

**VILLAGE OF SPRING VALLEY
ZONING BOARD OF APPEALS
FEBRUARY 8, 2012**

A Regular Meeting of Spring Valley Zoning Board of Appeals was held in the Board Room of the Village Offices on Wednesday, February 8, 2012.

PRESENT: Pat Caldwell, Chairwoman presiding

Members: Eli Solomon
Martha Patrick
Moshe Hopstein- Absent
Jean Dormelas
Asher Grossman (Alternate)

Asst. Village Attorney: Ed Katz
Office Services Aide: Reine Lamarre
Building Inspector: Walter Booker

Chairwoman Caldwell called the meeting to order at 7:07 PM.

MINUTES OF JANUARY 11, 2012

On a motion by Ms. Patrick and seconded by Mr. Grossman, the Board voted unanimously to approve the minutes of January 11, 2012.

PUBLIC HEARING

CONTINUATION OF PUBLIC HEARING: 35 Lawrence St. / Ten Centre St. LLC.

The Building Inspector, Walter Booker, read the Particulars. This is a continuation of a public hearing for the application of 35 Lawrence Street/ Ten Centre Street, LLC. The location is in the G.B. zone on the west side of Centre Street, 0 feet north of its intersection Lawrence Street. The variances requested are for use and area: Front Yard (Lawrence Street): 15 feet required, 2.6 feet provided; Front Yard (Centre Street) 15 feet required, 0 feet provided; Rear Yard: 20 feet required, 0 feet provided; Floor Area Ratio: 0.5 permitted, 0.75 requested. Mr. Booker added that these are applicable to a P.L.I. zone because a general use zone would not have any pertinent use.

Mr. Licata asked for a continuance of the matter for the next meeting. Mr. Licata testified that the applicant has filed with the Assessment Board. Mr. Kauker, the Village Planner, returned a Part 2 for which they are attempting to answer a Part 3. The applicant answered but the information was unsatisfactory. The applicant has hired an engineer that deals with noise and can answer specific questions, requested an adjournment of the public hearing for one month; all information would be ready. Chairwoman Caldwell granted this second adjournment, since there were no speakers in opposition present.

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**CONTINUATION OF PUBLIC HEARING: Evangelical Christian Alliance
Church of CMA/ Germain**

The Building Inspector, Walter Booker, read the Particulars. This is the continuation of a public hearing for the application of the Evangelical Christian Alliance Church of CMA/ Germain. The location is on the north side of West Furman Place, approximately 250 feet west of Route 45. The applicant seeks variances for the demolition of an existing structure and the construction of a new Church structure. The required variances are: Lot Area: 25,000 square feet required, 17,936 square feet provided; Front Yard: 35 feet required, 13 feet provided; Side Yard: 20 feet required, 6 feet provided; Floor Area Ratio: 0.30 required, 0.67 provided; Parking: 110 spaces required, 22 spaces provided; Size of Parking Spaces: 9 feet width required, 8 feet width provided; Sign Location: 25 feet setback from the property line required, 1 foot requested.

Mr. Katz stated that the main concern with the application has been with parking. Spring Valley Hook and Ladder Fire Department and Beckerle Lumber spoke in opposition to the application, citing concerned with the increase in Floor Area Ratio. Mr. Ryan Karben, attorney for the applicant, sought the neighbor's comments and concerns with the project to see if any mitigation measures could be employed to address those concerns. Mr. Karben stated that the law sustains the application. Chairperson Caldwell had previously voiced concern about whether or no the applicant's ability to enter into a parking agreement with the Village of Spring Valley, regarding the use of municipal parking. The applicant received a letter dated February 3, 2012 from Sherry M. Scott, the Village Clerk, informing the applicant that upon his request for authorization to use the municipal parking on Lot C and E on Sundays, and the measure was approved at the January 10, 2012 Village Board of Trustees meeting. This resolution was unanimously moved and adopted by the Board of Trustees. Copies of the letter were made available to the Board.

The neighbors had three issues: parking, drainage, and scope of the size of the building. Parking is available from the municipal parking lot. State law presumes that religious use is in the public interest and the public benefit. Those who are opposing religious use must demonstrate that it is not in the better interest of the public. State law permits rejections of religious uses when the institution is located in a residential neighborhood, but there are limited grounds to reject religious use in a non-residential neighborhood. In regards to the parking variance, a significant number of congregants come to the Church by van, and others use taxis, private vehicles, and other modes of public transportation. The Church currently has 120 worshippers and if that amount increased by even 50% under the code, a parking spot is required for every 1.3 congregant. The applicant believes that onsite parking in addition to municipal parking is sufficient. The applicant is prepared to go to any reasonable length to secure safe traffic flow through the neighborhood.

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In respect to drainage, Mr. Karben stated that the plans Mr. Celentano provided to the Village comply with the Village's requirements of zero to net run-off. Part of the drainage plan is to provide five drywells, which would succeed in capturing any additional run-off that would be generated by the addition of a paved surface. In respect to the size of the Church itself, Mr. Karben stated that the Church plans to serve the community in a robust fashion. Pastor Germain has an admirable reputation in the community for his service and extension to the disadvantaged population of the community; that is why State law and educational uses are presumed to be in the public benefit.

Larry Beckerle, President of Beckerle Lumber, 3 Chestnut Street and 15 West Furman Avenue, is concerned with parking and scope of the project. The setback on the west side boundary with the Church is about 10-12 feet and request that it be moved further east to the western border. There is only room for one car to drive between the Church building and Beckerle Lumber. There is a Beckerle parking lot adjacent to the Church, that they permit Church members to use but there is no guarantee it can continue long-range, depending on changes in business hours. If Beckerle opens on Sundays to meet the needs of a particular sect of the population it would greatly affect parking. On Sundays and during the evenings, Church congregant's park all over the streets, in front of Beckerle's gates, and in their parking lots, but in moving forward this cannot be guaranteed.

Mr. Beckerle inquired about viewing floor plans, to which Mr. Booker informed him that the floor plans are not necessary, but site plans are available during open business hours at the Building Department. Mr. Beckerle wanted to know the location of the 22 parking spaces and ensure that is not located on the business property. Mr. Beckerle asked if there is a requirement to publish an agenda for the Village Board meetings and if the neighbors are supposed to receive notification. Mr. Katz answered that agendas are always available at the Clerk's Office and the request that the parking request that went before the Village Board did not concern zoning. Mr. Beckerle does not believe that the municipal parking arrangement is a reasonable solution to the problem, as there is no guarantee those spots will be available in the future or no changes in the use of the space. There is an issue with safety and egress for emergency vehicles because there is a narrow driveway. When there are Church functions, the cars park one behind the other, with no way to get out. The firehouse and emergency vehicles will have problems with the egress. In response to Mr. Karben's statement that there is a more relaxed standard for religious groups, Mr. Beckerle stated that he is a supporter for all Church groups, welcomes Churches to the neighborhood, but the standard should not be relaxed for safety. It is not logical because of the possibility of double-parking and difficulty of traffic flow.

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Chairwoman Caldwell answered that it is not unusual for Churches to park in public parking. Mr. Beckerle added that the Village of Spring Valley's character has changed and it is becoming the City of Spring Valley because the Zoning Board and other groups in the Village are not enforcing such regulations. Just because it was done before does not make it right. Mr. Scott Dow, attorney for the Spring Valley Hook and ladder Company, testified before the Board. The concern is not against the good works of the Church in the community, but rather with the scope of the property in that location. Mr. Dow believes use of the municipal parking lot is impractical given it's proximity of 500 feet away from the Church on a downhill slope. Some parishioners may take a taxi or van, but something more concrete to show the possibility, not practicality of using the municipal parking lot. Laws exist so that all projects are viewed with the concern and safety of the community, but that particular area is heavily frequented. Mr. Karben suggested a towing bond, but that is not going to alleviate emergencies when there are double-parked cars. The ease of the flow of traffic would probably fall on the police rather than a Church member or volunteer and not a realistic solution to potential problems. Site circulation issues related to parking, the size of parking spaces creates problems for emergency response vehicles, shall there be a fire. Mr. Katz interjected by saying that these are Planning Board issues and not for the Zoning Board. These are substantial variances and not fall into objections to the religious use, the opposition as nothing to do with religious use. If the scope of the project was reduced so that the parking situation could be resolved where there is less of an impact, then there could be a workable solution. There is no way to resolve the issue.

Steven Beckerle, Beckerle Lumber, called the current traffic and parking situation a mess as of now. There are about 33 spots with the existing structure. If you look at pictures, they are using what would become the building, as parking for now. That would be worse and take away at least 10 parking spots. This would also create an economic hardship for Beckerle Lumber. Mr. Beckerle read his letter into the record describing his issues with the application. He asked for the rationalization for the variances. Mr. Katz reiterated that these are Planning Board issues and the Zoning Board has the ability to do as it wishes, for which Mr. Beckerle answered is not right. Mr. Beckerle further described the project as being absurd. He concluded by stating that disregarding the zoning laws as written, is the abuse of discretionary power, and he will file an Article #78. Chairwoman Caldwell asked for the letter to be part of the record.

Mr. Karben responded that a reviewing agency may deny a permit only if the use is contrary to public health, safety or welfare. Considerations such as noise, traffic, and convenience to neighbors are insufficient to justify denial for religious use. It must be expert testimony or evidence, speculation and fear are clearly insufficient; that is the standard. As far as the parking lot being 500 feet away, looking at the Village's own studies in it's adoption of the Urban Renewal District, businesses all along Main Street relies on parking lots. With respect to the municipal parking agreement, if the Village

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Board were to revoke that in the future, the applicant does not have any objections and if the parking agreement were revoked, the applicant would secure parking at an alternate location at it's own expense. The changing character of Spring Valley, increasing diversity is a good thing, which the Board and community are proud of and where social, cultural, educational, and religious needs are accommodated.

Mr. Karben addressed the parking situation. There is a maximum of 120 congregants attending service each Sunday, only using 33 spaces. If the congregation's number doubled, only 66 spaces would be required. The 110 spaces requirement does not match the need. The Village Board There is a Church van that makes two to three trips every Sunday, which has capacity for 15 people. It was suggested that allowing the congregants to park in the municipal lot is a burden, but the Church members come from the Village itself. The Board is not restricted in giving a 25% waiver of parking from the Planning Board without requiring a variance from the Zoning Board. The ZBA has the authority under State law and the Village code to grant a 100% parking variance. The Planning Board reviewed environmental issues, determinations were made, and were granted a negative declaration that determined it would not produce a negative impact on the environment. The applicant has provided many alternatives to the plan in order to accommodate the neighbors and find a solution. Mr. Karben concluded by adding that the application still needs to receive site approval from the Planning Board, have more public hearings, and that the process is not over. The applicant is open to making changes based upon the neighbors' concerns and is continuously working with Mr. Celentano and the architect.

Chairwoman Caldwell stated that Mr. Karben addressed multiple issues but failed to address the Department of Planning recommendations for modifications, especially with the number of 436 or 437 parishioners that was provided by the representatives of the Church. Chairwoman Caldwell asked for the location and number of handicapped parking spots, and whether 110 parking spots would be required based on 120 parishioners. Mr. Booker answered that according to the gross square footage of the building there would be 110 required parking spaces, and depending upon building code maybe two handicapped parking, close to the entrance of the building. Mr. Karben labeled #1 as the one and only handicapped parking spot, but willing to accommodate any request or concerns from the Board. Mr. Katz added that it is a Planning issue, but Chairwoman Caldwell was concerned because it was addressed in the County's letter.

Mr. Karben addressed the County's letter by stating that the applicant will retain all required permits by the Department of Transportation and consent to the Board's conditions. Number II, the Board has always evaluated all the factors when considering the applications. Item III, the Village must be satisfied with and if the Village is satisfied then fine that is fine, but if not then obviously there would be a problem. Mr. Karben

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does not know where the number of 437 congregants came from because the congregation does not have 437 members. He speculated that it might be a calculation of the maximum occupancy of the building under the square footage, assuming the whole space of the building is occupied at the same time, for which he does not think is a possibility. Mr. Karben further stated that there is not enough space in the pews to hold 437 congregants. Mr. Katz referenced the environmental assessment that is attached to the application that indicates a capacity of 450 members, signed by Pastor Germain. Mr. Karben stated that on a "good Sunday" there are 120 worshippers utilizing only 33 spaces 132 spaces would be required if the number increased to 480 worshippers, based on the current parking pattern. There are mathematical calculations and there are facts; facts should be used to make calculations.

Douglas Schoonover, from the Spring Valley Hook and Ladder Company of Spring Valley, has appeared before the Board on this matter numerous times. He referenced the 22 parking spaces and testified that the turn radius to get into a parking spot of 8 feet would be extremely difficult even under best circumstances, add snow, ice, and rain and it would be impossible. In his experience as a Village firefighter since 1984 and a driver for the fire apparatus since 1990, is that most trucks with the exception of maybe one truck could not reach the back of the building. If one car were parked in the wrong spot, then there would be a problem if 437 congregants were at risk to perish from flames. There is no way to accommodate that situation with the appropriate fire apparatus.

Larry Beckerle wanted to clarify that he is very proud of the diversity of the Village and does not have a problem with that, especially given his family's and business' long history in the Village, but his problem is with the density in that it is becoming like a city. In reference to using 33 spaces of the congregation increases to 437, that does not include the spaces used beyond their borders. Pastor Germain previously mentioned sharing the same space with another congregation, which would increase the capacity, and would be a burden on the neighbors. When Mr. Karben stated that the architect reviewed the scope of the proposal, but as it appears to Mr. Beckerle, it appears to be the same exact proposal. Steven Beckerle stated that he is not criticizing the board's actions but in the best interest of the public, the right thing to do would be to reject the application. Mr. Karben did suggest that there is a problem now, so why worsen the current problems.

Mr. Karben confirmed that there is another congregation utilizing the Church, but not simultaneously. The other congregation consists of 50 worshippers that utilize the sanctuary while the other is not. He believes having those arrangements is more favorable rather than having two different Churches with two concerns multiplied. With respect to the size and scope, the applicant has to follow the Board's parameters and willing to make refinements as necessary, adding that even when variances are granted they are the maximum variances but the applicants are not required to build to the maximum. He did

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have a conversation with the architect and will have a review prior to getting the site plan from the Planning Board. They are seeking a way to use the space in an efficient way. The record justifies the variance. This is not exclusively a residential area; it is a diverse area with community service uses, religious uses, and residential uses. The Church has always been able to work with the Village and looks forward to having the ability to continue working in the public's best interests.

Mr. Grossman asked where the Church across the street parks. Douglas Schoonover answered that they park from the library down, using any available spots, and also the municipal parking lot. Chairwoman Caldwell deferred to Mr. Katz for a finding based on all the information that was received, to which Mr. Katz agreed.

On a motion by Mr. Grossman and seconded by Ms. Patrick, the public hearing was unanimously closed. Mr. Katz asked the attorneys to submit any legal papers, suggestions, and cases they would like to, in order to assist with a proper finding within the next two weeks; it is not mandatory but suggested. Upon receiving all information, Mr. Katz will make a finding within 60 days the public hearing is closed. Chairwoman Caldwell suggested that all present inquire about the findings with Mr. Booker prior to the March meeting, and if not it would definitely come before the Board in April.

5. Public Hearing: Turner Gardens/ Singh

This is the application of Turner Gardens/Singh. The location is in the R-2 PRD zone on the west side of Bethune Boulevard, about 550 feet north of its intersection with Clinton Street. The applicant seeks variances to convert an existing warehouse into nineteen apartment units and to add a third floor to an existing two-story house. The variances are: Lot Width: 30 feet required, 28.2 feet provided; Rear Yard: 50 feet required, 23.4 feet requested. Mr. Katz added that the Planning Board issued a negative declaration and the Village Board granted a special permit for multi-family use. According to Mr. Booker variances for Front Yard Parking and more than one principal building on the Front Lot also need to be added, this information was included in the site plan but not the legal notice.

Mr. Jim Licata, 222 Route 59, Suffern, NY, appeared as the applicant's attorney and testified that the area is a residential neighborhood with a large warehouse contained within it. The applicant has tried to convert the warehouse into stores, but the application was met with resistance by the Village and it was suggested to convert it into residential use. Based upon the square footage of the lot he has the right to build 23 units, but will convert the interior area into apartments and will change the exterior in order to give it a more residential appearance. The applicant wants to demolish 30% of the existing warehouse and create 19 units, not the 23 unit maximum. Mr. Licata referred to the site

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plan and pointed out that currently the building reaches the end of the lot line. The variance is reduced on one side and would increase the pervious surface by eliminating some of the building. There is no need for a Floor Area Ratio variance and all other variances are existing. The project will conform to the entire surrounding residential area.

The applicant, Mr. Kawaljit (Kenneth) Singh of 20 Lambert Trail, Mahwah, NJ, provided a general description of the project. The building has between 12 and 14 feet high ceilings and the applicant is attempting to convert it into a two-story building. The height increase would not be drastic or overpower the neighbor and would be approximately the same height as the neighbor. The applicant had an importing and selling of products, but due to changes in the industry and his anticipated retirement, thought this would be the best thing to do. The applicant attempted to sell the property the way it is. It is non-conforming. The whole project began due to the restoration from fire damage the end of the property suffered in 2010. Mr. Booker pointed out on the site plan, three current buildings on the lot; the yellow building is the fire-damaged building that would be converted. There is a two-family dwelling currently there and a separate smaller single family that would be removed, then the one unit would be added to the two-family unit once it is repaired. Mr. Singh testified to being the third owner of the property. The former owner, Mr. Katz, lived in the two-family house and the cottage was where the housekeeper, Mrs. Turner, resided. Mr. Singh kept her as his tenant and named this project after her.

John Atzl of 234 North Main Street, New City, NY the project's surveyor testified that Building A and B would have eight units each. There are three principal buildings on the site and it is going to remain as three principal buildings on the site, just with a different configuration. Even with the increase in parking that must be provided, there would still be a decrease in the impervious area by 1500 square feet. The building reaches the end of the property line as well almost to the end of the rear property line upon the west side, that will al be removed and be turned into patio, playground, and landscaping, thus bringing everything in rather than pushing it out.

Chairwoman Caldwell inquired about the bedroom layout. Mr. Atzl answered that there would be four, four-bedroom bedroom units in two units, which is on page 2 of the site plan. Mr. Grossman asked if the warehouse area is currently in use, to which Mr. Singh answered that he is currently using it. Mr. Grossman asked if the fire-damaged portion is vacant; Mr. Atzl answered that it is. Mr. Dormelus inquired about the parking; Mr. Atzl answered that parking will be in the front. A parking variance is not necessary. Chairwoman Caldwell expressed concern with parking, especially since they would be renting to those with children and will need guest parking. Mr. Atzl testified that the application meets the required parking and has one additional spot. Mr. Licata testified that they had additional parking, but the Planning Board requested it's removal.

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Mr. Atzl said there was a roadway coming out of the building to provide parking but the Planning Board asked for its removal due to how it affected the neighbors in the back and there was also one way in and one way out. Initially there was more parking but Mr. Kauker made a different recommendation. Mr. Booker added that any additional parking in the back would have displaced the required recreational area.

As there were no further comments or questions, on a motion by Ms. Patrick and seconded by Mr. Grossman, the public hearing was closed. On a motion by Mr. Solomon and seconded by Ms. Patrick, the variances were unanimously granted by the Board 5-0.

Mr. Solomon

Yes to approve, this will definitely beautify the area and there is a big need for more apartments in Spring Valley.

Mr. Grossman

Yes to approve, this is a very nice application, they are reducing the building size.

Ms. Patrick

Yes, to approve.

Mr. Dormelus

Yes, to approve.

Chairwoman Caldwell

Yes to approve, I really have a problem with parking in the front yard, but it's better than exposing the children to traffic.

6. Continuation of Public Hearing- Congregation Vayoa Moshe Satmar

The Building Inspector, Mr. Booker, read the Particulars. This is a continuation of a public hearing for the application of Congregation Vayoa Moshe Satmar. The location is on the in R-1A Zone on the west side of Dr. Frank Rd., at its intersection with Yale Drive. The applicant seeks variances to construct an addition onto an existing local house of worship. The variances are: Lot Area: 25,000 square feet required, 9,470 square feet provided (existing); Lot Width: 125 feet required, 89 feet provided (existing); Front Yard: 35 feet required, 15.9 feet provided (new); Side Yard: 20 feet required, 43.1 feet provided (existing); Rear Yard: 40 feet required, 9.5 feet provided (existing); Floor Area Ratio: 0.3 permitted, 0.42 requested (new); and parking.

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Mr. Booker added that previously there were 4 parking spots on the site that are being displaced for the addition and whatever the ZBA deems for parking would have to be located elsewhere on the site. This is a new public hearing although it was opened at the January meeting. The Board has granted most variances previously. The Town of Ramapo in a letter to the Planning Department had no comments on the project. The applicant could not appear. There is a letter of opposition from Mrs. Mary Haugereid of 3 Dr. Frank Drive, a neighbor next door, whom has resided in the same location for 49 years. Mr. Katz read the letter, dated January 10, 2012, into the record. Mrs. Haugereid stated that she received a letter regarding changing the zoning of the location. She does not understand why the place is being made bigger and extending closer to her home, especially since it had been previously denied. Ms. Haugereid further stated that this is a residential community that is turning into something else, unrecognizable, and a parking lot should not be allowed. As long as she lives in her home, she does not support the request for the variances.

Mr. Ryan Karben, the attorney for the applicant, testified that this is a 15-foot by 30-foot addition to the synagogue located at the corner of Dr. Frank Drive. The only additional variances are for the front yard and floor area ratio. In theory, the addition could have been proposed in the side yard and the applicant would have need little or no variances, which would have had a greater impact on the neighboring property, which is why the addition is proposed for the front yard rather than the larger side yard. That is the least intrusive place for the addition. The rear yard, front lot, minimum lot area are not changing. There is double the minimum side yard required to maintain the greatest possible buffer between the synagogue and the neighbor. This addition does not bring anything closer to the neighbor's home than what is already there. Chairwoman Caldwell questioned whether there is an extension on the site plan. Mr. Booker asked for the synagogue's hours of operation. Mr. Karben answered that there will not be any changes in operation and that the synagogue is primarily used on the Sabbath and holidays when driving is prohibited by the Satmar sect whom reside in that neighborhood. The synagogue is utilized during the week by only a small group of congregants.

Mr. Booker stated that some of the parking area is being displaced and according to his calculation of 9-foot wide parking spots, there would be only three parking spots on the paved area. Those spaces would overlap onto the sidewalk, which is not permitted because people would have to walk out onto the street to get around parked cars. Dr. Frank and Yale is a bad traffic corner and people coming down Dr. Frank at a high speed. Mr. Booker suggested an additional parking area. Green foliage can provide screening for the neighbors without a problem, which the neighbor might not object. Another concern, according to Mr. Booker, is that the driveway was built in accordance to a home, which is not a high-density use. There would be more use at a synagogue than a single family home. It is on a corner, on a blind curb, on the downhill side. Backing out onto Dr. Frank

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would be a bad idea in any event, whether a home or place of worship. There is an opportunity to improve on it now with a simple secondary curb cut further up the hill with directional parking. You would be able to get three or four cars in there without a problem and they would be able to pull back out in a sensible manner by being able to see traffic from down the hill and pull out into traffic normally. The code requires driveways to be as far away from curbs as possible. Mr. Karben stated that the congregation does not intend on intruding further towards Mrs. Haugereid's home and side yard, or generate additional traffic. Chairwoman Caldwell's concern is for safety, being that parking is extremely close to a very busy intersection, and allowed Mr. Karben to call the applicant to agree upon a resolution. The applicant agreed to four parking spots with screening around. Mr. Karben stated that the contractor would meet with Mr. Booker for the specifics.

On a motion by Mr. Solomon and seconded by Ms. Patrick, the public hearing was closed. On a motion by Mr. Solomon and seconded by Ms. Patrick, the variances were unanimously granted by the Board 5-0.

Mr. Solomon

Yes, to approve, for moving the parking lot to the right side, further away from Yale Dr. on the same side, to be removed & replaced on right side of building, with screening.

Mr. Grossman

Yes, to approve.

Ms. Patrick

Yes, to approve for reasons as stated by colleague.

Mr. Dormelus

Yes, to approve.

Chairwoman Caldwell

Yes to approve.

Chairwoman Caldwell adjourned the public meeting at 9:12 pm.