CHAIRMAN: Thank you. Any other comments?

MR. NEMECEK: I'm sure these gentlemen will work with you and keep you apprised.

THE CHAIRMAN: At this point, we could make a motion to move it to the Zoning Board and they could consider the variances.

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MR. TUDISCO: Are you going to keep the public hearing open?

THE CHAIRMAN: Yes, I think so. Yes. Then you'll going to zoning --

MR. IANNACITO: And then the ARB and then back to you guys.

MS. UHLE: Yes. I worked this out. The earliest, if all goes well, you would be back to this board would be April 27th. That's if everything goes smoothly.

MR. IANNACITO: When is the deadline for the next Zoning Board?

MS. UHLE: I think you still have time. We're just thinking about the ARB next week, so you still have time.

MR. NEMECEK: Is it the 30th, Michael?

MR. IANNACITO: The meeting is the second Tuesday.

MR. NEMECEK: It sounds like you have time.

MS. UHLE: So the next Zoning Board meeting is actually February 14th. Submission deadline is January 31st.

MR. IANNACITO: So Tuesday.

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MS. UHLE: So you're in good shape.

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If that's one meeting, you will get a resolution on March 14th and go to the ARB beginning of April and Planning Board end of April. Again, that's optimistic.

THE CHAIRMAN: So that's the path and we'll refer you. As you know, you're going to go to ARB and they'll make their recommendations and --

MR. IANNACITO: Right, because the front doesn't need any variances, it's more just the aesthetics and ARB. It's the rear walls and rear addition that needs the variances.

MR. NEMECEK: The rear wall will also be subject to review by the ARB, I guess.

MS. UHLE: Yes.

THE CHAIRMAN: We certainly welcome what the ARB has to say about this, but you certainly heard my strong opinion.

MR. IANNACITO: I'm looking forward to that meeting.

THE CHAIRMAN: I make a motion to refer Application 17-02 to the Zoning Board of DINA M. MORGAN, REPORTER

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Appeals.

MR. NEMECEK: Second.

THE CHAIRMAN: All in favor.

(All aye.)

MR. IANNACITO: Thank you. Have a nice night.

THE CHAIRMAN: So then I make a motion to close the Planning Board meeting of January 26th, 2017.

MR. NEMECEK: Yes, with the final notation that we don't have any minutes to approve, but, yes, second.

THE CHAIRMAN: Thank you. All in favor.

(All aye.)

(MEETING ADJOURNED.)

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C E R T I F I C A T I O N

STATE OF NEW YORK        )  
                                  ) Ss.  
COUNTY OF WESTCHESTER)

I, DINA M. MORGAN, Court Reporter and Notary Public within and for the County of Westchester, State of New York, do hereby certify:

That the above transcript was taken from a videotape of the actual hearing. I was not present for such hearing. The videotape was taken and transcribed by me to the best of my ability.

And, I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set

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my hand this 14th day of February, 2017.

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DINA M. MORGAN  
Court Reporter  
DINA M. MORGAN, REPORTER

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