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The Chairman: I apologize for the delay. This is the town of Eastchester Planning Board meeting of March 23, 2017. If everyone would rise for the Pledge of Allegiance, please.

(Whereupon the Pledge of Allegiance was said.)

The Chairman: I'm going to take attendance. Mr. Phil Nemeczek.

Mr. Nemeczek: Present.

The Chairman: Robert Pulaski.

Mr. Pulaski: Present.

The Chairman: Jim Bonanno is here.

Bill West.

Mr. West: Present.

The Chairman: Mark Cunningham couldn't be here tonight. We will forge ahead without him.

Let's see, just so everyone knows, there are two items on the agenda tonight; one is 760 White Plains Road, the other is 600 White Plains Road. We have a number of adjourned projects, which I'll run through quickly. It's Water Street and Mickey.

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renderings with colors, and then we'll come
back to you guys with that stuff also.

THE CHAIRMAN: Okay, great. Next.
MR. IANNACITO: On the floor plans,
just quickly review the list that we put on
every floor plan.

On the ground floor, the existing
space is occupied by the hair salon, which
consists of a reception area, a work room, and
a couple of cutting stations. The proposed
ground floor will have a new entry vestibule, a
reception area for the real estate office, two
conference rooms, a private office, and an
exercise meditation type space to relax in.

On the first floor, the existing first
floor currently has the reception area, a
private office, a conference room, computer
room, and a training space which is 320 square
feet. On the proposed first floor, we will
have a new training room, which will be 885
square feet, we'll also have a kitchen staff
room for the real estate office, and a private
office.

THE CHAIRMAN: How many seats do you

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have tabulated there?

MR. IANNACITO: So I was going to sum
that up at the end, but --

THE CHAIRMAN: Wait until the end,
that's fine.

MR. IANNACITO: So on the second
floor, the existing structure has an open desk
area with cubicle spaces. It has 23 seats
available in this open work area. It also has
a small kitchen staff room and four smaller
private offices. On the proposed plan, we will
also have an open work area, which will have 12
cubicle spaces, a computer room, 3 private
offices, and a conference room.

Then on the upper floor, the third
floor, the existing structure has an open space
with 10 cubicle spaces. The proposed will have
an open space with 6 cubicle spaces, 4 private
offices, and a staff lounge.

So to sum up all of the lists on all
these plans, the training room -- the existing
training room currently has 14 spaces and the
proposed will have 30. There are currently 5
private offices in the existing structure and

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the proposed will have 9. There is currently
one conference room in the structure and the
proposed will have 3 conference rooms. There
are currently 33 small 2 foot by 4 foot cubicle
spaces in the existing structure and on the
proposed we will have 18 larger cubicles. On
the proposed, the larger cubicles will range
anywhere from 3 foot 6 -- 3 foot by 6 foot to 6
foot by 7 foot L shape. So the 3 foot by 6
foot will be just a desk with cubicles around
it and the 6 by 7 will be L shaped desks, and
that's on the upper floor we'll have bigger
cubicle spaces.

At this point, I'm going to hand it
over to Jamal Hadi, the owner, and he will
provide the additional information that the
board asked for for clarification on the weekly
meeting and also on the agreement between
Keller Williams and Tuta Bella about the
parking, and then he will hand it over to
Patrick O'Leary to provide additional
information that the board asked for on the
additional off-site parking, and then I'll come
back in and answer any questions that you guys

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may have.

THE CHAIRMAN: Thank you.

MR. HADI: Good evening, Mr. Chairman
and members of the board. To clarify, I have
secured a reciprocity agreement --

MR. NEMECEK: Just identify yourself
on the record.

MR. HADI: My name is Jamal Hadi and
I'm the owner of Keller Williams.

MR. NEMECEK: Thank you.

MR. HADI: I wanted to let you know
that I have secured a written agreement between
me and Tutta Bella, my neighbor, for eight
parking spaces that we share. They will use
our eight parking spaces and we'll use their
eight parking spaces, and I have that in
writing. I was not successful at going
anywhere with the easement between my
neighbors. No one was interested in having
that conversation.

Also, to clarify attendance at
meetings, my team meetings do start on Monday
morning at 9:00 to 9:30 is breakfast, we serve
breakfast in the morning, then the meeting

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starts at 9:30 and ends between 10:15 and 10:30. There is an average of about -- just going to look at my notes -- 10 to 15 people that show up early, and then during the meeting time is between 18 and 20, and there is also a class that happens at 11:00 that averages between 8 and 12 people.

MR. NEMECEK: I know the last time you were here a couple of months ago, I was very interested in finding out about the nature of the operations of your business. Along those lines, can you explain to me what the purpose of the meetings, the seminars, the teaching sessions -- what's the purpose and what's the purpose of having them on a weekly basis; is it the same people showing up? Is it -- just explain that for me a little bit more.

MR. HADI: As I mentioned previously, most of the people that work with me are independent contractors and I don't dictate their time. One of the values that we bring to the table is knowledge, information, education. So that's one of the reasons why we're always regular and consistent with learning. So

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are law. Like we have to -- it's on us to keep up with real estate law changes, and it is the responsibility of the broker to make sure that I am hosting courses, that's what the New York State Department of State holds me accountable to. It does not mandate attendance. I do have to keep an attendance sheet for people that come. That's pretty much it.

MR. NEMECEK: Okay. Thank you.

MR. HADI: You're welcome.

THE CHAIRMAN: So just back to the numbers, in the morning meetings, the Monday morning meetings, you said 15 may arrive early?

MR. HADI: It's breakfast time, so we serve bagels in the morning, muffins.

THE CHAIRMAN: And then you mentioned the number 18; is that --

MR. HADI: That's during. The number goes between 10 to 15 and then goes up to 18 to 20 when the meeting happens.

THE CHAIRMAN: So it's not 15 plus 18?

MR. HADI: No. People show up 10 minutes late.

THE CHAIRMAN: I know we discussed

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that's the reason why we do it. Once the classes are over, usually the office goes down to the normal attendance.

MR. NEMECEK: Give me an example of one of the topics that was -- that you had a teaching session in the last few weeks.

MR. HADI: We've done personal development courses, like a class that I taught myself is called Six Personal Perspectives.

It's just the idea of, you know, how to prioritize and how to focus before you get into business. Most of us -- it's not just about applications, it's also about mindset. So we do a lot of that, a lot of those classes. That is one of the reasons why we're proposing some type of a mediation -- an exercise room, to kind of just create a healthy mind, healthy body.

Another course that was taught is How to Build a Successful Business is Real Estate, you know, strategies, systematic approaches that you could take to really succeed in real estate. We have a curriculum that we hand out that helps people succeed in business. Others

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not spend it on construction, but it is
something that is a necessity that I have to
do.

MR. NEMECZEK: I know the last time you
appeared before this board back on
January 26th, you mentioned that you had -- you
currently have three full-time employees,
including yourself, and you're intending on
expanding that to four, and that you have
approximately a hundred independent contractors
affiliated with the Eastchester office of
Keller Williams. Along the lines of what the
Chairman was asking, what's the purpose of --
who would be using a cubicle and who would be
using one of the nine offices in the proposed
construction? There are four full-time people,
so at a minimum I'm thinking there are going to
be five offices available.

MR. HADI: Absolutely. I could tell
you, like, personally I don't have a private
office in the building. So I sit in an open
space and I have no -- anyone could hear my
conversation, and I would love to have my own
private space.

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are occasions where the clients will come to
the office and that's what the conference rooms
are going to be used for.

THE CHAIRMAN: I imagine you've
answered it by being so sincere about what
you're doing, my main question -- and I think,
as I said, you've answered it -- is: What's
the benefit to having a bigger office, because
most real estate offices that we've all been in
are six desks, you know, they keep it to a
minimum and somehow they survive? I guess your
modo is a little bit different, right, you have
independent brokers that come in as opposed to
brokers that are fixed?

MR. HADI: One of the values that we
bring in is -- the good news is, because all of
it is web based, our employees are able to --
are very good with technology, and they are
able to assist with almost all of the
challenges realtors have just remotely.
However, we pride ourselves in running it like
a business, so that's why the training room is
bigger, we do have some people that like to
work from an office. Not a lot but some do.

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Some people just can't be disciplined, you
know, working from home. So that's what the
space is for.

THE CHAIRMAN: With a number like a
hundred, there's got to be adequate space to
accommodate them should they want to come.

MR. HADI: It's never that number. I
mean, I wish I could say a hundred.

THE CHAIRMAN: I'm not saying a
hundred, but when you have a hundred people,
chances are you may actually fill the cubes
that are there?

MR. HADI: That's a difficult
question. Now it is not. Current situation is
not. So the office is usually a lot of desks,

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you will, that the largest number of people in
the office is when you hold the seminars?

Mr. HADI: Correct, that is without a
doubt true.

Mr. NEMECEK: And typically you say
right now it's about 18 to 20 people?

Mr. HADI: Correct.

Mr. NEMECEK: While the seminars are
actually in progress?

Mr. HADI: That's correct.

Mr. NEMECEK: Okay. And the hope
is -- I think this was stated in the revised
materials that we received -- that you're able
to fill the 30 seats that you will have in the
new conference room?

Mr. HADI: Well, that's ultimately
capacity. People sitting comfortably
and not -- again, we can't -- you can look -- I
don't mean to say you can check me, but you can
look online, you can't mandate when people come
in and out as they see please.

Mr. NEMECEK: But at a minimum right
now if you have 18 to 20 people, you have 4 to
6 standing?

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Chairman, board members. My name is Patrick
O'Leary. I'm a P.E. here in New York. I'm a
principal with VHB, 50 Main Street in White
Plains.

I've been asked to address three
specific areas this evening, the first of which
is the available parking in adjacent lots
within the immediate vicinity. There are 57
spaces that are located in 4 lots. Mr.
Chairman, if I may approach, I do have copies
designed for the board members here with your
permission.

Mr. O'LEARY: You have it in your
class. Okay.

Mr. O'LEARY: As you can see, within
the municipal west lot there are 10 metered
spaces, municipal east lot has 23 metered
spaces, the Ackerman Place parking has 10
spaces, and the Webster Road parking area
has --

Mr. NEMECEK: Mr. O'Leary, do you have
an extra copy of that that you can put up on
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Mr. O'LEARY: I apologize. Thank you.

Mr. NEMECEK: Okay. Thanks.

Mr. O'LEARY: The question was
specifically how many additional municipal
spaces were available to support the project,
and the answer to that is 57 in the immediate
area.

Mr. WEST: 18 of those are in a
residential block; right? That's not business
area that you're using 14 spaces on Webster and
the 4 spaces on Ackerman, right, that's
residential in front of people's houses where
you're proposing to use spots?

Mr. O'LEARY: That is correct.

THE CHAIRMAN: On Ackerman and
Webster.

Mr. WEST: And Webster.

Mr. O'LEARY: In addition to that, we
had been requested to identify clearly and
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specifically the existing versus the proposed parking. In the existing state today, there are four parking spaces on site and our client leases two spaces within the municipal lot, for a total of six. Under the proposed condition, in the absence of any other accessibility to the site, other than the legal eased areas that the site is entitled to, there would be seven spaces on site, there would be still the two spaces from -- that are currently leased from the municipal lot, and in addition to that the agreement has been provided to the board by which eight additional spaces would be obtained from Tutta Bella and those would be usable from 8 a.m. until 12 p.m. each day, totalling 17 spaces for the site.

As I noted, as I just began speaking about the on-space parking for the site, in the event there's absolutely zero accessibility from any of the adjacent lots and paved areas and solely the eased area from White Plains Road can be used to access the site, the original diagram showed eight parking spaces were available on the site, in the absence of

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MR. O'LEARY: It's one day on Monday, I believe, for the meeting. The spaces are there. We did perform a study and identified that, you know, under the existing condition here, that there were typically numerous spaces available for parking during those hours. In the future, there may be future competition generated for those spaces, but today in the existing condition there are available spaces out there at that time.

MR. NEMECEK: Did you conduct your study during the Monday morning time period?

MR. O'LEARY: Bear with me, I will check to verify that.

MR. NEMECEK: I do recall a couple of months ago I think we heard about studies that were done on like a holiday weekend. It was in December and I believe it was a weekend.

Obviously, if you did do your study on Monday

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morning, it might go a long ways towards answering Mr. West's question.

MR. O'LEARY: Understood. The report itself does not specifically state the date of this study or the day of the study. I'll get that information for you, the exact dates that the counts were obtained and the corresponding day of the week that's associated with those.

THE CHAIRMAN: The spaces reflected on the graphic, are spaces that were available when the study was done?

MR. O'LEARY: Correct.

THE CHAIRMAN: Not total spaces?

MR. O'LEARY: Correct. At this point, I can't validate from the report itself whether it was a Monday, Tuesday, Wednesday.

THE CHAIRMAN: Understood. All right.

We do understand --

MR. WEST: To Jim's point, the Chairman's point, you're saying 23 spots available or the total spots in this lot over here is 23 spots, not that there were 23 available?

MR. O'LEARY: Not suggesting there are

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23 available, indicating --
MR. WEST: Is it potential or available?
MR. O'LEARY: Those are the spots that are potential.
MR. O'LEARY: Potential. Potential and available is two different things.
THE CHAIRMAN: So that if it were the middle of the night and everyone was home, that's the number of spots that would be vacant?
MR. O'LEARY: Correct.
MR. NEMECEK: It's the maximum number.
MR. O'LEARY: That is the maximum number, correct.
MS. UHLE: Of metered spaces.
MR. O'LEARY: Metered spots, and they're identified clearly as metered spots.
MR. PULASKI: I did some arithmetic and if you're going to a conference, you don't want a 2 hour meter. You want something better than a 2 hour meter. So if you take all those spaces that are greater than 2 hours meter, you get to 16. Assuming that there's going be
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there's a lot of businesses around or whatever, so there's going to be a lot of use of those spaces, you take 10 percent of it, you come down to 1 or 2.
MR. O'LEARY: Two.
MR. PULASKI: If you include 2 hours into it and take 10 percent of that, you come down to 5.
MR. O'LEARY: Then you have the 18 spots on the site.
MR. WEST: In the residential area?
MR. O'LEARY: No. The 18 spots that are on the site itself incorporating the 8 spots from Tutta Bella, which generally accommodates the Monday morning conferences.
MR. PULASKI: Right. Tutta Bella definitely works well for you.
MR. O'LEARY: Yes, absolutely. It's consistent with the time. The time is actually expanded from 8 until 12. It's very consistent with the timing of the Monday morning conferences. If you look at the total parking provided at that time, it's consistent with the demand, and you may be looking at 1 or 2 people
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who might be looking at that metered spacing in any of the metered parking lots. So there is nowhere near a demand of 18 people going out to those metered parking lots at that time.
THE CHAIRMAN: Any more comments?
(No comments.)
THE CHAIRMAN: I think we're done.
Anything else?
MR. NEMECEK: I'm satisfied that we've asked and had answered pretty much everything I could think of.
MS. UHLE: I have a quick question. I can't remember if John Iannacito -- did you show the revised site plan when you first got up? You were showing floor plans and things.
MR. IANNACITO: I didn't. It hasn't changed from the last meeting.
MS. UHLE: It did, because -- I thought -- oh, it hasn't. You had changed the location of the one parking spot?
MR. IANNACITO: That was done prior to the last meeting.
MS. UHLE: Okay. All right.
MR. IANNACITO: We had submitted it
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prior to the meeting, and then we had a conversation about it that it couldn't work there because the access -- the handicapped access aisle had to be -- couldn't be within the travel --
MS. UHLE: So they have seen this.
MR. IANNACITO: This was the same site plan that was submitted for the January --
MS. UHLE: The last time you presented?
MR. IANNACITO: Yes.
MS. UHLE: Okay. All I was going to say is all the parking information is obviously very interesting, but that goes back to the Zoning Board evaluating that in relationship to the test for the area variances. I think because I talked to the chairperson -- I think what you've been trying to do is get the site plan to function as best that it can given the site constraints and circumstances so that if you do refer it to the Zoning Board, they don't have to worry about all of that. They're going to continue to worry about the parking.
MR. WEST: I'm sorry, I miss the last
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meeting, but we get anywhere on the driveway in between the bank and them where people seem to be parking?

MR. IANNACITO: Those are not legal parking spaces.

MR. WEST: But every time I drive by there, there are cars parked there.

MR. IANNACITO: They shouldn’t be parking there. That’s the access easement that exists today.

MS. UHLE: We had talked about it.

Our traffic engineer had recommended signage.

Right now I believe there’s only four spaces behind the building, so you’re showing eight.

So yes, that’s been addressed at a couple of meetings.

MR. TUDISCO: I just had one question, Mr. Chairman. Since the applicant has made reference to an agreement with Tutta Bella and that is potentially something that this board, for whatever reason, or the Zoning Board is going to take into consideration in terms of the available spots, has that been provided?

MS. UHLE: Yes. It’s part of the

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application that was submitted for tonight’s meeting.

MR. NEMECEK: Here it is. It’s reciprocal parking agreement dated March 15th, 2017.

MR. TUDISCO: Okay. Thank you.

MS. UHLE: Again, other than the fact that the Planning Board is clearly concerned about the availability of the parking, at some point that’s a determination that the Zoning Board is going to make.

MR. NEMECEK: Mr. Chairman, the public hearing.

MR. IANNACITO: It should be still open.

THE CHAIRMAN: It is, it’s still open. Any comments from the public regarding this application?

MS. CHIOCCHIO: Good evening, Chairman, members of the Planning Board. My name is Lucia Chiocchio. I’m with the Cuddy & Feder and we represent Lord & Taylor.

We had an opportunity to review the supplemental submission from the applicant, and

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2 in the Lord & Taylor parking lot, and that was
3 about 9:00 in the morning. So they were
4 clearly not customers of Lord & Taylor because
5 Lord & Taylor wasn't open.
6 So we have concerns about this. Lord
7 & Taylor should not have to monitor their
8 parking because of Keller Williams' plans.
9 It's obviously an issue now, it's only going to
10 get worse if this proposed expansion goes
11 through, and there's no guarantee that in the
12 future any of these parking agreements would be
13 upheld. So for that we would ask that the
14 Planning Board refer a negative recommendation
15 to the Zoning Board of Appeals for the granting
16 of the parking variance. Thank you.
17 MR. NEMECEK: Thank you.
18 MR. PULASKI: Do we give a positive --
19 do we rank a recommendation to the Zoning
20 Board?
21 THE CHAIRMAN: We could do whatever we
22 want.
23 MR. PULASKI: Okay. I thought at one
24 time we stopped doing that.
25 MS. UHLE: I think what you can do --

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2 and just like the Chairman said, you could do
3 whatever you want -- you could refer it with a
4 positive recommendation, with a negative
5 recommendation or I think -- and personally,
6 and I think maybe more appropriately, but
7 that's again up to you, is to really -- because
8 you're not really evaluating it specifically
9 with regard to the tests for the area
10 variances, I think you would refer it to the
11 Zoning Board clearly and strongly stating your
12 concerns and make it clear to them that, you
13 know, you would like them to consider your
14 concerns, which is, to me, slightly different
15 than a specific recommendation since you're not
16 evaluating them in accordance with the tests
17 for the area variances.
18 THE CHAIRMAN: Right. As Margaret
19 explained to me, and that's why I answered like
20 that, there are certain tests that they're
21 going to do that they're the experts at. So
22 talking about parking is really their purview,
23 not ours. We could make a recommendation, but
24 I don't think we could really say --
25 MR. NEMECEK: Well, they're charged to

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with a negative recommendation, again, I think
I'm just saying maybe be thoughtful on the
wording because the Zoning Board has by law to
address very specific tests. That doesn't mean
you, as a Planning Board, aren't supposed to be
concerned when considering both the site
specific parking issues and the broader parking
issues. So I think it's more helpful to the
Zoning Board, rather than just say we refer it
with a recommendation to approve or to deny
when you're not looking at the very specific
tests, to say if you're concerned, we don't
think that there is sufficient parking in the
area. I mean, I think that's basically what
your concern might be if that's what it is, or
we're personally from a site planning
perspective not concerned. As I said, it's
sort of semantics.

MR. TUDISCO: I think it may be
semantics, but I really don't think it is. I
mean, my perspective on what Ms. Uhle is saying
really is that if you have legitimate concerns
that you want or you believe that the Zoning
Board should be considering, I think it would

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be important that you articulate them to the
Zoning Board as a recommendation as not
necessarily for or against but we have these
crimes about this issue that has popped
up and as you evaluate the parking variances,
we are letting you know that these are our
concerns or these are the things that we had
more difficulty with.

I also did want to mention one other
thing to advise the board. The statement that
was made is, in fact, correct, that the
reciprocal parking agreement if it is not
recorded with a deed to either of the
properties, it doesn't run with the land, and
so, any future owner is not bound by it. So
that is a correct statement. I just wanted to
make that clear.

MR. PULASKI: When I'm looking at the
parking, I know that in the southern part of
the town it's an older part and it has very
limited parking, there's street parking and
then whatever lots there are are very small,
they're controlled, and so, if you allow an
expansion or you allow a variance there, it's a

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we're talking about, referral.
THE CHAIRMAN: Referral for their
approval with strong concerns or do not make
that referral?
MS. UHLE: I think at some point
you're going to have to refer it to the Zoning
Board for their consideration.
THE CHAIRMAN: Regardless of our
concerns, it has to be referred?
MS. UHLE: Yes, it has to be referred
to the Zoning Board.
THE CHAIRMAN: So if we were to not
like the application, if it goes to zoning and
they approve the parking, when it comes back
here, that's the time in which we can vote on
it and vote against this application, but it
has to go to Zoning for their review of the
parking first?
MS. UHLE: Yes. I don't think I would
get that far into the process at this point.
You can't vote on the application at this point
because variances haven't been granted. So I
would wait to see what happens at the Zoning
Board. If they do grant the variances, if
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you're inclined to deny the application, it's
going to be somewhat tricky once the variances
are granted unless you deny it on other
grounds, I think. I think at this point I
don't know if I would talk about having it come
back to you in order to deny it. I think what
I'm hearing is that when you refer it to the
Zoning Board, you want to make it very clear to
them that you're very concerned, it sounds,
especially about the parking issues, and I
think Mr. Pulaski articulated a lot of those
concerns.
If you want me to go over what I've
heard, I could certainly do a referral to the
Zoning Board that said, you know, in reviewing
the application, the Planning Board just
doesn't see that there is sufficient parking
available either on site or in the vicinity of
the site to meet the demands that will be
generated, that there is concern that even if
you understood that it would work right now,
that if the business were sold or if the
agreements couldn't be enforced in the future,
that could significantly change
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circumstances that would be out of your
control, that, as Mr. Pulaski said, you know --
all of you said that the available parking
spaces are already being shared by multiple
uses, that some of the larger lots, for example
Lord & Taylor, there's the possibility that
those properties are being abused by people
that are parking for other businesses. I think
you can express these concerns to the Zoning
Board in your referral to them.
THE CHAIRMAN: Rather than just make
a strong -- show that we have strong concerns,
we could enumerate what the concerns are, list
them, and send them along.
MS. UHLE: Yes. Again, I don't want
to put words in your mouth, if you want to say,
we want you to -- if you want to say, we don't
think you should approve the parking variance,
I think you have the right to do that. My only
concern is you're not applying the specific
test, although the test go to a lot of the
issues you're considering.
MR. NEMECEK: But are we not,
Margaret, within -- and I'm not suggesting we
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would do this for this application -- but if we
determined that, you know, with or without the
variances that this board could make the
determination that this application is going to
have a dramatically negative impact on the
community, we could stop it right here? Are we
required to refer it?
MS. UHLE: I believe you are, yes.
MR. TUDISCO: I believe that the
applicant is entitled to make an application
for those variances. I think that's what the
process is laid out for, and so, I think that
they have to have that opportunity. I think,
though, that to the extent -- again, I know Ms.
Uhle has taken pains not to do this and I
certainly don't want to do this, I don't want
to put words in anybody's mouth, but to the
extent any of you have specific concerns, my
advice would be to articulate them as
specifically as you can to the Zoning Board and
request that they take those concerns that you
have from a planning perspective into account
when they make their determination on the
zoning issues.
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2 MR. NEMECEK: I would also add, by the way, to the list of concerns -- and I'm certain that this will all come up in front of the Zoning Board of Appeals -- that we did hear from Mr. Grealy, who is the independent consultant, and he did not appear to share the concerns that many of the rest of us have regarding the sufficiency of the parking.
3 MS. UHLE: Well, I --
4 MR. NEMECEK: He had some concerns but they were not nearly as intense as the ones, for example, that will Mr. Pulaski just articulated. This will all, I'm certain, be dealt with. I'm quite confident that Lord & Taylor's attorneys will be present at the Zoning Board of Appeals, and I'm absolutely certain no matter what the degree of concern we express regarding the parking, that we will express a concern concerning the parking, and that because a variance for the parking is required, this will be fully vetted by the ZBA.
5 MR. TUDISCO: The only thing I just want to be careful about is it seems to me that the parking consultant or the traffic

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2 consultant issues an opinion based upon the available number of spots in the area, the flow of the traffic, how many spots are potentially available. In terms of practically speaking how it may impact this site or the area, I think it's the position of this board and the Zoning Board ultimately, to take whatever data he reports to you and interpret it or take into consideration all of the facts and circumstances of the application and raise concerns that you have or not be concerned about certain things. So I don't know if necessarily it's his function to have the same concerns you may have from a planning perspective.
3
4 THE CHAIRMAN: He's the technical advisor and advises on the matters.
5 MS. UHLE: One thing, just so there is not any confusion, I'm going to tell you exactly what this says about referral to the Zoning Board. It says: "No application shall be deemed complete unless it complies with all of the requirements of this local law and any necessary variances have been granted by the

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2 Zoning Board of Appeals. The Planning Board shall not approve or disapprove an application until any necessary variances have been granted by the Zoning Board of Appeals." So again, you can't disapprove it. "In cases where a use requiring site plan approval also requires one or more variances, application may first be made to the Planning Board at the discretion of the building inspector." We do that as a matter of course as part of our application process. "If it is determined that the site plan issues related to the variance may be significant, the Planning Board, after initial review, shall then forward the application to the Zoning Board of Appeals. The Planning Board may include a recommendation, including the planning and land use aspects of the application and requested variances." So I don't know if that clarified anything, but --
3 MR. NEMECEK: I like to hear the language of the statute.
4 THE CHAIRMAN: So, as we discussed, we, as the board, have put together the site plan such that it is in the best shape we could

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2 have made it. We've explored a number of issues, we've requested much information from the applicant, which they've given to us. So we've really vetted this out as far as we can at this point for one issue, of course the parking issue, which is, as we said, the purview of zoning. So now is the time to let them do. I think now it's just a question of what exactly we want to say to the zoning when we make the referral. I think the list you came up with is fine. I guess we should agree on what the conditions are before we do it.
3 MS. UHLE: Yes. If you don't mind if I say them somewhat crudely, and then if I can edit them, you know, in a way that makes sense.
4 THE CHAIRMAN: Just so we know, right. I think one that you didn't mention was that the agreement that was presented in front of us hasn't been recorded, so we're concerned that it's still going to be -- that it's not recorded.
5 MS. UHLE: Yes. So I have -- and again, I definitely will edit these out -- some of them based upon what Mr. Pulaski said, just

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the fact that it may put a burden on other
businesses in the community with regard to
utilizing their parking spaces.

MR. WEST: Question. So what we heard
from two property owners in the area, it's
creating that burden on them, right, Lord &
Taylor and the people across the street said
there is a problem --

MS. UHLE: But I think that --

MR. WEST: If you're increasing the
footprint of the building to include more
people in it, it's not creating one, it's
increasing an existing problem.

MS. UHLE: Okay. Does everyone agree
with that, that the issue is increasing?

MR. TUDISCO: What I would suggest is
that you kind of go through the list of what
you think are the concerns of the board and you
should vote on them as a recommendation that
you make to the --

MS. UHLE: That's what we're doing.

He's saying --

MR. NEMECEK: But are we doing it
individually, are we doing it on a severity

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MS. UHLE: Well, I think that --
again, I read the first concern, and I think
Bill was just saying that, you know, maybe it's
not that I should say that it's creating an
issue, it's exacerbating an issue already. So
I think that's a fair point.

THE CHAIRMAN: I think everyone would
agree that's a condition.

MS. UHLE: It's exacerbating an
already existing condition, which is that --
now this I am going to qualify -- perhaps it's
putting a burden on other adjacent property
owners where people may be utilizing --

MR. NEMECEK: Potentially --

MS. UHLE: -- Existing lots -- yes.

Based on the analysis of the available parking
in the area and what's on the site, it still
doesn't seem like there's sufficient parking to
accommodate the increased floor area.

MR. NEMECEK: If I could -- what I'm
comfortable voting on or voting for, and I
think it's a foregone conclusion based on the
statutory language that we are referring this

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concern that there is competition from other businesses for available spaces already that will be exacerbated. There is a concern that the Keller Williams business could be sold or another tenant could come into the space that would generate even more demand for traffic and parking demand.

MR. NEMECEK: Could you hold that for a second? How long has Keller Williams been at this site?

MR. HADI: 10 years. Do I say my name?

MR. NEMECEK: No.

MR. HADI: 10 years. Thank you.

MS. UHLE: There's concern that because the agreement with Tutta Bella has not been recorded, that if conditions change or ownership changes, that this is not something that can be legally enforced, and there is -- I'm adding this now, not to pile on here -- there is the same issue with the bank property with regard to egress from the site. So I think that those are the general concerns, and,

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like I said, if I could word them a little bit better than I've done here, I think we can put that along with your referral to Zoning Board to say that you have strong concerns, especially related to the parking and possibly traffic circulation and just leave it at that.

MR. NEMECEK: I prefer the word significant.

MS. UHLE: Significant concerns, okay.

MR. NEMECEK: Yes. Strong is fine if the board wants to use it. I prefer significant.

MS. UHLE: Okay, that's fine. Anything else? So you're referring it to the Zoning Board for consideration of the area variances, along with an indication of your significant concerns with regard to parking, as I've articulated, and circulation or just parking at this point? Parking. We'll say parking.

THE CHAIRMAN: Okay. I'm trying to figure out what's next.

I'm going to make a motion to refer this application to the Zoning Board of Appeals.

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2 making these two spots a little bit larger, as
3 well as putting additional striping and
4 indicators to accentuate the one way traffic
5 that we accommodated previously. There was two
6 way traffic, now there will just be one way
7 traffic throughout the whole site.
8 We've also addressed and had
9 correspondence with Margaret Uhle and James
10 King on concerns that they had, variances that
11 we will have to get, as well as clarifying a
12 few typos on the drawings that have since been
13 revised. We are within our parking, so we do
14 not need a variance for parking. We have to go
15 to the Zoning Board for a special permit, as
16 well as two variances for landscaping which we
17 will not be able to institute on this property.
18 James King made me aware of that, the two
19 slight landscaping variances. I forget the
20 sections of the code that they're in reference
21 to, but that seems to be the three variances
22 that we would need to obtain approval from the
23 Zoning Board on. So that's where we are.
24 The few months -- I know that the last
25 presentation we had some concerns from

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2 neighbors. The two months that I spent -- the
3 couple of months that I spent with Margaret
4 Uhle, James King, correspondence with my
5 traffic engineer, and cleaning up some
6 suggestions on the site, I also made
7 suggestions after the last meeting to my client
8 to make sure the operations that were occurring
9 that were concerns from the neighbors, didn't
10 occur, and to make sure that that's a daily
11 habit. I know there was a concern about the
12 garage doors, concern about certain aspects of
13 deliveries, deliveries had been happening at a
14 certain time. So, from what I'm aware of,
15 those have been addressed by the owner. So as
16 of now, we're trying to obtain variances and
17 then come back to you for final approval, I
18 believe.
19 THE CHAIRMAN: That just about
20 summarizes it. Thank you. What were the
21 changes on this one -- did you run through
22 them -- since the last?
23 MR. VILLANI: I believe the last
24 meeting the suggestions with Philip Grealy -- I
25 don't know if I presented this plan the last

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2 meeting; did I Margaret?
3 MS. UHLE: You know, it's going to be
4 complicated for him to do that to an extent
5 because what happened is he made a submission
6 for the January meeting, which was overall
7 responsive to Phil Grealy's comments, but then
8 there were additional comments that I had and
9 that Mr. King had, and I will say he was very
10 responsive to those comments as well. I think
11 most of the comments had to do -- just a quick
12 summary from, you know, when we first saw it
13 was this counter clockwise circulation,
14 reducing the length of the planter in front to
15 ensure that the fuel trucks could make the
16 appropriate turning radiuses, angling the
17 parking to fit more parking in there,
18 relocating a handicapped parking space that was
19 previously shown in the front of the building
20 but that blocked circulation.
21 MR. VILLANI: Additional lighting, I
22 believe, too, additional luminare to the rear
23 of the property.
24 MS. UHLE: Also, the two parking
25 spaces I'm going to say on the right side of

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2 the property or the south side of the property
3 there, those were typically I think 9 by 18 but
4 because they're tighter to get in and out the
5 bottom space was made longer. Showing the
6 arrows on the plan. There was a note about an
7 existing fence that's actually in bad condition
8 that has the woven stuff going through the
9 chain link fence, that actually is no longer
10 permitted. The applicant had said they would
11 replace it in kind, and we just pointed out to
12 them those aren't permitted. So if they come
13 back to you, they'll have to show you the
14 catalogue cut sheet for that. I will say that
15 I think that the plan now has been very
16 responsive to a series of comments.
17 It was just today that I received the
18 final review on this plan from our traffic
19 engineer, Phil Grealy, who couldn't make it
20 today, and we didn't really think it was
21 necessary for him to make it today. He did
22 make a point to tell me that all five of his
23 points are fairly minor. They're just
24 confirmation with regard to the size of that
25 planter; it talks about the Fire Department

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reviewing the plan; again, mentioned that vegetation was within the right-of-way on the property to the north, which the applicant and I did look at the survey, there is vegetation within the right-of-way, so that's something that could be addressed. Actually, we'll probably address it regardless of the outcome of this application. So Mr. Grealy did make a point of saying that these were minor and actually could be more appropriately addressed if and when it came back to you. The biggest issue for the applicant is not -- I had forget to mention because I had forgotten that Mr. King had identified a couple of landscaping variances required, and we can explain that in a minute, but their major hurdle is a use variance, and, as you know, the threshold for that is very difficult. So I think any kind of loose ends I think it's just better to wait and see if it comes back to you.

THE CHAIRMAN: There was just one other issue which I don't think we talked about when this was in front of us, but I don't think it's major and it could picked up should this be addressed. I'm not certain if they have or not.

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return to us, and that is the site lighting. I don't really think we've addressed the lighting that is there the way we have on other applications.

MS. UHLE: Yes. Again, specifically because it's a use variance, too, when it comes back to you, things like that the Zoning Board definitely doesn't really care about. The Zoning Board, I think all the time you spent on the circulation and everything, again, will be very helpful to the Zoning Board so that they don't have to -- under any circumstances for their SEQRA determination, they would look at parking and they would look at traffic and all that kind of thing, site lighting is something definitely you could address when it comes back. This way if it goes to the Zoning Board, they could just really focus on the use variance.

THE CHAIRMAN: Right. So I think this, similar to the application that was just here, we spent a lot of time going over the site plan issues and addressed a lot of them, asked for information from you, you've revised

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MR. VILLANI: I appreciate that.

THE CHAIRMAN: I think this is still an open hearing, so there are some people that probably want to talk so --

MR. VILLANI: Understood.

THE CHAIRMAN: -- We're going to listen to them and then we'll come back to you. Unless there are comments from us, guys?

MR. NEMECEK: I will preface what I expect to be comments from -- I know we received some materials from neighbors showing operations and those operations are ongoing at the site right now. So if we do nothing, if this application went nowhere, the concerns that are depicted in the photographs and videos that we received may still need to be

addressed. I'm not certain if they have or not.

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have not been addressed. On top of that, to the extent there are operational issues, we would appear to be in a better position to deal with those if and when you're referred back to us by the Zoning Board. Is that a fair statement, Jim?

THE CHAIRMAN: I think you represented that very well. So let's just hang for Margaret to join us, and I think we will continue addressing that once they're done. We're just going to standby until we get our planner back here.

If you would like to come up. It's an open public hearing, so certainly you're welcome to come up and talk. If you just set up and wait for Margaret to come back. When you come up, please identify yourself and your address.

MR. ARAYA: My name is Alberto Araya. I live at 591 White Plains Road. Thank you for taking the time to listen to me, Chair and members of the council.

The pictures you are seeing right now is from the last snow storm we just had in

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provided and the videos certainly are alarming, and I am just as horrified about it as you are that the owner there is just flaunting that he could do whatever he wants across that. Unfortunately, as a board that's a condition that beyond the property line and whatever happens in the right-of-way is not within our scope to enforce. So I think those are enforcement issues. Although it's dangerous, I'm not sure how we could bring that into our review of this.

MS. UHLE: The one thing that I can say, if for some reason it came back to you, as you did with 504 New Rochelle Road there was a condition that the snow actually physically be removed from the site. I will have to say, I understand this resident's concerns, when I spoke to the highway superintendent about it, who actually said it's a police issue but obviously is very aware of these issues, basically said to me unfortunately so many property owners on White Plains Road do that, you know, and that is an issue. With regard to the blowing of the leaves and the debris, I was

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also told a lot of property owners do that and a significant amount doesn't disturb them too much. But I understand if it's blown on to your property, that's something completely different. Ironically, if it were approved, you have more leverage to impose conditions than if it's denied, and I'm not trying to influence how you vote.

MR. NEMECEK: I was just going to make that comment, actually, to this member of the public, that actually if we do nothing, if we reject this application, you're exactly in the same position you are now, which is attempting to find out who's responsible for making sure that the leaves aren't blown and making complaints about the times of deliveries and that. If the Zoning Board of Appeals approves the variances that are requested and the application comes back here and we see fit to grant the application, we can impose on the applicant restrictions on the approval of the application that may be restrictions that don't exist right now and, you know, may go some ways towards addressing some of the issues; for

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1. discuss this a little bit more.
2. So the conditions -- I stand
3. corrected -- if it does come back, as Mr.
4. Nemecek pointed out, there are things we could
5. do to do something about the snow and also,
6. perhaps, the deliveries. I, personally,
7. guarantee you if it’s back, the snow is the
8. first condition we’ll make as part of the
9. approval that it gets disposed of properly, not
10. pushed across the street. Also, deliveries,
11. although --
12. MS. UHLE: Possibly with deliveries --
13. THE CHAIRMAN: -- Although gas
14. companies always say that they deliver when the
15. deliver, which I think is totally unacceptable.
16. They have to come up with something better than
17. that. I mean, that’s just, from my point of
18. view, I think leaving it up to them to deliver.
19. So those two issues are front and center if
20. this application is approved at zoning, and we
21. certainly will make a point to address those.
22. MR. ARAYA: Okay.
23. THE CHAIRMAN: So thank you.
24. MR. ARAYA: Okay.

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1. MR. PULASKI: One of my observations
2. is that where this station is located is an
3. area between traffic lights, you have two lanes
4. in each direction, the traffic can start moving
5. along at a good clip. It’s still a 30 mile an
6. hour zone but --
7. MR. NEMECEK: It’s downhill.
8. MR. PULASKI: It moves. My concern is
9. when a car is exiting or entering, it crosses
10. two active lanes to get to the third lane and
11. how this can impact traffic. It can expose to
12. more accidents, it can slow certain traffic
13. down when it gets a little more congested,
14. force that traffic that you’re crossing to stop
15. and give you access to cross. How I bring this
16. back into the application, is that I think that
17. a convenience store is going to generate more
18. of this as opposed to a gas station located
19. where that gas station is located. I don’t
20. know on what true basis DOT or the town is able
21. to evaluate a left turn condition. I know that
22. when you get up to Vernon Hills, there there’s
23. a sign at one place where it says, no left
24. turn. You just can’t make a left turn there.

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1. MR. WEST: It’s a solid yellow, isn’t
2. it?
3. THE CHAIRMAN: It’s a double yellow.
4. MS. UHLE: You can cross a solid
5. yellow, you just can’t pass.
6. MR. TUDISCO: You can make a left turn
7. out of a driveway. The issue, however, is, as
8. Mr. Pulaski stated earlier, 22 is a state road,
9. and so, it’s simply not easy for the town or we
10. would not be in a position to require the
11. applicant to put up a no left turn sign there.
12. The state would have to get involved. So just
13. kind of putting that out there.
14. MS. UHLE: The application has been
15. referred to New York State DOT for -- I
16. referred it actually a few months ago for
17. review and input. So they have a copy of one
18. of the iterations of the plans. They have not
19. made any -- they have not responded at all yet,
20. which is probably not atypical, but I have also
21. followed up with them a couple of times.
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think the conclusion of both traffic engineers
was, again, that there won't be -- what they're
looking at is level of services and how
disruptive it will to -- how much it will
affect your wait at traffic lights and at
intersections and whether it significantly
increases or affects basically the time you're
stopped along the road. I think both traffic
engineers concurred that the amount of
additional traffic that would likely be
generated as a result of the convenience store,
would not be something that would noticeably
increase waits at traffic lights and
intersections and that type of thing.

MR. NEMECEK: I recall -- going back
to the Chester Heights gas station as well and
that's in some respects even busier -- I do
recall Mr. Grealy saying that convenience
stores in gas stations, they have -- the
traffic engineers have a broad range of data to
go on and, you know, the reality, I guess, is
that not so many people will stop just to use a
small convenience store. They'll use it
because they're going to get gas, they'll stop

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I'd like to remind the board -- I have
five considerations for you in addition to what
my husband mentioned earlier. There are three
private homes directly across from the gas
station and one directly adjacent to the gas
station. I'd like to remind the board also of
the school. So I would like you to, as
residents of Eastchester and as members of this
board, consider our concerns regarding the
expansion of the gas station into a convenience
store.

The first, as Mr. Pulaski aptly
mentioned, was the traffic considerations. All
the traffic studies have taken -- rightfully
this is what they're designed to do is to study
the flow of traffic into and out of the gas
station. What they don't consider because
they're not required to, but I'm going to try
to explain as clearly as possible to the board,
is our traffic considerations. Entering and
exiting our home in the morning and entering in
the evening has been disrupted. I know it
doesn't sound like much, but when you're trying
to exit to catch at 6:56, a 6:50, a 7:19 train

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in. So it doesn't necessarily have as much of
an impact on the number of trips made to the
property. It's not like you're going to double
the number of trips. They were able to, and
Mr. Grealy felt quite confident based on the
data base that he was using, that the
incremental increase was not going to be so
much that it was going to be -- that you would
really feel it. That's sort of what -- I do
recall that.

THE CHAIRMAN: So we covered it. As a
board, we did our job and we covered it.

MR. NEMECEK: Once again, under the
masterful leadership of the esteemed Chairman.

THE CHAIRMAN: But it's not the
Chairman, it's those working with the Chairman
that make the difference.

I'm sorry to keep you waiting. Come
on up. We're going to joke around all night if
you don't interrupt us.

MRS. ARAYA: I appreciate your time
and the opportunity to address the board. My
name is Virginia Araya. I also reside at 591
White Plains Road.

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to get in and there's traffic noise, which is expected on White Plains Road, but again, if there is a convenience store, that is going to increase.

Third, I would like you to consider the impact on the residential value our home. We are also tax paying members of the community. I understand that the gas station is probably more of a tax generator than we are; however, that is just going to directly impact the value of our home. Not just the monetary value. I think we kind of get lost and lose the idea of the quiet use and enjoyment of our home. When you have guests, when you have, you know, constant traffic in and out, it's just going to be increased by a convenience store. That's just the nature of the best, unfortunately.

I have been stuck, as I mentioned earlier, trying to enter and exit. I have witnessed the snow. I have witnessed the car selling. What's next; a car dealership? I mean, it begs the question; right?

In addition, there are to our right

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two small children, directly across the street adjacent to the gas station there are two small children. I reside with my husband and my mother-in-law, who, you know, obviously emergencies happen, we need to be able to enter and exit our property as we wish without extra delay that the convenience store would bring on. I understand that the board has to refer this to the Zoning Board. I just beg your consideration into taking our neighbors' concerns into account. I ask you to please consider the residential nature of where we live. The gas station, also I would like to mention, has lights. We've had to invest in blackout shades as the light enters directly into my mother-in-law's bedroom and indirectly in my husband and my bedroom. Again, we choose to live there; however, there is just concerns, safety concerns, traffic concerns, quiet use and enjoyment concerns for our home that we beg you to consider as you consider this application. Thank you for your time.

MR. PULASKI: In response to one of the items about lighting, the board has

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we're here. That's the general purpose of it.
He understands that and wants to enforce those.

THE CHAIRMAN: Thank you.
MR. VILLANI: Thank you.
MS. UHLE: One quick comment before
you refer it to the Zoning Board. You did for
this particular application declare yourselves
lead agency a few months ago, so you would have
to adopt a Neg Deck before you refer it.

THE CHAIRMAN: So I'm going to --
unless there's comments -- when we refer, I'm
going to say it's a straight referral with no
recommendation in any sort of way, unless
someone here would like to make some sort of
recommendation with conditions as we did on the
last application.

MR. PULASKI: I have none.
MS. UHLE: To clarify, that means with
regard to the consideration of the convenience
use, but if it did come back, then the board
would definitely address site lighting and
fencing, and, you know, snow removal, all that
type of thing.

THE CHAIRMAN: Yes.

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MR. WEST: We didn't need Mark after
two.

MS. UHLE: You needed him for the next
comments on the December 1st meeting?
MR. NEMECEK: Yes, I think I handed
them in last time.

THE CHAIRMAN: So I make a motion to
approve the meeting minutes of the town of
Eastchester Planning Board meeting
December 1st, 2016.

MR. NEMECEK: Subject to the revisions
that I've submitted.

MR. WEST: The frivolous changes.

MR. NEMECEK: Second.

THE CHAIRMAN: All in favor.

(All aye.)

THE CHAIRMAN: I make a motion to
close the town of Eastchester Planning Board
meeting of March 23, 2017.

MR. PULASKI: Second.

THE CHAIRMAN: All in favor.

(All aye.)

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MEETING ADJOURNED.

DINA M. MORGAN, REPORTER
CERTIFICATION

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
my hand this 17th day of April, 2017.

DINA M. MORGAN
Court Reporter
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