

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, June 18, 2019 at 7:08 pm** in the Frank J. DiMicco Board Room, Village Hall, 104 Main Street, Mount Kisco, New York

Members Present: Nancy Coyne  
Wayne Spector (arrived at 7:20 pm)  
George Hoyt  
Arthur Weise

Members Absent: Chairman Harold Boxer

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

Vice Chair Coyne stated we'll open the meeting today is Tuesday, June 18<sup>th</sup>. We have one set of minutes to approve to start with and that's from February 19<sup>th</sup>. Wayne, George and Arthur were all present, did you get a chance to look these over...

The Secretary stated Wayne isn't here yet. Oh, you were there, okay.

Vice Chair Coyne stated I don't think I was but I was last minute to not come.

The Secretary stated I'll have to go back, you can't approve them because Wayne's not here.

Vice Chair Coyne stated okay.

Mr. Hoyt stated we'll wait until Wayne gets here.

Vice Chair Coyne stated then we'll put that aside. Okay, we do have two cases before us tonight, the first is Lizzie Holloway, that's 680 Main Street Mobil Station. Do you want to come up and state your name please?

Whitney Singleton stated come on up here.

**1. Lizzie Holloway  
608 Main Street  
Mount Kisco, NY 10549  
(SBL) 80.72-2-2**

**Case# ZBA 19-3  
Area (Signage)**

Mr. John Leclerc from Station Glo was present.

Mr. Leclerc stated my name is John, with Station Glo, we'll be doing the imaging or the upgrade to the gas station.

Vice Chair Coyne stated okay, so the variance requested is for the number of signs, size and number of the canopy signs and two additional blade signs.

Whitney Singleton stated what was your first name? I mean, you're John...

Mr. Leclerc stated John Leclerc, L-E-C-L-E-R-C.

Whitney Singleton stated and you're with who?

Mr. Leclerc stated Station Glo.

Whitney Singleton stated so we have a variance from the maximum number of free standing signs, one is the maximum allowed, they're proposing three. A variance is required from the single integrated sign for the fuel service price, as set forth in 89-10 H 2. A variance from the canopy sign on sign A, a variance on the canopy sign for sign B, in that they're each required to have a maximum size of 16 square feet and they're proposing to have 24.99 square feet, as relayed to me by the Building Inspector. And a variance for the blade sign which prohibits blade signs and they're proposing two of those, that's blade sign A and B. So there is a total of 6 variance requested.

Mr. Miley stated there's 8, Whitney.

Whitney Singleton stated 8 total, that's right. You counted each of the separate monument signs as a separate...

Mr. Miley stated 10-4.

Mr. Weise stated and if we're all familiar with the Mobil station that has been there for a long time. So how will this be different from what has been there previously and why do you think that the changes are necessary?

Mr. Leclerc stated this is a new image that Mobil, that Exxon Mobil is making all their gas stations upgrade to, unless we get denied from the Town, which is why we have to go through the permitting variance. Anything we can do to try to get these approved is what Exxon Mobil wants to see at their locations now, going forward.

Mr. Weise stated so they will go ahead whether or not these signs are approved?

Mr. Leclerc stated yes.

Mr. Weise stated okay. And the difference between these signs and what they were replacing? I know the one here, this one. But how will it, do you have a rendering of what it will look like or is it simply this?

Mr. Leclerc stated it's simply the red sign...

Mr. Weise stated the red sign...

Mr. Leclerc stated yes.

Mr. Weise stated fuel technology synergy. What is synergy refer to?

Mr. Leclerc stated it's their premium gasoline, it used to be like the tri-clean and the super plus and now it's, everything is synergy.

Mr. Weise stated and if you don't get this signage, how will that change things?

Mr. Leclerc stated they get graded from Exxon Mobil from their signage and what they get and I guess there's incentives over what they have on there...

Mr. Weise stated this is a little, which one will it be, you think? This one is...okay...

Whitney Singleton stated that's the blade.

Mr. Leclerc stated that's the blade and that's the wave.

Mr. Hoyt stated which is the blade? I'm sorry.

Mr. Leclerc stated that small one above the pump.

Mr. Weise stated so you're seeking variances to have both of them.

Mr. Leclerc stated yeah, because it's a four pump location, anything with four or more pumps, Exxon Mobil requires them to have the wave with two blades. Anything with three pumps or less, they can just put the blades up, Exxon Mobil is okay with that but it depends on their volume and how many pumps they have.

Mr. Weise stated and if you had a choice of just one, what would prefer?

Mr. Leclerc stated I mean, for us, I would go with the blade.

Mr. Weise stated I mean we are trying to make sure that signage is necessary and reduce that if it doesn't seem to be necessary...

Mr. Leclerc stated right.

Me. Weise stated this doesn't seem to be, this seems to be more advertising than notification that this gas station exists.

Mr. Leclerc stated right.

Mr. Weise stated so one will be at one end of the pump and the other at the other, is that the way it will work?

Mr. Leclerc stated for the blade, if we were to go with just blades, we would get one above each dispenser, each pump. If we were going to do the wave and blade, there would be one wave on one end over one pump and then it would continue on to a blade over the other pump, so it kind of make its look like it extends.

Mr. Weise stated and there hasn't been, there wasn't this type of signage with the old station?

Mr. Leclerc stated no.

Mr. Hoyt stated would you mind going over the canopy and the differences between the existing and the proposed.

Mr. Leclerc stated I believe all they're looking to do here is put up a new fascia on there. It's a little dull and faded...

Mr. Hoyt stated it's not going to be bigger? It's going to be the exact same size?

Mr. Leclerc stated exact same size.

Mr. Hoyt stated I thought I saw...

Ms. Coyne stated I think there is a sign variation, I mean a size variation on the canopy.

Mr. Hoyt stated so Whitney, they currently have a waiver or an exception on the canopy sign?

Whitney Singleton stated on the canopy, well first...

Mr. Leclerc stated I think it was the logos on the canopy, if I remember correctly.

Mr. Hoyt stated okay, canopy sign.

Whitney Singleton stated I'll let Peter jump in, in case I'm incorrect here but my understanding was the variance they're seeking on the canopy sign, speaks to the size of the sign being in excess of 16 square feet.

Mr. Miley stated that's correct.

Mr. Weise stated and so the difference between what had existed and what this will be is how much? This difference...

Whitney Singleton stated 8.99 feet from what is required. That does not necessarily mean that what they currently have is only 16 square feet. But they're proposing to take it down, what's allowed is 16 square feet and what they're proposing is essentially 2 [square feet].

Mr. Weise stated okay. I mean I always think the primary purpose of this is to keep people dry when they're pumping in the rain. This, I don't really think is an issue.

Whitney Singleton stated this was the first station in Mount Kisco to have a canopy.

Mr. Weise stated is that right?

Mr. Hoyt stated to have a what?

Whitney Singleton stated to have a canopy.

Mr. Hoyt stated oh, was it?

Whitney Singleton stated they're actually, they've been prohibited by the Village. Everyone that got on was by variance, including this applicant.

Mr. Weise stated I think that this obviously, I don't have an issue with this one or that. I'm just wondering, this seems to be more advertising than anything else and I just don't know whether would be any harm in not having it.

Mr. Hoyt stated I'm struggling with the fact that there are a lot of variances, I'm having trouble seeing the big picture. Is there a way for you to come back and give us a rendering of what this is going to look like in total?

Mr. Weise stated that's a good point.

Mr. Hoyt stated because otherwise I'm just, none of these seem, all of these seem reasonable in isolation but in total, I can't...

Mr. Weise stated I agree, I agree. I don't have a good sense of what this will look like driving by the road because you have pieces and we don't know how they would all go together, so I would agree with that.

Mr. Leclerc stated yeah, we could submit some completion photos of other sites that we have done, so you can see what it looks like in total.

Mr. Weise stated that would be good and it appears to me to be purely advertising and I don't necessarily see what the economic benefit is to the station itself but...

Mr. Hoyt stated there's only one station on the corner, it's not you're...

Mr. Weise stated it's not like you're going to choose, this one's got synergy at the [inaudible].

Mr. Hoyt stated it's a nice intersection and it will be a shame for this to be like a Disney World on one corner.

Mr. Leclerc stated right.

Mr. Weise stated yeah, I'm not sure if it's necessary.

Mr. Hoyt stated I can't really tell, I can't tell. Ideally you would have, you would be able to a rendering of what this site is, not another site. What it would like, if possible?

Mr. Leclerc stated yes.

Mr. Weise stated if you could do that with the larger canopy and the pump signage, that would be helpful.

Mr. Spector stated hi, I apologize for being late, 684 had an accident, I was stuck on it.

Mr. Hoyt stated we're talking about the Mobil station.

Mr. Weise stated we're asking him to, what the intention is for what it will look like.

Mr. Spector stated thank you.

Mr. Miley stated Chair, can I interject for one second? If I'm hearing you correctly, so if you take away the wave structure, you indicated that you want to apply now four blade signs? Is that correct?

Mr. Leclerc stated that would be the next step for Exxon Mobil to get approval or denial for that next.

Mr. Miley stated that would require another application and notice because it is a change in the variance, is that correct Whitney or no?

Whitney Singleton stated well, if the Board required it as mitigation, they wouldn't. If the Board said notwithstanding the fact that you've applied for this, we'd rather see that.

Mr. Weise stated I don't, I think we would want to see what it would look like with the blade or the wave...

Mr. Hoyt stated or the blade or the wave and see...

Mr. Weise stated I think it sounds like its more of a national issue than a local one.

Mr. Hoyt stated figuring out what's going on here, there's so many different pictures, there's so many different variances, we're going to ask them to come back with it.

Mr. Weise stated and I'm not sure if there's an economic argument here but okay.

Mr. Hoyt stated a more complete picture of what it's all going to look like.

Mr. Weise stated but we'll see what it looks like and...

Mr. Leclerc stated absolutely, that's not a problem. Thank you.

Mr. Miley stated thank you.

Whitney Singleton stated you'll submit for the next meeting. And just for a point of clarification, with regard to the signs that are up there. Everything that is currently existing on the building is to remain?

Mr. Leclerc stated yes.

Whitney Singleton stated okay, are you potentially swapping this out for Exxon or is it going to stay Mobil?

Mr. Leclerc stated it's going to stay Mobil.

Whitney Singleton stated okay.

Mr. Weise stated alright, thank you, have a good evening.

Mr. Hoyt stated is there's a way to have that, maybe I'm asking too much now but like a color rendering or something. Just because these colors are very bright and I think that's one of the concerns about. I just want to get a sense of what it would look like to drive by, it's a nice intersection, they've done a nice job on other corners.

Mr. Leclerc stated okay, not a problem.

Mr. Weise stated I mean it's, there's plenty of gas stations where you see from the highway...

*Inaudible – too many speaking.*

*Off-topic conversation.*

Ms. Coyne stated if we can just take a moment here to come back to the minutes from February 19<sup>th</sup>. Wayne, you George and Arthur were all present, if you've had a chance to review them, I'll ask for a motion to approve.

**Mr. Hoyt introduced a motion to approve the minutes. Mr. Spector seconded the motion.**

**All in favor. The motion carried by a vote of 3 to 0.**

Ms. Coyne stated okay, done. Okay, then we'll move on to the second case, Lizzie Holloway, the 680 Main Street. Is that you gentlemen? Oh, I'm sorry, Milton Torres.

**2. Milton Torres  
487/489 Main Street  
Mount Kisco, NY 10549  
(SBL) 80.57-3-2**

**Case# ZBA19-4  
Area Variance**

Mr. John Caro and Mr. Milton Torres were present.

Mr. Caro stated good evening.

Ms. Coyne stated good evening.

Mr. Caro stated I'm John Caro with Carl Grimm's office. We're here actually, we're asking for a variance from lot coverage, from development coverage actually, which in this zone is 80%. The building that already exists is at 86%, the building and the coverage. And we're looking to build a seasonal terrace for dining outside of the side of the restaurant, facing Leonard Park. There's about 240 square feet or somewhere about 18/10 of a percent. Basically, it's a, you know seasonal dining terrace.

Mr. Weise stated and is this for all of the hours of restaurant or is it just in the evening?

Mr. Caro stated I think it would be for all of the hours...

Mr. Torres stated yeah.

Mr. Caro stated weather permitting.

Mr. Weise stated right and what is the view of the park from this space?

Mr. Caro stated it's really basically looking really towards the park in sort of an easterly direction.

Mr. Weise stated so you see the playground?

Mr. Torres stated there's a lot of trees there.

Mr. Weise stated a lot of trees.

Mr. Torres stated [inaudible].

Mr. Weise stated okay.

Mr. Caro stated if you were to look, I guess to the north, you'd see the tennis courts.

Mr. Weise stated okay. There's like a little bridge right there, right?

Mr. Caro stated it's actually south of that, sort of halfway down the building on the side. It's really out of view of, except for people that walking through the parking.

Mr. Weise stated right, yeah, okay.

Mr. Spector stated you have to construct a new exit from the side?

Mr. Caro stated yeah, there's going to be a new door there.

Mr. Spector stated on the side.

Whitney Singleton stated Chairman, just one thing to note, which the applicant may be unaware of. Because this is currently before the Planning Board for Site Plan approval and has been well received by the Planning Board during the application process. The Planning Board is acting as lead agency for purposes of environmental review and since they have not yet made a determination with regard to the environmental impact, your Board is precluded from acting and you will not be able to act on this application tonight. You can give the applicant all the feedback in the world you want but as part of a coordinated review, you cannot act on this until the Planning Board makes a determination under SEQRA. I don't know if you're aware of that.

Mr. Caro stated no, I wasn't aware of that.

Whitney Singleton stated which is not uncommon for this Board to be in that situation and they usually give you pretty good feedback as to whether they like or dislike your application and what conditions it would impose, if granted. But they can't act yet.

Mr. Hoyt stated when do we think they're acting, the Planning Board.

Whitney Singleton stated Peter can probably answer better than I can, they have a public hearing that's still open?

Mr. Miley stated it's still open correct.

Whitney Singleton stated so they need to close the public hearing...

The Secretary stated it's not open yet...

Mr. Miley stated oh, it's not open yet.

The Secretary stated they have to publish and show up at the meeting, July now.

Mr. Caro stated yeah, I sort of thought that they had indicated that we needed to get the variance before we could proceed.

Mr. Miley stated no.

Whitney Singleton stated can't be done.

Mr. Caro stated okay.

Mr. Weise stated the one question I do have is what is here right now?

Mr. Caro stated right now there's just some plantings on that side of the building, there's some trees that line the side of the building here, past the walkway.

Mr. Weise stated I see.

Mr. Caro stated and other than that, it's just a lawn and it sort of drops off back there.

Mr. Weise stated and so the trees, would you be cutting the trees down?

Mr. Caro stated no, no, no, no.

Mr. Weise stated so the trees are still here, so that...

Mr. Caro stated that's correct.

Mr. Weise stated so that give sit some amount of privacy from the park.

Mr. Caro stated right.

Mr. Weise stated okay.

Mr. Spector stated some kind of fencing is going to separate the dining...

Mr. Caro stated there's going to be a 30 inch high fence going around it and we're also going to have some plantings around the fence.

Mr. Weise stated okay.

Mr. Spector stated is there any live music planned or any piped in music planned for the area?

Mr. Caro stated I think the music is probably going to be inside the restaurant as opposed to outside. This might be a more quiet place, if you will.

Mr. Torres stated it's going to be a quieter space, we won't have music playing, people can go out and relax and have a quiet meal. We have the nature there, the trees, that's what I'm looking for, not like a lounge kind of bar.

Mr. Weise stated okay.

Ms. Coyne stated and normal dining room lighting in the space?

Me. Weise stated so this will primarily be for eating, as opposed to the bar part.

Mr. Torres stated absolutely, 90%.

Mr. Weise stated okay. I mean I think that what you're asking is fairly reasonable, I think that I do want to take a look at the space but I don't have anything prepared, if you guys do...

Mr. Spector stated you show 5 tables outside, or is that just an estimate?

Mr. Caro stated it's an estimate, 5 tables of 4, so we're estimating that it's approximately 20 seats. When it's in operation that would not affect the total number of seats in the restaurant.

Mr. Weise stated so you're going to have more, is it going to be a bigger bar area or are you going to have an entertainment area in the restaurant?

Mr. Torres stated I have [inaudible] inside, is going to be the bar, on the outside I am focused on having this [inaudible]. All the [inaudible] on the Main Street, the cars, the noise. I want something quiet so people can come in, talk, relax, I don't want something noisy next to the park. Something that I'd love to go to, so I'm looking as myself as a customer.

Mr. Weise stated right.

Mr. Torres stated I want a quiet area outside where we can talk. It's not going to be a lunch area or loud music, I'd never have that.

Mr. Weise stated okay.

Mr. Spector stated I'm assuming the extra seating is not going to have an adverse impact on the parking calculations or...?

Whitney Singleton stated because of the way Mount Kisco has done it's outdoor seating and people push the envelope sometimes by the enclosures and heating lamps and everything else. Because it is deemed to be seasonal, they don't have additional parking requirements for outdoor seating but they do have a limitation on the amount of outdoor seating that they can have. I believe it's you can't have more than 20% of the seating or tables outside that you do inside, 25% or something like that.

Mr. Spector stated so you're not going to put a sort of tent structure over it to use in a more year round basis.

Mr. Torres stated no, absolutely no. I'm not crazy, like I said, I want people to enjoy the nature, because it is a beautiful area of the park. We want to take care of the bushes out there, you know, make it nice for people. That's [inaudible] space there, which is growing around.

Mr. Weise stated when do you plan on opening, will it be for this summer?

Mr. Torres stated I took out the permits before, so I'm going to start with the inside and build the outside as well, when I get the permits. I wish I could get it as soon as I can, obviously, but, so I can enjoy part of the summer, it's going to help the business a lot but the outside...

Mr. Weise stated right.

Mr. Torres stated you know it's a tough business, that will be a plus for me to actually get that space.

Mr. Weise stated yup, I agree.

Mr. Spector stated so how is it going to work? Do they have to get a neg. dec. from the Planning Board and then come back here and then go back to the Planning Board?

Whitney Singleton stated correct. They don't have to per se get their approval from the Planning Board but they have to get the neg. dec.

Mr. Weise stated so when is their next meeting for the Planning Board?

Mr. Caro stated July 9<sup>th</sup>.

The Secretary stated the next meeting that this application is set to appear at is July 9<sup>th</sup>.

Mr. Weise stated okay. So would he make the summer, if wanted to get this done?

The Secretary stated your meeting will be after theirs, your meeting will be July 16<sup>th</sup>, so it's really up to you what you'd like to do. We're getting into summer schedule, traditionally ZBA does not meet in August.

Whitney Singleton stated so, do you want to put it back on for July? Obviously, we can relay anything that happens at the Planning Board.

Mr. Weise stated I think that it sounds reasonable and I think that I will stop by and take a look at the space but it sounds reasonable to me.

Whitney Singleton stated the only other things that seem to have come up as comments either here or at the Planning Board meeting for consideration as far as conditions. The visibility of the lighting from the



playground in the park, music, enclosures or canopies or anything like that, are they going to be permitted? Heating, air conditioning, and then there's...

Mr. Weise stated so are you planning on having any time of outside heater...

Mr. Caro stated heating or canopies, I don't think any of that is in the plan.

Mr. Torres stated no, no.

Mr. Caro stated and probably just wall sconces on the outside of the building, we sort of minor lighting, enough to...

Mr. Torres stated it's seasonal, we're not going to use...

Mr. Spector stated you're not going to do heat lamps?

Mr. Torres stated whatever I'm allowed to do, I will. As long as I can use it and prolong the time outside, that would be good for business.

Mr. Weise stated sure.

Mr. Torres stated but set the limits...

Mr. Hoyt stated Whitney, how does the noise ordinances work for a commercial business like this? Same standard throughout the Village? Are we, if this approved, how concerned are we that there's going to be loud outdoor music and we've already approved it and any noise ordinance would be putting...

Whitney Singleton stated under our noise ordinance, I mean the noise ordinance, it's very hard because you have to measure the noise at the property line, you have to measure the decibels and it goes up and down.

Mr. Weise stated so we can say no speakers...

Mr. Spector stated they require a cabaret license to do any kind of live music or...?

Whitney Singleton stated yeah, and I don't think that they'd be able to get a cabaret license because and I could be wrong because generally speaking you can't be adjacent to any residential neighborhood. I don't know if the recreation parcel is deemed to be residential and you can't be within 500 or 1,000 feet of a church or school and I think that a camp would qualify as well, because there's a camp right there in Leonard Park. And of course you can impose whatever conditions you want associated with it. I apologize that I don't recall but didn't you say you have other establishments up and running or another establishment? You have another restaurant?

Mr. Hoyt stated he does.

Mr. Torres stated we do, yeah. We have a tapas bar in Yorktown.

Whitney Singleton stated in Yorktown, so you can certainly visit that...

Mr. Torres stated yeah but that's 4 days a week, it's not. This is a restaurant, this is a different kind of place. We are food and drinks, obviously as you know the business, those things combine, if I don't have one, I don't have the other. Like I said, I love the area, the space was just, it's beautiful there. I'd like to have the patio for people eating. [Inaudible]. I know it's something I'm going to do, there's no people eating two blocks away, it's not going to be bothering anybody. [Inaudible]. At night time, the park is close, so basically it will be by itself.

Mr. Weise stated when does the park close?

Mr. Spector stated I assume the park closes at dusk, most likely?

Mr. Weise stated is that at sunset or an hour beforehand?

Mr. Spector stated what is dusk, how do you define that?

Mr. Miley stated yeah, good question, I'd have to look at it to define it.

Mr. Hoyt stated I think it's after sunset, dusk is after sunset. It's about an hour after sunset.

Mr. Spector stated is it really? So that would be 10 o'clock on June 21<sup>st</sup>?

Mr. Hoyt stated you can go there right now, if you want to.

Mr. Caro stated alright, so I'm hearing that we'll be back.

Mr. Weise stated I mean, I, my personal view is that is sounds reasonable and that I think that, I do agree that it would help that location, you do need help in that location so I think that's reasonable. But I think we want to make sure that it wouldn't be unsightly from the park.

Mr. Spector stated anything reasonable to help you succeed is realistic, maybe even help the...

Mr. Torres stated I appreciate that because it's a risky business.

Mr. Weise stated yeah, I think we know, we know that location.

Mr. Spector stated people will come if the food is good.

Mr. Weise stated yes.

Mr. Spector stated right?

Mr. Torres stated that helps for sure.

Mr. Hoyt stated and legislate equality...

Mr. Spector stated and the tequila selection is appropriate.

Mr. Weise stated yeah.

Ms. Coyne stated okay, so this is on for our next meeting, after which you have been to the Planning Board.

Mr. Spector stated but if they don't issue a neg. dec. there's really no reason to come back here. So it's a question of what they do at the Planning Board. You have to have a hearing on that...

Whitney Singleton stated yeah. I'll make a note to discuss that with the Planner.

Ms. Coyne stated thank you.

Mr. Caro stated do we have to re-advertise?

The Secretary stated no, you do not have to re-advertise for your next appearance. Make sure you get all your stuff done for July 9<sup>th</sup>.

Whitney Singleton stated does it say something else at the building now?

Mr. Torres stated that's just a little extra thing that says "Let's Taco 'bout it", that's not a name.

Mr. Hoyt stated when do you plan on opening? I forgot what you said.

Mr. Torres stated the second week of July.

Mr. Spector stated second week, good.

*Off-topic conversation.*

Mr. Torres stated I want to try to open the inside first and see.

Mr. Spector stated you have to identify the patio on your liquor license application as well.

Mr. Torres stated it went in and it's a discretionary.

The Secretary stated you don't have to sign it.

Mr. Caro stated are we all set?

Mr. Spector stated we are.

Mr. Torres stated thank you.

Mr. Hoyt stated thank you.

Ms. Coyne stated any other business?

Mr. Weise made a motion to adjourn. Seconded by Mr. Hoyt.

The meeting adjourned at 7:50 pm.