

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, June 16, 2020 at 7:01 pm** via Zoom Teleconference

Members Present: Chairman Harold Boxer
George Hoyt
Ralph Alfano
Jacqueline Broth
Wayne Spector

Members Absent: Arthur Weise

Staff Present: Whitney Singleton, Board Counsel
Peter J. Miley, Building Inspector

Chairman Boxer stated okay, we're starting the meeting, today is June 16th. We have one meeting on the, one item on the agenda which I can't get to because I'll lose Zoom but that is the continuation of Chase. So Chase people, go ahead.

1. Max Gordon Architects **ZBA# 20-1**
14 (16) Main Street **Area**
Mount Kisco, NY 10549
(SBL) 69.81-1-3

Ms. Jennifer Porter, Esq. and Mr. Anthony Albano of Stonefield Engineering were present.

Ms. Porter stated good evening, I'm Jennifer Porter, I am the attorney for the application, JP Morgan Chase. We also have with us this evening Anthony Albano, who has been the site engineer in connection with this project. We had submitted revised plans showing the preferred lighting for the site which Mr. Albano can walk you through. And then we wanted to specifically discuss the lighting levels in connection with the draft resolution that we had reviewed at the property line, just so that the variance relief is clear and that everybody is on same page, because I know there was some back and forth about the actual lighting level once it hits the property line, both along the frontage and along the side. So with that, I'd like to have Mr. Albano walk you through the revised plan showing the lighting.

Chairman Boxer stated okay.

Mr. Albano stated so this is the lighting that's, we've discussed previously, this is the version with the diffused, sand blasted glass. So, no changes from what we discussed the last time, it's still the wall mounted fixtures along the edges. What we did on this plan to help...

Mr. Alfano stated are you sharing a document right now?

Mr. Albano stated is it not coming up?

Mr. Alfano stated no, not yet.

Ms. Porter stated not yet.

Mr. Albano stated let me try to do it a different way then...

Mr. Alfano stated now it's coming up.

Mr. Albano stated alright, does it zoom in and out for you guys too?

Mr. Alfano stated yes.

Mr. Albano stated it does, alright. So this is the same plan that was previously submitted, what we did for that 60 inch above grade horizontal plan was to show the light levels passed the property line so you can get a better feel of those light levels and what the variance would actually be asking for. So the brightest spot on the plan is actually at the corner of the building by the property lines, by the parking area. And looking at passed the property line, we have a value of 6.8 and that would be the highest level of lighting passed the property line that we're proposing on this design. So you have a 6.8, pretty much in line with that ATM radium requirement.

Mr. Miley stated Anthony, can I interject? Can you hear me?

Mr. Albano stated yup.

Mr. Miley stated the question that was raised was how you are measuring for the lighting at the property line. So you're calling out the horizontal plane but the variance is for the vertical plane. Can you go over the vertical plane measurement?

Mr. Albano stated we did not get that one on the extended plan, we can provide that, it will be revised.

Mr. Miley stated your variance request in your plans indicate vertical plane, if you scroll down to the bottom of your plan, you have a footnote there, okay, scroll a little bit to the right, right here. You indicate that you're looking for, a little more to the right, there you are. See, that's changed since your last drawings. The drawing that we have submitted indicates 4 foot candles.

Mr. Albano stated this is one we had just updated to show past the property line, before it was on the property line.

Mr. Miley stated was that submitted to us?

Mr. Albano stated this was just done today, no it was not.

Mr. Miley stated yeah. So that's where the discrepancy is because the request for 3 ½ foot candles and now you're showing us a plan for 6.8 foot candles, that changes the variance in its entirety. So now you're requesting a 6.3, correct?

Mr. Albano stated yes.

Ms. Porter stated and just to clarify that, what we had talked about at the last Board meeting was specific to the frontage of the site, which is where we were previously showing the 4 to 4.5 foot candles, which was the topic we had discussed with the Board at the last meeting. So that actually, if you can go back Anthony to show. Along the frontage of the site, we had specifically looked at, until today when we saw the draft resolution or yesterday when we saw the draft resolution, we were looking specially along the frontage, along Main Street and measuring all the valuations at the property line which is where we came up with the four foot candles. But when we looked at the overall plan, when we had seen that template one in the draft resolution, we thought that was being derived specifically from the other side of the property and that's where that value was coming from...

Mr. Miley stated right.

Ms. Porter stated so what we did was we wanted to show that that 11.1 which was the highest value on the side near the parking, was not a true 11.1, actually when you reach the property line that it dropped down into the 6 foot candle range.

Mr. Miley stated can I ask you then, what would the different be if you measure from the horizontal or the vertical plane? Would there be any difference in numbers?

Mr. Albano stated yeah, the vertical one would be different because you go from being horizontal to be facing the fixture...

Mr. Miley stated right.

Mr. Albano stated so it would be greater. It would be more in a line with the number shown on this plan which is the 60 inch normal. So it would most likely be closer to the 14 number.

Mr. Miley stated but the variance is predicated on the vertical plane as our Code indicates. And there's nothing demonstrating the vertical plane number.

Mr. Albano stated yes, there is no on this plan.

Mr. Miley stated so how can I... I mean, do you have one available with you that you could show us what the numbers would be because I can't...

Ms. Porter stated right, they can't measure the full extent of the variance relief in order to draft, in order to properly reflect in the resolution without having a vertical measurement at the property line.

Mr. Miley stated correct.

Mr. Albano stated I could get those numbers, run that calculation.

Mr. Miley stated that's really the only calculation you need. So Harold, do you understand? Chairman, do you understand what's going on?

Chairman Boxer stated yes.

Mr. Miley stated there was a difference in the numbers that were submitted to me. It was my understanding that the variance was going to be only 3 ½ foot candles and that would be measured at the vertical plane. But the only illustration here demonstrates from a horizontal plan, so we don't actually have the vertical plane numbers or what the actual relief they're requesting would be.

Chairman Boxer stated okay, when do you think you can have that?

Mr. Albano stated I can run the calculations right now, if you'll just give me...

Chairman Boxer stated alright, you'll have 30 seconds.

Laughter.

Mr. Albano stated yup, 30 more seconds and I'll have something we can all look at.

Chairman Boxer stated Peter, we require a hard copies to be produced with the new measurements?

Mr. Miley stated yeah, I mean I can accept an e-mail and print it out here, I'm not too concerned.

Chairman Boxer stated alright.

Mr. Albano stated so let me share my, another screen. So, can you guys see my screen right now?

Mr. Alfano stated no.

Mr. Miley stated we don't see a new screen, no.

Ms. Porter stated I'm seeing the old screen too.

Mr. Albano stated okay, let me try it again. Share screen. It's still not coming up?

Ms. Porter stated it is, it's a black screen showing images.

Mr. Miley stated it's in CAD form.

Mr. Albano stated yup. So you can see the, so there's the screen. I just want to make sure you guys see, you see all the numbers and the lights?

Mr. Miley stated yeah.

Mr. Albano stated so basically, the 14.4, 18, the 10.9, these are from the previous numbers, those will line up exactly, I threw another grid in to get these numbers, so passed the property line facing the light fixtures right at this corner will have this 11.5.

Mr. Miley stated the purple line represents the property line?

Mr. Albano stated exactly.

Mr. Miley stated and that's the highest number, 11 ½?

Mr. Albano stated passed the property line, yes.

Mr. Miley stated so where is it at the property line? Is that the closest number?

Mr. Albano stated let me run one at the bottom.

Mr. Alfano stated you would expect it to be somewhere around 12...

Mr. Albano stated yeah, that's why this one didn't make sense.

Mr. Spector stated eyeballing it, it looks like it would be between the 14 and the 11.5, almost...almost exactly between.

Ms. Porter stated right.

Mr. Albano stated I don't know why it's not giving me correct... I'll do it the way I normally. Because the way this one reads, the vertical is not the same way as the normal one, so that's not, it's still not giving me what you would think it would be.

Mr. Miley stated those numbers that you reference, those are horizontal plane numbers, correct?

Mr. Albano stated they're facing directly at the light, so that's when it would be the brightest. The ones I was putting in would be the vertical pointing right in at the light. So those wouldn't be directly the same at the light because it would be less flush, if the lights up top.

Mr. Miley stated right.

Mr. Albano stated so that's why they're lower. If those are the numbers that you would accept, I can have those and then give those to you pointed in because that would be the vertical plane.

Mr. Miley stated if it's the vertical plane, that's what I'm going to be looking at with regard to the amount of relief you're seeking.

Mr. Albano stated so we'll use that one, we'll do 2 foot...

Mr. Miley stated it's 11, 11 ½ in the corner.

Mr. Albano stated so that's the one outside our property line so I can delete that one.

Mr. Miley stated yeah.

Mr. Albano stated so, I'll get rid of this one, edit this one because this would be counter clockwise, wrong way. So that's a 5 foot spacing, sorry 2 ½ spacing facing into our site on the vertical plane. Let me check the elevation. Now do you, you don't have a specific height that that's taken from, do you Peter?

Mr. Miley stated I am right now looking at the Code.

Mr. Albano stated so I'll make sure I'm putting that in at the correct height...

Mr. Miley stated yeah.

Mr. Albano stated because I think this one is trying to take it at grade as I have it right now. So I'll try one at 5 feet, this will coordinate at 5 feet.

Mr. Miley stated it indicates, the Code indicates shall not exceed 1 foot candle or half a foot candle on a residentially zone property, measured in a vertical plane. It doesn't specify the height of that measurement.

Mr. Albano stated so then I'll put it at 5 feet because that will align with the other measurements that we were taking. And that will be higher because we're also lifting it higher towards the light.

Mr. Miley stated right.

Mr. Albano stated so I measured at 5 feet high, that gives us a foot candle of 10 right at that corner and that's the highest along that line.

Chairman Boxer stated what about the other line?

Mr. Albano stated along the sides? Are you talking about the one in the back?

Chairman Boxer stated Peter, do we need...

Whitney Singleton stated Anthony?

Mr. Albano stated yes.

Whitney Singleton stated Anthony, are we saying after all this time my original numbers were correct?

Ms. Porter stated pretty much.

Mr. Albano stated that's what it's sounding like.

Ms. Porter stated within .1 of the original number.

Whitney Singleton stated okay, so as far as the resolution is concerned, it already states that you shall comply with the foot candle requirement as shown in your plans but that will be modified to say at a 5 foot elevation?

Mr. Albano stated yeah, we'll say that at a 5 foot elevation, we'll throw this number on there too. So that we all have the same number.

Whitney Singleton stated so it would 10 foot candles at a 5 foot elevation.

Mr. Albano stated yeah, on a vertical plane.

Whitney Singleton stated at the property line.

Mr. Albano stated yup.

Whitney Singleton stated okay, alright.

Mr. Albano stated yeah and we can have that to Peter tomorrow.

Mr. Miley stated Anthony, can you hear me?

Mr. Albano stated yup.

Mr. Miley stated can you change the horizontal and make it vertical on the plans?

Mr. Albano stated I'm not 100% sure what you're asking for Peter.

Mr. Miley stated I think my, can you hear me now, can everybody hear me?

Mr. Albano stated yup, we hear you.

Mr. Miley stated something is going whacky with my microphone here. So the horizontal plane, you're going to change that vertical plane on the drawings, correct?

Mr. Albano stated well we can add a separate call out for that one along the property line to say that that value is vertical. Or we can add just another view that has a vertical only.

Mr. Miley stated the variance is predicated on the vertical, so it doesn't matter me. See what the Chairman...

Mr. Albano stated we'll have it clarified that it's on, that these measurements are on a vertical. We'll either put them in a box so it's clear on the plan or we'll just add another view, whatever is...

Whitney Singleton stated just one other thing, what would be the last revision date on those plans? Would it be today's date?

Mr. Albano stated yeah, we'll have it as today.

Whitney Singleton stated okay, that's the only thing I need to know, thanks.

Mr. Albano stated yeah, so we'll update that table and get those notes to you and we'll have them to you in your hands tomorrow, if not tomorrow.

Mr. Miley stated I will not be looking at them tonight.

Mr. Albano stated gotcha. If anybody has any other questions, I'll be happy to answer them.

Chairman Boxer stated no but I think now, Whitney, they have to go over to the next meeting, then right? Unmute yourself, Whitney.

Whitney Singleton stated you could, it's still the same set of plans, it's still the same lights, it's a question of where we're measuring the lumens, or the foot candles. Whether we're measuring them at 5 feet or something else. It's not going to change the intensity of their lighting. If you want to approve it subject to this submission, that's perfectly fine. The problem is I don't know when your next meeting is, July or August because we're on summer schedule starting in July.

Chairman Boxer stated okay.

Whitney Singleton stated okay, so you can do it either way Chairman.

Chairman Boxer stated well let me ask the Board, does everybody want to see the plans first before we just approve them. Anybody?

Mr. Hoyt stated I think we've seen these plans about a thousand times. I don't think I need to see them again.

Mr. Alfano stated is the variance changing? Are the numbers that were in the plans we currently have or that will stay the same and we're simply getting a set of updated numbers for foot candle measurements around the building.

Mr. Miley stated the variance will increase Ralph.

Mr. Alfano stated okay. I'm okay without seeing the plans, I agree with George that we've seen enough of the plan.

Mr. Hoyt stated this is consistent with the last meeting, correct?

Mr. Albano stated correct, yup, same plans.

Chairman Boxer stated so do we want to pass them subject to the approval by the Building Department.

Mr. Spector stated I think subject to Peter reviewing.

Whitney Singleton stated wouldn't it be subject to confirmation by the Building Inspector that the plans reflect...

Ms. Porter stated what was testified at the hearing.

Whitney Singleton stated right, proper adjustment to be measured at a 5 foot elevation.

Mr. Spector stated I'd be fine with that.

Chairman Boxer stated so then...

Whitney Singleton stated there's no proposed change, it's just a question of how and [audio cuts out].

Chairman Boxer stated so then, has everybody read Whitney's proposed resolution?

Mr. Spector stated you sent a new one out this afternoon, right?

Chairman Boxer stated so it's going to be the same resolution with the new numbers in it, correct?

Mr. Miley stated yes.

Whitney Singleton stated correct Chairman.

Chairman Boxer stated so we can give it a conditional approval now, subject to Peter's final approval, does that work? That's okay Whitney?

Whitney Singleton stated sorry Chairman, that's perfectly fine with me, I will work out the details with Peter. Just so long as I know that the plans will be last revised as of today, they're not postdated or future dated.

Mr. Albano stated no, they'll be today.

Chairman Boxer stated okay, anybody else have any questions or can we take a vote? If there's not questions then I'll need a, somebody proposed, somebody second and we can vote. We will...

Mr. Hoyt stated I proposed that we approve what we discussed at this meeting with the modifications that were discussed, subject to the Building Inspector's review.

Chairman Boxer stated anybody second?

Mr. Spector stated I'll second.

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

Chairman Boxer stated alright then...

Whitney Singleton stated Chairman, I'll make sure that we circulate a draft resolution to the entire Board before you sign off on anything. So that if anyone has any concerns, they will be allayed.

Chairman Boxer stated so do we keep the public meeting open then?

Whitney Singleton stated no, there's no need for that.

Chairman Boxer stated then, I'll proposed that we close the public meeting. Anybody second?

Mr. Alfano seconded the motion.

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

Chairman Boxer stated I think that should, Whitney do we need to do anything else?

Whitney Singleton stated no, I think we did it a little ass backwards but... I don't think Chase is going to sue over this one...

Ms. Porter stated no, we're good.

Whitney Singleton stated I think this is a good compromise for everybody and I think that we're not changing any of the lighting, we're simply changing the baseline where we measured the purposes for a variance. And I'll make sure everyone is happy with the resolution before it get's signed by the Chairman. Thanks everybody.

Chairman Boxer stated okay. Thank you.

Ms. Porter stated thanks very much.

Mr. Albano stated thank you.

Chairman Boxer stated the minutes are, does anybody have any changes to the minutes?

Mr. Spector stated not me.

Chairman Boxer stated okay, then I'll proposed that we accept the minutes as submitted.

Mr. Spector seconded the motion.

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

Chairman Boxer stated and I'll propose that we end the meeting now.

Mr. Spector seconded the motion.

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

The meeting adjourned at 7:32 pm.