

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, September 17, 2019 at 7:10 pm** in the Community Room, Village of Mount Kisco Public Library, 104 Main Street, Mount Kisco, New York

Members Present: Chairman Harold Boxer
Nancy Coyne
Wayne Spector

Members Absent: George Hoyt
Arthur Weise

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

Chairman Boxer stated it's the September 17, 2019 of the Zoning Board. The first case is ZBA 193, Lizzie Holloway.

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

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

Ms. Holloway was present.

Ms. Holloway stated where do you want me to stand?

The Secretary stated come a little closer, so the microphones will pick you up.

Ms. Holloway stated so I'm here for the property at 680 Main Street, the Mobil gas station. We're proposing an illuminated light bar on the outside of the canopy, as well as the reface of the pricer itself for an LED pricer and then the pump apertures, which are an architectural enhancement that goes around the pump area.

Chairman Boxer stated are they lit up?

Ms. Holloway stated no.

Chairman Boxer stated okay. So how far have we gotten on that one? We've gotten pretty far I think, the other one... Whitney, did you draft anything for the Mobil?

Whitney Singleton stated yeah, I did. Chairman, you might remember that they've been on your agenda, I think at least two times and that your Board asked them to consider revising their application to eliminate the appendage...

Ms. Holloway stated both of them or the larger one?

Whitney Singleton stated the one with the arrow...

Ms. Holloway stated the one that's like an L...

Whitney Singleton stated the one that was not affixed to the support for the canopy.

Ms. Holloway stated that would be the wave.

Whitney Singleton stated yeah.

Chairman Boxer stated yeah.

Ms. Holloway stated there's two waves that come up like an upside down L, and then we have the two smaller ones that are just the blade that come straight off the canopy column.

Chairman Boxer stated so it was the waves that we had problems with, right?

Ms. Holloway stated so if we remove them, let me ask you this, if we remove the wave, would we be able to do four of the smaller ones? So that the site is still uniform, instead of doing the two large, could we substitute, is that possible?

Chairman Boxer stated what are the small ones?

Mr. Spector stated we preferred the small ones.

Ms. Holloway stated the small ones are these ones. So there's two small that anchor to the canopy column and then there's two of the large ones that anchor to the concrete when you first pull into the station.

Chairman Boxer stated these are...?

Ms. Holloway stated the smaller, there like 40 5/8 inches by 14 3/8 inches.

Chairman Boxer stated why do you need any of those?

Ms. Holloway stated they're an architectural enhancement for the site, Exxon Mobil is changing the look of their station with the upgrade and they're proposing these at all their locations.

Chairman Boxer stated right...

Mr. Spector stated what kind of wording or signage is it?

Ms. Holloway stated it just says synergy, that's the new technology they have I guess, in the gasoline.

Chairman Boxer stated they can't just put a sign on the pump itself like other people do.

Ms. Holloway stated unfortunately I'm not a representative of Exxon Mobil, I'm representative of the property owner.

Chairman Boxer stated I know. I think it kind of creates more confusion than it adds anything to it.

Ms. Holloway stated they have no structural bearing, they're just again, just I mean, some people call them architectural enhancement, some people call them just signage, some people call them directional. They're not directional as far as I'm concerned.

Chairman Boxer stated what are they made out of?

Ms. Holloway stated they're made out lexan plastic and then there's a steel rod that they hook on to and then it's anchored into the canopy column.

Chairman Boxer stated are they lit?

Ms. Holloway stated nope, no illumination.

Mr. Spector stated so they're just handing down.

Ms. Holloway stated these two would be anchored to the concrete and come up and over, those are the two that you said no.

Mr. Spector stated these two would...

Ms. Holloway stated these are actually mounted like say this is the canopy column, they come out like this, they come out 40 inches over the top of the pump, like an additional valance.

Mr. Spector stated oh I see, okay.

Chairman Boxer stated and how many of those do you want?

Ms. Holloway stated we're proposing two of those and two of the larger but if you won't allow the larger, could we do four of the small, so that the site is at least uniform? Because it would look kind of silly with four pumps and only two apertures.

Chairman Boxer stated okay, and then, I wasn't here, excuse me. Did we have any problems with the canopy sign and the sign in the street for the pricing?

Ms. Holloway stated I think it was just the apertures that they had an issue with, the larger...

Mr. Spector stated I don't recall any problem during our discussion last meeting.

Chairman Boxer stated okay.

Mr. Spector stated so if you go with these, I guess you can call them a wave, the red, you don't need the synergy sign hanging, so it's a substitute, it's one or the other?

Ms. Holloway stated it would still be the two of those because there's two pumps when you first pull in, and then there's two more dispensers over there, so you would pull into these when you first pull into the station, and then over the other two, this pump here and that pump back there, you would have the smaller one. But if you're not allowing these, what I'm asking is if we could do four of the smaller, if that makes the presentation look a little better in your municipality.

Whitney Singleton stated I think they were referred to in the application previously and they're referred to in the resolution as blade signs.

Ms. Holloway stated the smaller are the blades, the larger are the waves.

Chairman Boxer stated okay. I don't think, I'm not sure...

Mr. Spector stated we don't have a rendering of what the four blade signs would look like at this point...

Ms. Holloway stated it was all submitted.

Mr. Spector stated just the four blade signs.

Ms. Holloway stated oh, like a layout of the property, no.

Chairman Boxer stated they didn't do much. The blade signs really aren't something that's meant to be seen from the street.

Ms. Holloway stated not particularly, no. The wave, the larger of two, is what would draw patrons into the gas station.

Chairman Boxer stated so would the canopy.

Ms. Holloway stated touché.

Chairman Boxer stated so that's what they're proposing down there, that's no big deal.

Ms. Holloway stated and it's the same cabinet, we're just re-facing it, so we're not changing square footage of that either.

Chairman Boxer stated okay.

Mr. Spector stated I think they're required by law to have pricing posted anyway.

Ms. Holloway stated out front as well.

Mr. Spector stated I believe out front.

Ms. Holloway stated New York State reg and New Jersey State reg, we have to have it.

Mr. Spector stated so you can comparison shop.

Chairman Boxer stated well Mobil is the expensive one. The Mobil and the Sunoco, or the Shell across the road always had the same price.

Ms. Holloway stated sometimes you'll see them, they'll be like a penny cheaper.

Mr. Spector stated it's more like just putting a logo out there or something or just something to identify them or their product.

Ms. Holloway stated yes.

Chairman Boxer stated and what do they have on the pumps? It says synergy on the pumps right? Down below...

Ms. Holloway stated yes.

Chairman Boxer stated so that's just a duplicate of what's on the pump.

Ms. Holloway stated yes.

Mr. Spector stated these are considered signage from the standpoint of the Code.

Whitney Singleton stated correct.

Mr. Spector stated so they need variances because of the number of signs and the size?

Whitney Singleton stated number of signs and the size. Well it depends on which sign you're talking about.

Mr. Spector stated talking about just the synergy signs, these blades...

Ms. Holloway stated the smaller blades.

Mr. Spector stated how far off we are, if we were to grant it, and what we're granting exactly.

Whitney Singleton stated well if you want, I think what she's suggesting is eliminating that and changing the bottom paragraph where it says two projecting blade signs from the columns of the canopy. She's proposing in lieu of that to make it four...

Ms. Holloway stated this is what they would be, to just have four of these instead of the larger ones.

Mr. Spector stated is this more of a to-scale type of rendition of what's going to be there?

Ms. Holloway stated yeah, that's about how, it only comes 40 inches over the pump.

Whitney Singleton stated and you're talking about putting it on either side of this, of the support column...

Ms. Holloway stated there is this piece and then there is an end cap that goes on the other side.

Mr. Spector stated so there is like...

Ms. Holloway stated it basically cover the anchor bolt on the other side.

Mr. Spector stated so there are double support columns...

Ms. Holloway stated so there would be four of these, yes, one over each pump. Correct.

Chairman Boxer stated so that gives you 7 signs...

Whitney Singleton stated more. They have that, that, they have these four signs and then they have a sign out there that is technically deemed to be two signs because they're not integrating the pricing into one sign, it will be like that.

Chairman Boxer stated right, that's a lot of signs. The Code says what three or two?

Whitney Singleton stated one.

Mr. Spector stated I'm not sure that I would actually, you know, in my mind, consider the pricing to be, I understand it is an independent sign but I think since it's intended to comply with the State line to post prices for gasoline, I wouldn't be so, I'm not going to be that harsh about it. They still exceed the number of signs no matter what we do.

Chairman Boxer stated you've already got synergy pasted on pumps, so I don't see why you need another sign above that says the same thing as the sign on the pumps.

Ms. Holloway stated okay.

Chairman Boxer stated I know Mobil wants it but we don't always give them what they want.

Ms. Holloway stated right, you're not the only municipality.

Chairman Boxer stated I don't think they should have any pump signs other than the synergy that's already written on the pump.

Mr. Spector stated I'm sort of neutral on this, I mean I, it doesn't particularly offend me one way or the other and I'm not particularly in favor of it either. So, I don't mean to be wishy washy about it but it just doesn't strike me one way or the other.

Ms. Coyne stated I'm kind of neutral too, I think aesthetically the four blades...

Ms. Holloway stated the smaller ones, yeah...

Ms. Coyne stated are more pleasing than the combination of waves and...

Ms. Holloway stated they're more pleasing to the eye.

Mr. Spector stated I think that is, I mean that is in lieu of the wave signs, given what you showed in terms of the scale of it, it seems that it's minimal.

Ms. Holloway stated they're really only like...

Mr. Spector stated I'm not necessarily against a brand somehow or another identifying itself some way or another. Although with gasoline it's usually based on price and convenience, pretty much.

Chairman Boxer stated my objection is still that they have it down there and then they want to put it up above...

Mr. Spector stated where is this, where is it on the pump itself? Oh, I guess it's on the lower side, it's in white letters on the pump.

Ms. Holloway stated yup, on the door and then it's in white letters on the actual blade sign too.

Mr. Spector stated I mean, I, I honestly don't see it as being that important to the Mobil brand, given the fact that people are going in there and they can't even see it from the street. They're pulling in anyway at that point.

Ms. Holloway stated right.

Mr. Spector stated if you feel strongly about it, then I would defer to you on that.

Chairman Boxer stated okay.

Ms. Coyne stated yeah, okay.

Chairman Boxer stated so then we're going to deny the...

Ms. Holloway stated the pump apertures.

Chairman Boxer stated and the four blades.

Ms. Holloway stated okay.

Chairman Boxer stated okay.

Ms. Holloway stated okay, what about the free standing? We're okay with that? The one that displays the pricing.

Chairman Boxer stated I'm okay with that.

Mr. Spector stated I am too.

Ms. Holloway stated okay and then the canopy we're good with? Because it does already have it on the canopy now. We're just moving it over.

Mr. Spector stated I don't personally have a problem with that.

Ms. Holloway stated okay.

Mr. Spector stated I don't know about anybody else.

Chairman Boxer stated no, I don't have a problem with that. So, okay.

Ms. Holloway stated do you need anything more? Have any other questions for me?

Whitney Singleton stated I think you're going to need to close the public hearing and make a motion.

Chairman Boxer stated okay, anybody have any comments out there? **A motion to close the public hearing?**

Mr. Spector stated so moved. Ms. Coyne second the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Boxer stated okay, now we have to come up with the motion for the, so Whitney can make it clearer but I think we should just say that we're denying all pump...

Ms. Holloway stated pump apertures.

Chairman Boxer stated all pump apertures, all six of them or eight of them, whatever. And everything is else is fine with me.

Mr. Spector stated okay, same, I agree.

Whitney Singleton stated that's a second?

Mr. Spector stated that's a second.

Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Boxer stated okay, so go back and tell Mobil.

Ms. Holloway stated thank you so much.

Chairman Boxer stated they're all trying that. If you notice now, every car dealer now looks the same, even the ones that are different brands, they're all the big silver things in front these days,

Ms. Coyne stated yeah.

Mr. Caro stated we'll see how long that last.

Chairman Boxer stated well they come before us, we kind of knock down a bunch of their signs.

Whitney Singleton stated [inaudible]

Off topic conversation.

Chairman Boxer stated next is ZBA19-4, Milton Torres, Topsy Taco.

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

**Case# ZBA19-4
Area Variance**

Mr. John Caro was present to represent the application.

Mr. Caro stated good evening, how are you.

Chairman Boxer stated good evening.

Mr. Spector stated hello.

Mr. Caro stated so, I guess we're here for the, we're looking for a variance for area, we have already, the property when we got there already exceeded the amount that you could cover on the property.

Chairman Boxer stated right.

Mr. Caro stated and I believe that we're adding, we wanted to build a small terrace on the outside of the building, it's 240 square feet, which roughly translates to about .86% of...

Chairman Boxer stated do you have anything that shows it in full color with lines and arrows?

Mr. Caro stated lines and arrows...

Chairman Boxer stated and with a paragraph on the back of each one.

Off topic conversation.

Mr. Caro stated so this is the Planning Board resolution, draft resolution and this is the actual plan and our terrace is going to be on the side of the building...

Chairman Boxer stated oh, the side of the building, okay.

Mr. Caro stated right and then there's going to be some plantings here and some plantings a little bit further down which you'll see on the next sheet. So it will have a fence all the way around it.

Chairman Boxer stated right.

Mr. Caro stated and there's going to be plantings here and then there's going to be a row of plantings behind it and then this fence goes around the perimeter.

Chairman Boxer stated okay.

Mr. Caro stated and we just have the three lights on the building to light it.

Chairman Boxer stated because I am now learning what this is, is this going to be handicap accessible from the restaurant?

Mr. Caro stated yes, handicap accessible.

Chairman Boxer stated it's all on grade level then?

Mr. Caro stated right, yes and it's going to be a pervious surface, so it will absorb water as opposed to pushing it off into the river.

Chairman Boxer stated so what's the surface going to be made out of? Oh, Unilock...

Mr. Caro stated it's Unilock but it's meant to absorb water.

Chairman Boxer stated yeah, I know, okay. So that point when I saw that adds .08% more for the coverage, is what you calculated...

The Secretary stated Chair, just so you know, they did receive conditioned approval at Planning Board.

Chairman Boxer stated yeah, I understand.

Mr. Caro stated yeah it was .82%, it's less than 1%.

Chairman Boxer stated yeah, I don't have any major problems with it. So they were happy with the runoff...

Mr. Caro stated do you need a copy of the resolution? Yeah, they seem to be okay with that.

Chairman Boxer stated are you okay with the DEP?

Mr. Caro stated the only thing that was have is we need to get a letter from them, which we have not obtained yet.

Chairman Boxer stated because there's a brook back there.

Mr. Caro stated right.

Chairman Boxer stated so you have to, I would say that...

Mr. Caro stated well that's certainly something that we have to obtain from them.

Chairman Boxer stated before you can do anything.

Mr. Caro stated well before they'll sign it, for sure.

Chairman Boxer stated will the terrace be accessible from only inside the restaurant?

Mr. Caro stated no, actually you can walk around the side of the building, you can come from the handicap space back this way, if you want to.

Chairman Boxer stated okay, then you bypass the receptionist and you get in trouble.

Mr. Caro stated they'll have armed guards.

Mr. Spector stated what's the estimated seating in that area?

Mr. Caro stated 20. It won't affect the overall seating in the restaurant. The seats in the restaurant go away when they go outside. So they'll go from maybe 80-something to 60-something inside and 20 outside.

Chairman Boxer stated okay.

Mr. Spector stated and there's no music or anything piped outside?

Mr. Caro stated no.

Chairman Boxer stated is there any, Whitney, is there any other problems other than the area coverage?

Whitney Singleton stated no, there's a de minimis increase in development coverage. The Planning Board generally likes the application, they were concerned but beyond the scope of your concern, they had some concerns as to denuding of the trees and limbs and everything else...

Chairman Boxer stated right.

Whitney Singleton stated but they were basically fine with it and they were not seeking to, in any way, impact your review.

Chairman Boxer stated okay.

Whitney Singleton stated and for edification, the reason that the Board didn't vote on it at the last meeting was because there was no environmental assessment form, other than that your Board was ready to act. And they have subsequently submitted an EAF on July 9th and your Board is not in a position to act.

Chairman Boxer stated and so there's no really objections to this.

Whitney Singleton stated and the additional sheet that I handed to you, the only changes that are proposed are to paragraph eight, which speaks to the SEQRA history on this application.

Chairman Boxer stated okay, at the last meeting did they go through the five factors or do we have to do that now?

Whitney Singleton stated well yeah, the Board spoke at length as to what each member thought and it was pretty well verbalized, I thought.

Mr. Spector stated we were positive about it and you know, obviously want new business to succeed as best they can. And it is sort of an isolated area right there, so I don't think it's going to have [inaudible] on residential that's going to be impacted by it.

Chairman Boxer stated and the garbage cans are on the other side, the dumpsters?

Mr. Caro stated yes.

Chairman Boxer stated they used to be there.

Mr. Caro stated they're on the other side of the parking lot.

Chairman Boxer stated okay, I'm just happy they're not coming for more signage up front.

Mr. Caro stated nope, no blade signs for us.

Mr. Spector stated when are you planning on opening?

Mr. Caro stated he's open already.

Mr. Torres stated the restaurant is open already...

Mr. Spector stated I didn't even know.

Mr. Torres stated I haven't seen you there, I'm not happy about it.

Chairman Boxer stated you're on yelp already.

Mr. Torres stated we've been open for a month and a half, it's been good. Obviously the patio would help us a little more but you know, it's alright.

Mr. Spector stated based on the fact that I didn't know you were open, maybe you need to a little bit more outreach to the community.

Whitney Singleton stated the police have been there six times.

Laughter.

Mr. Caro stated eating.

Chairman Boxer stated then I don't think I'm in a position to make the motions but be my guest.

The Secretary stated close the public hearing.

Mr. Spector stated we have to close the public hearing, so...

Chairman Boxer stated okay.

Mr. Spector stated I move to close the public hearing.

Ms. Coyne second the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Boxer stated okay.

Mr. Spector stated you want another motion?

Chairman Boxer stated yeah.

Whitney Singleton stated all in favor of closing the public hearing?

Chairman Boxer stated we did that already.

Whitney Singleton stated I just heard a second, I didn't hear a vote.

Chairman Boxer stated we're quiet tonight.

Mr. Spector stated we're in the library, we can't be too loud.

Chairman Boxer stated we were locked out until you showed up. And then, we've gone through the five factors, they're in here already.

Mr. Spector stated listed in here...

Chairman Boxer stated yeah.

Mr. Spector stated I make a motion to approve the resolution as drafted by the Village Counsel.

Chairman Boxer stated second?

Ms. Coyne seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.

Chairman Boxer stated okay.

Mr. Spector stated good luck.

Mr. Caro stated thank you very much, have a good night.

Mr. Torres stated thank you very much.

Off topic conversation.

Chairman Boxer stated I move that we close the meeting.

Ms. Coyne stated I'll second that.

Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.

The meeting adjourned at 7:35 pm.