

**Minutes
Regular Session of the Planning Board
Village/Town of Mount Kisco
Tuesday March 14, 2006**

Members Present:

**Joseph Cosentino
Anthony Sturniolo
Stanley Bernstein
Ralph Vigliotti
Doug Hertz
Joseph Morreale**

Members Absent:

Sol Gibbons

Staff Present:

**Whitney Singleton
Ashley Ley
Michael Stein**

Staff Absent:

Nanette Bourne

Chairman Cosentino opened the meeting with the Pledge of Allegiance at 7:50 p.m.

Chairman Cosentino: This is Tuesday, March 14, 2006 and the regular session of the Mount Kisco planning Board. The first thing on our agenda is conceptual application: 77 Brook St, John DeCola.

1. Conceptual Applications:

a. 77 Brook Street – John DeCola – Application #PB2006-07

Chairman Cosentino: There are three people involved on this application, and you would like to make some lot line changes. We have a letter from Austin Cassidy, and there was nothing that he could say about this. As far as any implementation in it. It is a simple lot line change. I went to look at this and if you notice I sketched mine out. This is a large hill coming down here. You live at the bottom of the hill and the sidewalk actually is right here so that if he steps off the sidewalk and he touches the other residents and I believe it is Mr. Panetta's. So he wants to have a lot line change, where he would acquire 25 feet of the property. This does not constitute a separate lot. There is another small piece that is 25 feet. All he wants to do is straighten out his property, so there is not a jog in it. They are just lot line changes. Mike do you have anything on it. (No Answer) This was done before on a lot line change by the Panetta's. Whitney, I believe we can put them on for the next agenda for a formal application. Just file for the formal application and we will put you on the agenda for April 11, 2006.

2. Formal Applications:

a. Cassidy & Flynn – 288 Main Street – Application #PB2006-02 Barry Goewy, architect, John Flynn, applicant

Chairman Cosentino: This was before us, a few weeks back as a conceptual.

Barry Goewy: We are doing an improvement to the current building, as you see here. This is the rear of the building. Essentially what we're doing is improving interior flow, and the interior infrastructure of the building for circulation. Right now, currently it is an open space. People come out of the space here, and then come down into the cellar where the viewing of the caskets are. They have to go outside to go inside. We want to enclose this and improve the aesthetic value. We want to enclose this to provide an entry, providing a new roof so that you don't see any of this. There is an apartment up above, that has an outside deck. It will be totally concealed by a parapet wall. We are going to greatly improve the aesthetics of the rear of the building and enclose it. Essentially make the interior to about 350, 400 ft.². It will be a lobby and we are also making a handicapped restroom in addition to another restroom. It will be a landing area coming down into a lower lobby and come up into this area here.

Chairman Cosentino: You are not taking any parking away?

Barry Goewy: We are not doing any of that on this site. It is still a paved area, there are

canopies here already. We're just going to make it more permanent. It will make it a lot nicer. The garbage enclosure will be made inside the building. We are going to clean that up.

Chairman Cosentino: So you're going to enhance the back of the building. Does anybody have anything on this?

Stanley Bernstein: Unless I am mistaken. It looks as if there are stairs, going out to the handicapped toilet.

Barry Goewy: No, handicapped access is at the front of the building. This is shown on this floor plan. The front of the building is right off Main Street. That is right on grade, so handicapped persons can get inside.

Stanley Bernstein: So the continuation of this hallway is on the same level. This is a corridor that is on grade, and then into here.

Barry Goewy: This is a viewing room here, and another here. The corridor is right here.

Ashley Ley: Are the bathrooms in addition to the existing bathrooms?

Barry Goewy: No, there is a lavatory there. We are enlarging it to make it handicap accessible, and we are adding another. Which is basically a storage closet right now and we are making it into a regular lavatory. We are adding another lavatory and expanding the existing.

Ashley Ley: Will these lobby spaces truly be for getting people from one place to the next, or a gathering area?

Barry Goewy: Yes. It is for circulation.

Chairman Cosentino: It is something that is well needed there. Do you have anything Whitney or Mike? (No Answer) Since there is nothing else on this we can put this on for a resolution of approval. Thank you for coming

***b. Bryant Development – 104 Smith Avenue – Application #PB2003-17
Robert Davis, attorney for the applicant, Scott Cullen, consulting
arborist, Walter Giewat, project manager.***

Robert Davis: Basically what this is is an amendment to a site plan. That was previously approved two years ago, to rectify the deviations from the site plan approval. As I understand it, there are only two items outstanding. Mr. Stein did a memo in November of 2005 that had two of the items that we are going to speak about. If you would like I will tell you what the items are. The original site plan approval called for a hedge running along the side of the driveway. Instead of the hedge what you can see now there is a decorative fence. Also at one point the fence was built 6 feet for its entire length.

Chairman Cosentino: Is this on the front?

Robert Davis: It had run 6 feet for the entire length including the front. It has now been reduced to 4 feet in the front yard as your code requires. I have a picture of it. As you can see, it has been stepped down to 4 feet in the front.

Chairman Cosentino: There were supposed to be bushes there?

Robert Davis: There was supposed to be a hedge running the full-length.

Chairman Cosentino: The fence is out already, so why are you back here?

Robert Davis: In order to get a certificate of occupancy we have a deviation from our site plan.

Chairman Cosentino: So you went ahead and put the fence up.

Robert Davis: Not me personally. Apparently there were two issues with the fence. As I understand it. One was the fact there is a relatively small area between the pavement and the property line. It was difficult to put a hedge there and plow the driveway.

Chairman Cosentino: Did they get a permit to put the fence up?

Anthony Sturniolo: Is the applicant here?

Robert Davis: The applicant's representative is here.

Chairman Cosentino: I just want to know if a permit was issued.

Robert Davis: I wish Mr. Scott was here. He was actually the one that handled that.

Chairman Cosentino: I see a fence here, and I don't see a permit and it is not on the plan. I gather it you would not be here if you had a certificate of occupancy.

Robert Davis: We do not, that is why we are here.

Ralph Vigliotti: Do you get along well with your neighbor?

Robert Davis: Apparently, our clients do not. Apparently there was an issue, from what I understand. On more than one issue, if you go out there today for example, they still have an orange snow fence up which serves no purpose, other than to be visually annoying.

Chairman Cosentino: What about when you drive out. What is the visibility to the left?

Robert Davis: The fence does not come up anywhere near the curb.

Chairman Cosentino: would the car have to go out into the road somewhat?

Scott Cullen: No.

Robert Davis: As it shows on our tree plan, there is at least 8 feet from the curb.

Scott Cullen: I happen to go out at Mr. Davis's request, and the end of that fence is 13'6" behind the curb.

Ralph Vigliotti: What is the purpose of this thing?

Robert Davis: The purpose is to provide mutual screening between the two properties. Originally there was a hedge called for that purpose. There was a dispute between the clients, and the neighbors. Also difficulty establishing the hedge vis-à-vis plowing and so forth in terms of distance from the pavement to the property line.

Ralph Vigliotti: I do not like the fence at all. I think for Smith Avenue to have this fence come down to almost the curb line. It is not what the village envisions for Smith Avenue 30 years ago, when it went to a cottage office zone. If every resident or business on that street had fence is coming down the side of their property to the curb, this would looked as hideous as anything. Personally, you don't need to get along with your neighbors. I don't think this fence serves any purpose. I think as Chairman Cosentino indicated, it blocks site line. Personally I think the fence should be removed in total, and left blank.

Robert Davis: It does not block the site line. It is 13 1/2 feet from the curb.

Ralph Vigliotti: I just want to make this statement. I think the fence should be taken down in total and left alone. Otherwise, you put in a 2 foot hedge that was planned early on for this. Giving a natural setting, and be done with it. This looks hideous.

Chairman Cosentino: I do not know of one fence on that road. To be honest with you, I do not like it either. The fact that you did not get a permit for it is another thing.

Robert Davis: I am not sure if that's the case, Mr. Chairman, but it may be. One thing that I was going to suggest towards the rear of the fence.

Chairman Cosentino: Mr. Vigliotti doesn't like it and I don't like it.

Michael Stein: On the original approved site plan. There was supposed to be a sidewalk along the front of the property.

Robert Davis: We have not gotten to that issue as of yet.

Michael Stein: I hadn't seen it in here. That is one of the questions to the board whether they want that to go in or not. It will include the removal of the tree.

Chairman Cosentino: We are trying to eliminate fences and if this one goes there and

the next one wants one all you will see going down Smith Avenue is fences. Right now, you don't have fences. I am just one member of the board and I do not like the fence.

Anthony Sturniolo: I agree with you, and with Mr. Vigliotti. I do not care for the fence. I think it is contrary to good planning, and contrary to good visualization along Smith Avenue. I would also like to draw our collective attention to the resolution of approval that is dated March 23, 2004 and condition eight, says a revised landscaping plan shall be submitted. That includes additional plantings, adjacent to properties with the goal of screening this site from the views of surrounding residents, and it goes on. There is to me a very clear, implied reference that no fence should be there. But plantings should be there in its place.

Robert Davis: There is no dispute about that. The only thing I was going to suggest, as Mr. Scott pointed out in his admission number one. The reports states there are more plantings on this site than originally required, and it is a fairly attractive site.

Chairman Cosentino: That has nothing to do with the fence and I appreciate more plantings, but it has nothing to do with the fence.

Robert Davis: The only thing that I was going to suggest towards the rear of the fence. Now, you might have seen boxwood shrubs along the fence and perhaps some plantings could be planted in the area along the fence. That would fit in that area.

Chairman Cosentino: Do we want to make an inspection up there? We are going to make an inspection up there. How about Saturday at 9 a.m.? We don't really need anybody there.

Robert Davis: Do you want us to address the sidewalk issues. So you will know what we are speaking of in that regard. As Mr. Stein alluded to, that is the other open issue. I have a picture here give you a sense. This is the tree and that is the area where the sidewalk would be. I will let Mr. Cullen take you through that. There is not a sidewalk on either side of the property at present. What would happen if we put the sidewalk in at this point? The tree is in fair condition. As you know we have lost a lot of trees, through the years on Smith Avenue. We would like to preserve that if we can. Mr. Cullen will give you an explanation of how the sidewalk will affect the tree, both in terms of health and danger to Smith Avenue. What we were going to respectfully suggest is that perhaps we could have dispensation from the sidewalk requirement until the earlier of the connecting sidewalk on either side of the properties or the tree is in a dying condition.

Chairman Cosentino: What is on the approved site plan?

Robert Davis: It required a sidewalk.

Chairman Cosentino: Then put a sidewalk.

Robert Davis: What you are saying is and Mr. Cullen can speak to this that this tree must be removed then.

Chairman Cosentino: Was that brought up on the original plan?

Robert Davis: I was not here.

Chairman Cosentino: Let us go and look at it. Maybe we can find a different spot for the sidewalk when we make our inspection on Saturday.

Robert Davis: There is a slight deviation just so you can understand it. If you have a chance when you go to look at Mr. Cullen's report. The sidewalk staked is to line up with the existing sidewalks down the block. That is about 7 feet from the curb, whereas the plan called for 8 feet. If it were 7 feet from the curb it would actually split 6 inches in the trunk of the tree. It is about a 24 inch round tree. If it was 8 feet it would be a little better but it would still be severely affecting the root zone.

Michael Stein: I think there were some other issues also regarding the layout of the parking lot.

Robert Davis: I think those have been rectified. There was the need to provide for a turnaround area and a no parking area. You will see that when you go out there.

Michael Stein: On the right side when you pull in, wasn't there supposed to be a planted island?

Walter Giewat: Yes there was an island there. I discuss that with Mr. Cassidy, before we did the blacktop. It was impossible to put in there. We couldn't plow the snow.

Robert Davis: I wasn't aware of that.

Michael Stein: I'm just trying to remember offhand, some of the things on the site.

Chairman Cosentino: Why would Austin make a decision on what should be there and what should not be there? This board makes those decisions.

Anthony Sturniolo: Did he put in writing? Was that conversation put into a letter or a memo?

Walter Giewat: No it was not.

Chairman Cosentino: If he did say that he must've had a good reason, but I just want to find out what the reason was.

Walter Giewat: I went there because the snow plow was there.

Chairman Cosentino: Then we would have to change the site plan.

Walter Giewat: We had it marked out.

Chairman Cosentino: Was it brought before us?

Walter Giewat: That I do not know.

Chairman Cosentino: We approve the plans. If something was changed on the site plan. It should have come back to this board.

Ralph Vigliotti: I am just listening to all the little things that did not happen.

Chairman Cosentino: We will be there on Saturday, with our site plan. And we will make the adjustments and that we will have you back again.

Scott Cullen: The report that I provided and that Mr. Davis has provided to you. I would ask for a very limited opinion only this November. I was not involved in the design. Question was if the sidewalk goes in, can the tree stay?

Anthony Sturniolo: To stay or to survive?

Scott Cullen: Survive over a reasonable period of time and be safe. You could put that sidewalk right next to the tree, and it might not die immediately. It might last five years, it my last more. In my opinion, it would become unsafe. If you cut the roots on the interior side of the tree to put in the sidewalk, there will be no anchorage on that side. There is limited anchorage.

Chairman Cosentino: What is the sidewalk, 4 inches deep? We have to look at it, and we cannot talk about it until we look at it.

Scott Cullen: In my opinion, you would have to loop that sidewalk, halfway between the tree and the building, in order to avoid removing the tree.

Chairman Cosentino: You know what disappoints me is that you come before us and you say there is going to be a sidewalk. And all of a sudden, months later, you come back and say that you cannot put the sidewalk there because of a tree. Was that tree there before?

Scott Cullen: I was all he asked for my opinion back in November.

Chairman Cosentino: The tree was definitely there before, and why weren't we not told? Why would the engineer not tell us that the sidewalk cannot go because of the tree?

Michael Stein: It was shown on the original plan.

Chairman Cosentino: We will know on Saturday and take a look at it.

Walter Giewat: The sidewalk was not shown on the original plan.

Michael Stein: I just don't recall.

Chairman Cosentino: Let us take a look at it. And we will try to work something out.

Robert Davis: When you expect us to be back on the agenda?

Chairman Cosentino: We will put you on the next agenda.

3. Continuing Review: (Authorized by the Chairman)

a. Saw Mill Club – 70 Kensico Drive – Application #PB2003-09 Rick Busman, applicant, Robert Davis, attorney for the applicant, Chuck Utschig, engineer

Chairman Cosentino: I just have a couple of questions before we get started. We talked about last time different things that were there in the club. Mr. Davis was not involved in it. How does your day care center work?

Rick Busman: What we have is a nursery school classrooms which serves for members only. From nine in the morning until 12.

Chairman Cosentino: So you can bring your child there and go home?

Rick Busman: Typically, we prefer that the parents are on site. It is a scheduled program with a known length from nine to 12. We also have a drop in nursery room, which a parent can come in unannounced.

Chairman Cosentino: Would you advertise this as a day care?

Rick Busman: No.

Chairman Cosentino: What is this here? (Showing an advertisement). Can you explain this to me?

Rick Busman: This is our preschool, not a day care.

Chairman Cosentino: You can go there and drop your child off and go home.

Robert Davis: May I speak a little bit. I have educated myself on these issues.

Chairman Cosentino: I just want my mind clear on this, because it is very distorted as to what it is.

Robert Davis: I think I can clarify and asked Mr. Busman to confirm what I say. Basically, your ordinance interestingly enough, defines a childcare center in accordance with New York state law, which in addition to being licensed, which they are not to run a childcare center, as it is defined. It is defined in their code as a childcare center. That also notes where a child stays more than three hours. Of course there is no membership requirement per se. What they do and this has been true since 1992 because I went back and checked our submission. We made a submission to you in our interior renovations.

Chairman Cosentino: I checked, it also.

Robert Davis: The one, dated November 12, 1992?

Chairman Cosentino: It's stated in the resolution; you would drop your child off, but you would go inside and work out. The parent would actually go inside and worked out, while the child was downstairs. It was a babysitting service. I find babysitting different from a childcare.

Robert Davis: There was a reference in that submission in the summary of November 12, 1992 proposal for interior renovation. They certainly referenced the top time in the nursery. They did say typically people do that while they are working out. You are correct. Now, the maximum number of people and we are going to give you a full utilization analysis tonight. I know you're interested in that of the different spaces of the club including the children's use in particular. There are a maximum number of children at the club, again, all part of the family membership of 57 children, during the peak time in the morning. We are not talking about magnitudes in the hundreds.

Chairman Cosentino: What happens is this. A fellow that works for me drops his child off. I did not believe it and I followed him. Where he drops the child off, another car is

behind him and there are about eight cars that have everything all tied up.

Robert Davis: This is in the morning?

Chairman Cosentino: This is in the morning. That is a problem. You maybe able to work something out, where they get dropped off.

Robert Davis: We have tried to cure a lot of the existing conditions of locking illegal parking. You are right; at times cars do queue up. More and more are we are trying to use a valet system of parking supervisors outside. I think that is a situation that should be remedied, any queuing up there. One of the problems there, and one of the things that we are addressing, is part of our plan that causes queuing. Back in the 93 approval, many of the parking spaces that are in front of the club were set up for compact spaces. I have been a member for 25 years. And I can testify that a lot of the spaces as a practical matter, especially in the era of SUV's are unusable. You cannot get into them well. It is like getting out of an airplane. One of the things that we have done as part of this proposal, is we are bringing all of our spaces up to code with the 91/2 feet. I think that will help alleviate some queuing up in the front. It will free up some of the spaces and make them more accessible.

Anthony Sturniolo: That is not going to the Chairman's question. His question is the appropriateness of the use that you are providing persons as to what the Internet sheet says.

Rick Busman: Let me explain. Saw Mill has traditionally had a very strong a family component. Over the years from 1972, when we opened, we have had multiple rooms, in which children were taken care of. The approval that occurred in 1992, I believe, was for six rooms, pre-that approval, were being used as various parts of the club. That would be used, for various forms of taking care of the children. These ages range from two to five. You could have theoretically, in those six rooms, one huge nursery. If you had one big nursery, you have one big rumpus room. This is a member driven concern. If my child is going to be here in the morning when I am working out, I would prefer if there was a more structured, organized program. I don't want them sitting or running around and watching TV. You have the six rooms, in which the kids come from nine to 12, and they, depending upon the age group, have arts and crafts or the two-year-olds may be working on some reading skills. There is a structured curriculum.

Anthony Sturniolo: What about the kids that are dropped off, and the parents are not using the club at the time.

Rick Busman: Again, that goes to the issue of the drop in nursery. We do not know when they are coming and going, those parents. A mother comes in and says I would like to work out for 45 minutes. I will drop my child in the nursery.

Anthony Sturniolo: What if the parents had dropped a child in the nursery and the parents never use the club that day?

Rick Busman: I am getting there. I come to the club, and I work out and the reality is that I prefer my child to be here, because I am here for two hours. The nursery program is not meeting the needs that you would like to have happen. The approval in, 92 solidifies, what was already occurring. I talked to our Children's Center Director. Typically 50 or 60% of the children that are dropped off, the parents stay. There are instances where a parent will drop the child off, go to the store, work out and be back at 12 to pick the child up. We have no indication that there is anything wrong with that. Certainly, it doesn't do anything to the parking issue in the morning.

Chairman Cosentino: But don't you think that since there is a special use permit that if something changes you should come back and at least tell us.

Robert Davis: I don't think it has changed. I think it has always gone on. I cannot think back to know if it was talked about verbally.

Chairman Cosentino: I was here.

Robert Davis: I can't remember. It wasn't meant to say there is never a situation where a member dropped a child off and came back. As we said, it has to be less than three hours maximum. It is all members, it's not like you and I could sign up if we are not members and have our child there.

Stanley Bernstein: That does not say anything about membership. It is advertised as a school. Now if the school is allowed on the premise this is a school. This is not a nursery.

It says school.

Robert Davis: They are using the school in a generic sense of the word.

Stanley Bernstein: It does not say that. I picked this off the Internet. I would say that would be a good place to bring my kid for preschool. It says school.

Rick Busman: Gentlemen, this has been since the mid-70s.

Stanley Bernstein: It does not matter if it has been 20 years. If it is wrong, it is wrong.

Rick Busman: it is not clear to me that that was never an allowed use. The other kids sitting and watching TV and doing nothing. Drop in nursery versus having a more of an impact experience. That was driven up by our membership. Part of the thing that makes our club a family club. These are only members. These children are members up our club. There are no non-members. The facility provides to our family membership. Whether it is kids literally sitting in a nursery and not doing anything or having some instruction.

Chairman Cosentino: Here is a mother I am going to go out and get a job for hours in the morning. I am going to bring my child there. You do not know that.

Rick Busman: They can't.

Stanley Bernstein: It is not advertised that way. I took this off the internet and I could bring my kid here and go to work.

Robert Davis: No you can't.

Stanley Bernstein: That is what it says. That is the way you advertised it.

Robert Davis: I think if you read it in context sir. You will see those are services for members.

Stanley Bernstein: The only context is the internet.

Robert Davis: What if you looked up the fitness room where it says people can exercise. Are you saying a non member can come in and exercise?

Rick Busman: I think we are getting caught up on the semantics. In New York State is quite clear, what a day care center is. A day care center requires extremely thorough accreditation and certification. A day care center says that you can bring your child at 830 in the morning to a location and not have to come back until five or six. Sure your child is taken care for you while you work. That is day care. And that is required. Kitchen hot meals, there is state funding. There is a full gambit to which we are not anywhere near. I don't think it is fair to say that someone coming to our club is a member with a member child going into our program is going to go work for three hours and have a career. That is not how the program is designed.

Anthony Sturniolo: That contradicts what you just said. You're talking about food and hear you talk about lunch and play program. Members need not be on premises, while the child is at the lunch and play.

Rick Busman: That is a separate program. It is not a full-day program. I am surprised that this is an issue, we have always done this.

Anthony Sturniolo: Everything that takes place at the Saw Mill club, and I say this in all due politeness, is an issue for this village 24 hours a day seven days a week. You have too much on too little bit of a space.

Whitney Singleton: To reconcile what is going on here. The use that you are talking about must be an accessory use. It has to be accessory to the primary to the health care facility. Otherwise, it cannot stand alone as a use. Therefore, unless the applicant has any objection to this and we can flesh it out further, any resolution of approval is going to have to set forth that this accessory use is only available to members of the club.

Robert Davis: There is no objection to that whatsoever. It is now and it always has been used much in the same manner.

Whitney Singleton: Would it be possible for you to set forth in writing what the parameters or what the operations are of the day care program.

Chairman Cosentino: Just so we have it done and there is not a problem later.

Robert Davis: Absolutely. That is what we are trying to do tonight.

Chairman Cosentino: on the resolution, it says one thing. And then for some reason, it changes. When you read the resolution from '92 and '93, and what you have today. We need something that coincides from '92, to now and what you do.

Robert Davis: I think one of the things that happened in '93, and I share what you are saying. I think that is appropriate. Although the interior renovations were certainly part of our application at that time and discussed, the actual plans approved and the actual resolution was more in terms of the exterior of the site. Which from a normal site plan operation; I think it would be appropriate to bring you up to speed what the use is and to memorialize it. Maybe in the future if there's anything else, we don't have to have these questions.

Rick Busman: I apologize, because this is always been there. This is not something that has occurred recently it has been ongoing, and a long-term history.

Chairman Cosentino: Let us move on and put this on the back burner.

Anthony Sturniolo: Not that I am keying memberships to parking spaces. How many memberships, do you have per parking space?

Robert Davis: Currently there are 2423 adult memberships. In accordance with your '93 resolution, can actually consist of, at times, a husband and wife and their children. Mainly it is looked at in terms of cars. While we worked at the resolution in 1993, we set a maximum and the resolution of 3026. At that time we had 179 spaces, and that was done on the ratio, which was the standard.

Chairman Cosentino: We did not set that. It was brought on by an article 78 suit.

Robert Davis: it was initiated by that, but it was originally 500 less and then the article 78 was settled. The way that number came about, the reason 3026 was pulled out of the hat was because the expert reports, at that time, showed that the industry standard was 1 for every 16.9 members. That equated at that time, to 179 spaces. If you divide 179 into 3026 you come out with 16.9.

Anthony Sturniolo: Do you subscribe to that number today?

Robert Davis: we have suggested in our parking utilization study, especially the most recent one to 2006 that you have in your packet and have been since we been before the board on this application. The industry standard has been revised downward a bit to one space per every 13 members. This is a more intense parking standard. For our current membership, if we use that ratio, we would need 186 spaces for the 3026 membership. Maximum, we would need 233 spaces. What we are really proposing to you is a 48% increase in our parking spaces, over the 179 that you originally approved back in '93. The way I get to that figure, you had 879 spaces. Our plan shows 256. I also located five more spaces that we were supposed to have behind the bubble. So with 261 spaces, if you subtract 179 from 261. You get a 48% increase in the number of spaces. Our ratio is well below. The real thing is so much not ratio as to what we have shown in the parking report. The maximum and this has been consistent year after year, includes, if you count all the parking on Kensico Drive at a given time a Saw Mill parking. You will see from our reports that there is a maximum of approximately 230-235 vehicles. If you include 37 spaces during our peak hours. We meet our current 196 spaces. It is often fully utilized in the peak hours of the 9 to 11. We are to have a net increase in spaces of 65 more spaces with our proposed plan.

Anthony Sturniolo: You are saying, roughly it is one space for every 13 memberships.

Robert Davis: That is the industry standard. I think we are going to do better than that.

Anthony Sturniolo: Is there anything else to add to describe that?

Robert Davis: What do you mean by that?

Anthony Sturniolo: A caveat. An example.

Robert Davis: I think the best example, better than using the industry-standard is what we have given you would be actual usage.

Anthony Sturniolo: Let me get to this document that you send to us. May 26, 2004. It was presented to us as a document that the International Health and Racket Sports Club Association recommend. I assume you would subscribe to that. Otherwise you would have never given this to us and put it in our packet.

Robert Davis: Actually, we have given you more intensive information.

Anthony Sturniolo: Correct. It does talk about 12 to 13 memberships per parking space. I said do you want to add anything to that statement. Before I read what they have added to that statement. They talk about one parking space every 12 to 15 members. You were saying you were in the ballpark. This is where I think we need to go with this. It then says, this figure accounts for the impact of public transportation and multiple passengers per car. I don't believe anybody uses public transportation to get to there. In a way, you are hanging your hat on this document. The second thing is, I also believe it is not necessarily multiple passengers per car. It is a husband going at one time, and a wife going at another time. We are in a different environment here in Mount Kisco. It is a fairly affluent community. A lot of people have multiple cars. Mr. Chairman, I think the simplest way to address this issue is to have the applicant submit a very detailed architectural plan showing every piece of equipment in the building, with descriptive narrative, how room XYZ is going to be used. How many people in the building, how many pieces of equipment.

Robert Davis: We have that for you tonight.

Anthony Sturniolo: If a room says it is going to hold five lifecycles. I want to see a room with five lifecycles shown on it. I want to see that whole architectural plan that we can have staff analyze it. That would be the true representation for parking needs.

Robert Davis: Not only do we have that. In terms of that standard and you asked me to put a caveat. We have gone beyond that standard, because we're giving you four years of actual usage. We have given you reports. Even our latest reports of the last four days we will show to you. At any peak time, this 9 to 11 there may be up to 235 people in the club. That tends to equate almost exactly to the number of cars in the parking lot, and Kensico Drive. We have demonstrated, year after year, month after month. It is better than any non-empirical standard. We have given you empirical data.

Anthony Sturniolo: Why did you give it to us? To impress us?

Chuck Utschig: There are a couple of reasons. You say that as if it is the last word.

Anthony Sturniolo: I am asking for an architectural plan showing every square inch of utilized space.

Chuck Utschig: What that doesn't tell you is, and you said it yourself, it doesn't give you an accurate projection.

Robert Davis: The more important point is.

Anthony Sturniolo: Which point? What is more important mine or Chuck's?

Robert Davis: The more important point than what Chuck was saying is that every inch of the club isn't used at the same time everyday.

Anthony Sturniolo: We will make the assumption of the worst case scenario.

Robert Davis: We will give that to you. I am telling that the worst case scenario that we have demonstrated ten times since Tuesday Is 235 people maximum in that club. Whenever we make the count in peak time give or take 5 people that is what it is. We will show you how that adds up in every single square foot of that club. We have it here tonight. If you would like to see it.

Anthony Sturniolo: I would like to see this architectural rendering. I would like to see it submitted and have our building inspector do an analysis of it.

Robert Davis: We have it and it is ready.

Rick Busman: The question about the document. I think one of the frustrations of the board is that there is no code in the town of Mount Kisco that is directed to this use. When you asked me is this the be all and end all. I gave that to you to give you a sense of painting the picture. I don't think that is the be all and end all. Frankly we are

approved at 16.9. We are coming back to you and saying the membership has grown but it hasn't grown what we call matching in terms of use. We are finding between 9:30 and 11:00 our use is heavy. I would totally suggest to you that using the analysis of the uses in the club is going to lead us all on a wild goose chase, because at any given time. For example if you have a basketball court or a pool or squash courts or tennis courts. No one has ever showed up. If you want to take it to extreme, what do you do if all 3,000 members show up at 10:00. That is where you are going with this in a way. Because we never have all of the uses in the club and I have a diagram which I think and maybe appropriate to show you this now. To give you a sense of what goes on in the club at peak times.

Robert Davis: This is what you asked us to do.

Rick Busman: If you are saying Mr. Sturniolo I am going to have every member of the club using as intense as possible. You are going to come up with a parking number that I would need 2,000 parking spaces. I don't think it is helpful in the sense of what really happens. I understand your frustration. That is why I gave you that document. Look there are some industries there is no standard. You are right one market maybe different than another. In some markets peak times is at 6:00 at night.

Anthony Sturniolo: We are not going to focus on this one little 2 1/2 page letter. But it has nothing to do with market. It talks about utilization of public transportation and multiple passengers per car. To summarize Mr. Chairman I as one member of this Planning Board would like to see a very detailed architectural rendering showing every piece of equipment a descriptive narrative of what is taking place in that room and have it analyzed by the building inspector.

Robert Davis: Actually we have given you every piece of equipment in the past, but we will give it to you again.

Whitney Singleton: What you proposed in here, is that existing, or what is being proposed.

Rick Busman: The building, number one is 30 years old. As we extend the building is typically what is happening in the industry. If you built this club today it would never look like this. It would be much more centrally located, so it is a little bit confusing going to the club, because it is in piecemeal. We have done our studies for the last three years and looked at our peak time of 10:15. You have classes turning over for exercise; you have people on the tennis courts turning over. The capacity of the parking and what is going on in the building is the only time that we achieved capacity. We have 13 tennis courts. 45 is typically, the number of people on the courts at 10:15. This number makes sense. And they are clearly parking. In the pool, this gets very little use in the morning. This is the ladies locker room, 13 people. This is the children's Center, children in and employees. This is my business office, this number represents. There are some small offices running along this wall. This number typically represents the number of people in the business offices eleven. This is a racquetball court. This is a squash court. And there is no use in there. Typically racquetball is played in the evening. If we go upstairs, this is where the major activity is in the morning. You have a basketball court which also is an exercise court there are 46 people and that's a very large class. This is our restaurant and that represents eight people. This is the smaller gymnasium, which yoga goes on in there, and that represents 16. The fitness center, 58. I have the plan and would be happy to give it to you. We have given this to you in the past, and nothing has changed, and this was dated 2004. This is showing you the free weights.

Robert Davis: There are 110 stations, all together if you want to count all of those. At a peak time, about half of them are being used.

Rick Busman: You have 58. And clearly, if you worked out, and are in a circuit line, 15 people cannot use that at the same time. It is not a comfortable situation. You might have four or five. Again, this is the racquetball court and there would be zero there, this is a spinning room. 28 that is what happens. That number adds up to 232. What we are finding is as the parking lot at capacity, the club is pretty closely matching.

Robert Davis: once the parking lot is full. Because of the reason you said, it is not a place where there is public transportation. Once parking his full as a practical matter, no one else can use the club.

Anthony Sturniolo: Can someone go to the Holiday Inn and park?

Rick Busman: They could.

Anthony Sturniolo: Do you have an informal arrangement with Holiday Inn and management?

Rick Busman: We have in the past. In the summers, when we have summer camp and had overflow, some of our counselors can park there.

Robert Davis: On the rear of line.

Rick Busman: There is some parking at the Holiday Inn. There is no agreement with them. There is no compensation done.

Anthony Sturniolo: You are discharging some of your parking requirements off-site.

Robert Davis: Maybe about five or 10 employees at a time.

Rick Busman: It is hard to give you an exact number.

Robert Davis: Only during the peak hours.

Rick Busman: If you look, there, we have another study here for you, which I did in the last four or five days. Which counts all of these areas that you are asking about. I will be happy to pass the amount. It gives you the utilization.

Robert Davis: We have it here for discussion purposes. You have raised that issue, and we are trying to make it easier for you to understand.

Chairman Cosentino: I have a question. Economically, you're building a parking lot, with 57 spaces. What will you be doing inside. If I'm going to spend thousands of dollars on the parking lot I need to get my money back some way.

Robert Davis: Actually, we are not. If we really wanted to make money, we would build a building on that lot. We would not have anything to do with the Saw Mill and we would be making a truckload of money.

Chairman Cosentino: You just said you do not have enough parking right now. You have over 200 cars.

Robert Davis: We are doing it because of the concerns of this board. We came in originally with a 5000 square-foot building.

Chairman Cosentino: I understand that. Are you going to be doing something different that is going to give you more parking? That is all we want to know.

Rick Busman: I think the issue is credibility. You have to be comfortable with what we are telling you. I just want to go back to the question that Mr. Sturniolo raised. If you look at the count clearly between nine and 10:30, we are at capacity. Any other time of the day, and we have three o'clock and six o'clock, we are at half capacity in terms of parking. So our usage is very much lower.

Chairman Cosentino: I can see that. At the end of the day, I just don't want to see a wash.

Anthony Sturniolo: I just want this entire package. Additional drawings submitted to the building inspector for his analysis.

Rick Busman: We have two major issues at the club. What first occurred in 1975, when we built the basketball courts, the animal we call exercise was not a front runner. So over time, we added the exercise. So what you find for example, what was started as a basketball court, is now an exercise station. So we have two issues. We have the basketball court is not a good space, for those uses. We would prefer to have lower ceilings, better lighting and a softer floor. We are in a competitive market. Club Fit has a much nicer facility. There is a club coming in Armonk, called The Gym. It will be open sometime in the fall, a 40,000 square-foot club, they are saying at the cost of \$10 million. Even their facilities in New Jersey are beautiful. So for us it is appropriate to have separate spaces. Our other issue is the pool. Club fit spent \$8 million on their pools. They have four pools with different temperatures, and different uses. The Boys and Girls Club spent \$6 million on their pool. We simply have this one pool and an outdoor pool that we have approved, and we don't use in the winter. Our original thought, let's expand the outdoor pool and bubble it and use it all year round. Take out a tennis court and put in those new exercise rooms and a business office, because we need some more space. It was kind of a cumbersome plan. On the third floor, where we

had a tennis court we were going to take them out and move this exercise room and allow us to expand our business center, which again, there are multiple uses in that fitness center. In today's market, it is too tight. Stretching areas were too tight. Fitness is no longer a working out on machines, and we need larger spaces. We are also showing in this plan, offices and bathrooms. We were expanding the fitness center and creating more livable space for our current configuration. While we looked at the pool and digging up that pool outside and putting a bubble up, it was not particularly attractive. It is a bit of an engineering mess. We have approval from the DEP and DEC, but we thought it would be better to go inside. More expensive, maybe.

Robert Davis: We didn't want to be as intrusive outside, and have as much development coverage.

Rick Busman: we said let's bring the pool inside instead of the original plan and put the fitness center there. All we have done is brought the pool inside and lose a tennis court, lift up the fitness center to the second-floor. These are all existing uses. The only additional use that we do not have today is an indoor pool. Because our outdoor pool, is not available in the wintertime. What we have given in black is what we think the additional uses might be in the near future.

Robert Davis: One of the things that is important to point out, in terms of there being duplicated space, for example, the group exercise room, and also a basketball court. That conflict in use doesn't occur in our peak time. Because in the morning you don't have the men there, and you don't have the teenagers there. When that happens in our off-peak time, will we have plenty of parking in the evening? So you are not going to get the answer to Mr. Cosentino's question. You're not going to use up existing capacity during peak time, because the conflicts in question don't occur during peak time.

Rick Busman: So what we are showing here is the loss of the tennis court, to the new pool. We are going to double the laps, and that's pretty much what we have in the morning.

Chairman Cosentino: You need the office space, because you are removing it here.

Rick Busman: This right here is the yoga room. And it is not an appropriate size. We think it'll get more use, if we move it to here. We show the fitness center getting some more use, because it will be more comfortable. We don't think the numbers will impact. These are existing uses, and it is not like we're bringing in a brand new program, like an ice Arena. This is all existing stuff that we are uncoupling, making it a better situation for our membership. We have done this to the club that we have in Newburgh. We had the same problem; the basketball courts did not get the use so we separated the spaces. Once they get their appropriate space that is it. This is why we are asking for the additional 60 parking spaces, but we totally understand your concerns. This is why we're trying to give you a sense of what happens in the club at peak time. I think that is your question, Mr. Sturniolo.

Robert Davis: Again, the total use is going to be limited by the parking spaces. There is not public transportation; people are not going to walk a long-distance. Whatever the number of parking spaces that is basically going to be the maximum number of people who are in the club. Particularly, if you are parking on Kensico Drive there will be no way for people to use as club. Unless they parked in the parking lot. So there is a lot of circular reasoning going on, but that is the bottom line. You can't have more people in the club than can come in the cars and park in the parking lot.

Chairman Cosentino: Hopefully parking will be eliminated on Kensico Drive.

Whitney Singleton: I would like to interject, because you are leading into a segway of something that I would like to cover. I understand or the board is coming from. We all want to solve the problem. Right now you're at total maximum capacity.

Robert Davis: That is a negative thing for our operation.

Whitney Singleton: We are going to be solving a problem by providing additional parking. I think were Joe and Tony are coming from, and we have previously discussed this, is that we either solve the problem by installing extra parking, and we don't want to find out that the interior renovation and potential uses are going to exacerbate or bring back a problem. Forget what has happened in the past, but what is going to be ongoing for the future is an important benchmark for this board on a going forward basis. I don't know whether you're showing everything there or just your proposed uses. Also, what would be very helpful is an enumeration of the accessory uses. I think one of

the problems that the board has grappled with and I don't want to get into the specifics, birthday parties or wine tasting. How many accessory uses are going to be going on the site.

Robert Davis: The one thing that I would say to that in virtually every instance. I have been a member for 25 years. So I do know the club almost as well, as Rick. In fact, I was there many years when he was not around. So I have used every aspect of the club, and surprisingly, the only thing I didn't know was the nursery. I have never used it and I do not have kids. What is going to happen here, in terms of accessory uses? First of all as a technical matter, your accessory use limitation didn't go in until 93 and 95. There was an amendment first '93, then '95. All of our uses virtually if you just want to say Pilates or a new exercise.

Whitney Singleton: I am not worried about Pilates or the exercise cycle. I am talking about things that are non-athletic. I regard day care, and I'm not going to get hung up on the semantics day care versus nursery. That is accessory to your principal use. When you get into acupuncture and wine tasting, those are separate uses.

Robert Davis: you have a provision which I am sure he will carry over in the 93 approval in terms of special events. You know, most of these facilities always have a special event, every now and then. Those have a separate set of criteria, and the club has adhered to that as far as I know with Austin and notification and making provisions for those. With a multi-use health club, again, you're going to this issue of what is part of a principal use of what is an accessory use.

Whitney Singleton: I am not talking about racquetball or therapy, I am talking about things that are not anything to do with athletic use. What ever accessory uses which are not athletic that are purely accessory are delineated, and that it doesn't go beyond that. If you're having nail salons in there, I don't regard that as a principal use.

Rick Busman: I am going out next week to an event, that many clubs and club Fed probably would fit that mold. The variety of activities that they provide in their facility, you may deem it not being particularly athletic, but it is standard in the industry to have those types of uses in the facility, because it is servicing the membership's means. I hear you on a nail salon, but that is very standard use.

Chairman Cosentino: Those other clubs do not have special use permits.

Robert Davis: Or they may have different situations. They may have more parking.

Chairman Cosentino: Every club is different.

Rick Busman: Clearly you want to know what is going on, but understand I don't want you to be alarmed that there is something extremely unusual at the behaviors and the club. In our industry, we are very typical of a large family club.

Whitney Singleton: I think I put the benchmark that we were talking about, so that there is something to have a comparison that we don't permit now.

Ralph Vigliotti: We have gone forward this evening. I know during the summer, you have swim meets, because you have a swim team. Have you stopped the swim team? Do you have invitational meets for anything during the summer?

Rick Busman: No. The indoor pools are barely used. We had a tennis tournament two or three years ago, and it was a nightmare.

Chairman Cosentino: You have heard Mr. Sturniolo loud and clear.

Robert Davis: Yes.

Anthony Sturniolo: How do we convey the message, Whitney to the building inspector, to expect these new documents?

Whitney Singleton: The applicant is going to be requested to submit to the Building Department and to Anthony Russo at AKRF, to have a layout of the facility showing what you had requested, both a narrative statement as to what goes on to the programs, and a day care facility, along with a floor plan showing the number of machines. I don't know to what extent that the applicant has. That would be submitted to Austin for review and recommendations as to whether or not, what the appropriate parking count, should be.

Anthony Sturniolo: Do we need to give him a written heads up to expect these new

documents to come to his desk?

Whitney Singleton: Obviously they will be submitted either to Sharon or Nancy. I can confer to Austin and let him know what is going to go on.

Rick Busman: I am hoping that this particular layout and labeled with the activities will be sufficient. I am hoping that this will be good enough because there are empty spaces that are filled.

Anthony Sturniolo: We should let Austin make that decision. If it is not good enough, I am sure he will get back to you.

Too Many People Speaking

Stanley Bernstein: I just have a comment. Whose idea was this, to give me a pile of schlock like this that I had to spend my weekend on.

Robert Davis: I cannot really respond to that.

Stanley Bernstein: I am going to tell you, you are going to come here before us again. I would like to tell Nancy that if she gets this again she is to throw it in the garbage and not give it to me. This is ridiculous. This is an insult.

Rick Busman: How would you like it?

Stanley Bernstein: Bind it and index it!

Robert Davis: Most of those were items that had been given to you previously. Since we had not been here in a while. We were trying to make it easy for you. So you would have the most pertinent things available.

Stanley Bernstein: You should have seen it my dining room table, with all this schlock all over the place.

Rick Busman: I apologize if that is the case, it was not our intent. And we will do better.

Anthony Sturniolo: I did not even bother bringing mine in. I thought this was an insult. Every other applicant and you are done in the past, with certain applications. Things are bound, there is an index. There are guidebooks so we can understand it. This with blue sheets in and out, this is a joke. I did not bring it here specifically, or was it designed to be so confusing that many people would think don't even bother reading it.

Robert Davis: We did give a cover letter that put it in order. We will do better next time.

Chairman Cosentino: We will contact you when you will be on the next agenda.

4. Minutes

Stanley Bernstein: I move that the minutes of February 14, 2006 be adopted.

Ralph Vigliotti: Second

Board All Ayes

5. Final Action:

- a. Margaret & Frank Randazzo – Plants & Things – 403(409)
Lexington Avenue Application #PB2006-06
Anthony Montelone, attorney for the applicant, Richard Torres,
architect, Margaret & Frank Randazzo, applicants.**

Chairman Cosentino: What we have here is a resolution of approval.

Anthony Montelone: We have posted a \$1,500 escrow.

Ralph Vigliotti: I had an item on the whereas. I just wanted Whitney to define one of the whereas in a little bit more detail. It is number five. Whereas the applicant has represented to the planning Board the second floor, use will be an owner occupied residence. Can you explain that Whitney and how do we ensure that and why does that have to be occupied by the owners, and so one.

Whitney Singleton: First of all it was restricted to owner occupied. It was conditions of approval that would further support that. One other thing that I want to bring up with your board. Both the engineer, Ashley and I have had some discussion directly and indirectly with DEP today. I understand that the applicant architect has met DEP at the site. As your board will recall this application started as a change of use permit. Then there was a site plan change. Then it was determined that it was in the proximity of a water course, and that there would need to be a wet lands permit due to the setbacks. There was a public hearing for that wetlands permit. The way this application evolved there was neglect on our part to identify to your board and to the applicant more thoroughly that there is jurisdiction of DEP to issue permits here. Because this is in a designated main street area the applicant is required to submit and attain approval from the DEP for a storm water prevention pollution plan. Our environmental assessment form did not properly request that nor did the application. In a last ditch effort Ashley, Michael and I have had conversation and have corresponded with DEP. They have acknowledged to me that the SPPP will be required, however since the addition and the amount of impervious surface that is going to be created is so minimal they do not have any objections to this board issuing an approval subject to the permit being issued by DEP. I have provided the language for that element of it. I think we should amend the resolution to reflect those conditions and that jurisdiction of DEP.

Anthony Montelone: I thought the way you worded that one provision in the conditions was heartfelt in that respect. All applicable county, state and regional permits shall be obtained. So I think that language covers it, without being specific.

Whitney Singleton: Actually DEP would like some additional language.

Anthony Montelone: They want it?

Whitney Singleton: I had suggested some language and that suggested softening it a little bit more and they said no. What I had suggested was this, as condition this approval is expressly contingent upon the applicant applying for and being issued approval by NYSDEP, for a SPPP as the property is located within the designated main street area. No building or demolition from it shall be issued until set approval are submitted and is further provided the set approval does not modify or alter any other elements of the site plan. I do not want the building being partially taken apart. No building permit or demolition permit until they get the approval from DEP and submitted to Austin and Austin further verifies no significant modification to this approved site plan. We do not have a situation sitting in limbo for a period of time. I had discussed with DEP the possibility of saying that there will be no CO prior to that. They could not have any construction of this addition until this is completed.

Anthony Montelone: That is acceptable to us based on your conversation with DEP, correct?

Rick Torres: After my meeting with DEP, Whitney and Ashley and that was correct.

Whitney Singleton: Just to follow up on Ralph's point. I would also add a condition which says that the upstairs resident shall be restricted to occupancy solely by the owner of the business. Failure to comply shall cause pre-existing residential use to cease and such space shall be relegated to warehouse or storage space.

Chairman Cosentino: You understand that?

Margaret Randazzo: It should actually be the owner of the building. Plants & Things does not own the building; Bobbi and Frank own the building. I am the owner of the building and I am the owner occupied and I totally agree with that.

Anthony Montelone: Can we say and or business?

Chairman Cosentino: Yes I would rather have it or business. Number 23. It actually runs with the deed. This will be a condition.

Whitney Singleton: I think the concern here is we need to be clear for future owners. I know your board has been concerned in the past that this is not a retail business, and I don't know if this board wants to request the signage to represent this. Whether it is by appointment only, or non-retail, or consultations.

Doug Hertz: Have we resolved this?

Whitney Singleton: I know there have been problems with this in the past.

Doug Hertz: I know we have discussed the language and would be nailed down prior to

this. Has this happened?

Whitney Singleton: Do you have proposed language for the sign?

Margaret Randazzo: Custom floral designs, services and consultation. It will not say florist, which I think was Mr. Vigliotti's objection.

Ralph Vigliotti: Will that be enough to tell the passerby that it is not retail?

Whitney Singleton: Do you already have the sign?

Margaret Randazzo: We have been working with the sign. We have not been back to the ARB.

Anthony Montelone: We have a problem with the word retail, because we do sell at retail. I think you're concerned, is that we not have walk-in business.

Whitney Singleton: Would you have the objection to the language by a appointment only?

Margaret Randazzo: I do not want to discourage somebody who knows many who wants to book a party from coming in. I do have regular customers, and they come in when they have a party or bar mitzvah or any function in their house.

Chairman Cosentino: Or they may walk by and say, I don't have an appointment. So I can't go in.

Margaret Randazzo: Exactly.

Anthony Montelone: I have a provision in here, which I think covers that issue. It is one of the conditions.

Whitney Singleton: How about if you say appointments preferred? I'm trying to find some middle ground that works for you.

Anthony Sturniolo: Then you get somebody that knocks on the door and comes in and says I would like to make an appointment. Where do they park their car for that five second conversation?

Chairman Cosentino: To be honest with you we should have some wording there. She has to know in her own mind that she starts selling from there she will lose her business.

Anthony Montelone: We understand that.

Chairman Cosentino: If people go in there and say I went in there and bought flowers and have receipts and I am sure you do not want to chance losing your business.

Whitney Singleton: Do you want us to simply say that signage shall reflect the personal services use relating to retail business.

Anthony Montelone: We want to stay away from retail and say walk in business? That is what you are really talking about. Walk in sales.

Anthony Sturniolo: You said you have corporate business clients that are your primary business, do they walk?

Anthony Montelone: They do not come in at all. They go to them.

Margaret Randazzo: We have clients that have never been in our shop.

Anthony Montelone: They go to them, which is their bread and butter. It is off-site consulting and decorating.

Whitney Singleton: What would you think of no on site sales?

Chairman Cosentino: No because they are selling wholesale to other people.

Ashley Ley: What about on-site pickup of merchandise will be discourage and use it as a whereas.

Chairman Cosentino: You can't have a sign with 30 or 40 words on it. Service and consultants

Margaret Randazzo: We welcome to any suggestions.

Anthony Montelone: You do have on-site sales are discouraged. Do you want to put a sign in the window?

Too Many People Speaking.

Chairman Cosentino: I had handed you something in writing.

Whitney Singleton: What it said was serviced by appointment only. You have service there and it is just by appointment only.

Ralph Vigliotti: Underneath a phone number you can have in smaller letters call for appointment.

Margaret Randazzo: Or appointments suggested.

Anthony Montelone: Or call for appointment. That is fine

Chairman Cosentino: Appointments preferred.

Too Many People Speaking

Doug Hertz: The ARB has jurisdiction over a word count.

Anthony Montelone: One of their arguments was too many words and the words were too small.

Anthony Sturniolo: If we go with this appointments preferred again somebody can walk in and knock on the door and say I want to make an appointment, where as instead of saying appointments preferred. If you said call for appointments it would trigger your eye to read the phone number.

Stanley Bernstein: Under the phone number have call for appointment. I think that will send the message loud and clear and it will not drive them away.

Whitney Singleton: On page two it says that applicant represented to the Planning Board that the first floor of the use will be primarily for services establishment with merchandise by delivery only, and on site pick up merchandise will be discouraged. I would like that to not only say not only as representation but a condition of approval. The first floor use shall be restricted which primarily the service establishment to customers receiving merchandise and the C of O will reflect your personal use service establishment nature of this business. Not for them but for future owners. I want to make sure someone does not misinterpret this use as being permitted as retail in the traditional sense.

Anthony Montelone: This would indicate a personal service use.

Chairman Cosentino: The stockade fence has to come down and the little building will come down.

Rick Torres. It is not going to come down until I get a demo permit.

Ashley Ley: The wetlands plantings issue that was discussed the last time you were here. The restoration of the wetland buffer. There is some language in the resolution right now that reads, under condition number 9; a landscaping plan shall be installed. There hasn't been a landscaping plan prepared as of yet. Is this a condition the board is insisting on doing?

Chairman Cosentino: I want a landscape plan, but I do not want to hold the resolution up.

Rick Torres: Are they two different issues, the landscaping plan for our site and then the wetlands replanting on the village property?

Chairman Cosentino: We are not concerned about the village property.

Doug Hertz: I was definitely concerned about the village property.

Anthony Sturniolo: They are supplementing.

Doug Hertz: We talked specifically about restoring the currently improved area to the left of the building and beyond at this point. This is village wetland or wetland buffer to be restored to be a functional wetland.

Rick Torres: We are on board with that.

Doug Hertz: You need to understand that you need village board approval to do any plantings on that property.

Anthony Montelone: Rick and I discussed this and if there is not a conflict we would ask John Slaker to give us a design for that.

Rick Torres: Specific wetlands plantings, landscaping plan. There is no specific landscaping plan for this site because it is a time issue. As part of our ARB review we do show these trees.

Chairman Cosentino: I believe since they are a florist they are going to make it as nice as possible anyway. We should just put landscaping.

Doug Hertz: I would suggest that you make sure that the landscaping on that really does stop at the property line and then revert to the wetlands plantings at that point.

Chairman Cosentino: As to the approval of the Village Engineer.

Anthony Montelone: We would include the engineer and building inspector, and the planning consultant. We are in agreement with all of those.

Ashley Ley: Eliminate the specific reference to a specific landscaping plan condition number 9.

Chairman Cosentino: They are going to landscape at the approval of the village engineer.

Anthony Sturniolo: On number 18.

Whitney Singleton: What about number 11?

Doug Hertz: Doesn't number 11 just additionally talk specifically about those plantings?

Whitney Singleton: Not the way I read it. Additional wetlands plantings maybe required if the wetland buffer is not adequately supplemented.

Rick Torres: What is the limit of our responsibility?

Whitney Singleton: A determination shall be made by the planning board subsequent to the installation of the proposed landscaping. When they leave you board tonight they are done with this board. You can't retain further jurisdiction.

Chairman Cosentino: Can we let that read that upon landscaping they are to come back and show us the plans?

Whitney Singleton: If you want to delegate to the village.

Chairman Cosentino: Why don't we do that?

Anthony Montelone: It can read our intent.

Chairman Cosentino: It is the village engineer.

Anthony Montelone: Why don't you make that part of the ten? An additional wetlands plantings required by the village staff.

Chairman Cosentino: Keep number 11 the way it is and add.

Anthony Montelone: He wants to take 11 out?

Chairman Cosentino: You want to add with the approval of the village engineer.

Whitney Singleton: The determination shall be made by the village engineer.

Chairman Cosentino: And keep number 11 there.

Anthony Montelone: So not by the planning board but by the village engineer.

Rick Torres: I have a question on 13. It talks about the erosion controls, which we will most certainly be on village property during the construction. I just wanted to clarify that. We are at the property edge.

Chairman Cosentino: Just run it by Mike.

Doug Hertz: You are also taking down a fence that is on village property. There will be work on village property no matter what.

Chairman Cosentino: Work through Mike.

Anthony Montelone: Why don't we take out wetland buffer in or near the wetland buffer and say wetland area? So that would include village properties.

Chairman Cosentino: Leave it the way it is.

Anthony Sturniolo: On number 18 and that reference to the black chain link fence separating village property from this property. At our last meeting I believe it was Doug who wanted to see the chain wrapped around. We need to incorporate that in the language.

Doug Hertz: Whether it is in the language or rather it is specifically delineated on the plans. I would like it to be on both.

Rick Torres: We are happy to put it in the language right now.

Anthony Montelone: Wrap around to the building.

Doug Hertz: The rear corner.

Whitney Singleton: You need to revise the short EAF on paragraph 10. That should be modified to include DEP. This is an unlisted action and they have submitted a short form EAF, so somebody would have to make a motion.

Stanley Bernstein: I move that a negative declaration be prepared for this application of determination of significance.

Joseph Morreale: Second.

Board All Ayes

Chairman Cosentino: Now we need a motion on the resolution.

Stanley Bernstein: So moved.

Ralph Vigliotti: Second.

Chairman Cosentino: On the question Mr. Hertz

Doug Hertz: I understand and we have been through this process I am reluctant to vote yes on this project. Not because I don't think you have a worthy business. Not because I don't think care and clearly you have been in the village for a long time. I am concerned about the site. I am concerned about the precedence that we are going to set for the site and I am worried and that although we have done our best to create safeguards against future abuses of the site. We always seem to find applicants, and new applicants coming back and taking previously approved plans and finding new ways into those plans and new ways to over use sites that are not appropriate. I am going to vote yes for the site, but I feel that this is going to come back and bite me at some point in the future. I will vote yes on the site not without grave concerns.

Stanley Bernstein – Yes

Ralph Vigliotti – Yes

Joseph Morreale – Yes

Doug Hertz - Yes

Anthony Sturniolo – Yes

Chairman Cosentino – abstain

Chairman Cosentino: Congratulations.

Anthony Montelone: I would like to thank the board for attentive they were and your comments and observations and suggestions were very valid. They were a little difficult but they were valid and I think we can operate effectively.

6. Environmental Monitoring

Michael Stein: There was another memo I did write to you and to the board outlining basically to date of what has been happening with Premier. They are going to be coming back before the board and they have application for a revision to their approved site plan. That is as far as illuminating some areas that will not be disturbed. Revisions to the retaining wall and any other modifications to be done to the site. It will also include a landscape plan done by John Slaker's office. To mitigate more trees that came down on the hillside. Plus whatever work has to be done to the existing cherry trees that were damaged. Right now it is my understanding that DEP is still looking to proceed with the stop work order of the site. They are not satisfied. I think Whitney may have some idea from them.

Whitney Singleton: I have had some phone calls from DEP council that frequently represent DEP on some of their larger cases. I was contacted and it was expresses the concerns as to what is going on with Premier. Basically it was indicated to me that they are ready to go to court and shut down the site. At looking at the past report in the form of an affidavit and I previously was not involved in any of the discussions of what was going on. It was quite a shock that there had been meetings where council for DEP was present and council for the applicant was present and I was not notified.

Chairman Cosentino: Who set these meetings up?

Whitney Singleton: That I do not know.

Michael Stein: We were informed by DEP that they were coming.

Chairman Cosentino: Mike whenever there is a meeting and there is another attorney involved the meeting should not take place concerning the planning board without Whitney there.

Whitney Singleton: In any event Tracy called me up and she had made some statements to me which I knew about the slope failure but then she started talking to me about other things with regards to they were over the threshold.

Chairman Cosentino: They were over the two acre threshold.

Whitney Singleton: It is a manipulation. I will leave that to Mike. The other issue and what concerned me the most was this. She had informed me that the retaining wall which is being built on the site is being built on the village property. When I heard that I was supportive of her, but before I put my foot in my mouth, Tracy I want to confer with some other people. This was on Friday. I called Austin and he said that he had received a memo and has had some discussion with Michael that perhaps the information I was getting from DEP was not correct. I figured I would talk with Michael before I do anything and see what is going on there. I will leave it to Michael as to the explanation of whether or not they are over the two acre threshold and what they have done or what they are proposing to do and whether or not it is work on village property.

Michael Stein: The wall that Whitney is talking about is the one at the northeast corner of the parking lot. That is where the Swiss property is. Originally about 2 months ago when they first started building it. I had gone out there and walked the site. The wall looked to be much taller than it was suppose to be on the approved plans. I brought that up with them and went back with the plans and they call the next day and said they built the wall at the wrong location. I am not sure if it was on the village property. It may have just encroached on it, but it was exactly where it was suppose to be. At the same time with them doing the work there, there is a big brush pile. You have all this rubble that is basically supporting the wall. That all needs to come out and you need to move the wall to where it is suppose to be and be the height it was suppose to be on the approved plan. The next day they started removing everything. They took the whole wall apart rebuilt the whole wall back to the spot where it was suppose to be. Still taller than originally shown but they are saying it was from discrepancies being on the survey. Stanley Johnson's office has gone out there numerous amounts of times and confirmed

that the elevations of what the parking lot is suppose to be at right now. The limits of disturbance with the hillside sliding out with the encroachment going to far north with the retaining wall we had Johnson's office go back out and confirm the limits of disturbance of what was actually disturbed. After receiving the survey back it wasn't just the limits of disturbance of what already was being disturbed but everything that was being proposed to being disturbed for the rest of the project. Looking at what Johnson's office did we did not agree with where that limits of disturbance was and that was our discussion back with DEP. That is what prompted the meeting. The point of the meeting was to walk out on site and agree upon the actual limits of disturbance. Johnson's office went back measured those limits of disturbance and as part of measuring the limits they are proposing to modify portions of the approved site plan. To eliminate certain areas where the existing building is now to the west of that there was to be existing rock slope, that they are going to leave that slope and eliminate the retaining wall that was suppose to be going in place of it. Try to cut back the limits of disturbance of what was going to be proposed limits of disturbance. As part of what is coming back before the board they are going to modifying the limits of disturbance will ultimately be to exclude areas that were originally suppose to be and include areas where they exceeded the limits of disturbance.

Whitney Singleton: They came in here with 1.9 acre of disturbance.

Michael Stein: They are claiming when they went back and eliminated the display areas that were along Kisco Ave. They are saying they never went back and eliminated those from the calculations so that is why there may not have been as close as originally thought. There were a little bit further under because those areas were eliminated.

Doug Hertz: They were not taken out of the calculations?

Michael Stein: The initial calculations. Now the calculations include everything that is.

Doug Hertz: So now when they screw up they have some pad.

Michael Stein: Yes.

Anthony Sturniolo: If they are planning to eliminate the wall and substitute a rock.

Michael Stein: It is the existing rock slope that was there that has existed for as long as the building.

Anthony Sturniolo: What is going to replace the engineering function of the wall? The wall is there to serve a purpose.

Michael Stein: It was to stabilize the slope. They are looking at to just continue the wall all the way down and eliminating was originally based on the rock. It was not a rock out cropping it actually was like stones that were actually placed to stabilize the slope.

Anthony Sturniolo: That is going to replace the functionality of the wall?

Michael Stein: Yes.

Anthony Sturniolo: Why did they propose the wall to begin with?

Michael Stein: That I do not know.

Anthony Sturniolo: Could that other item the placement of the rocks from an engineering point of view function as efficiently as a well designed and constructed?

Michael Stein: It has been there for 30-40 years.

Ashley Ley: We received a memo stating they sent an engineer out there to check how the existing wall is structurally and they said it was fine.

Michael Stein: It was same engineer that is working with the design of the new wall.

Chairman Cosentino: They are going to do anything they can to make the job as cheap as the outfit themselves.

Stanley Bernstein: Did they disturb anything that has been put back and is not in that calculation? Have they done something and then restored it which was not in the subsequent Johnson's survey.

Ashley Ley: When we went out on the site there were some rocks that had fallen down on the slope.

Michael Stein: Along the eastern property line towards Kisco Ave,

Ashley Ley: There were rocks maybe a foot large. They had fallen down the hill and there was a debate between myself, DEP and the applicant about whether or not those rocks should count as part of the limits of disturbance. The applicant wanted to remove the rocks by hand and then say it was not a disturbed area. Whereas myself and DEP suggested that it should be included as part of the limits of disturbance, because the rocks had in fact fallen down the hill.

Stanley Bernstein: Does that push them over the 2 acre limit?

Ashley Ley: It most likely would.

Stanley Bernstein: Then that is what we are going to stand on. They are over the 2 acre limit they have disturbed something and tried to put it back.

Michael Stein: I am not sure if that is what is included. Because the revised survey showed it going further down the slope.

Stanley Bernstein: You are satisfied with the Johnson survey?

Michael Stein: The Johnson survey they do work for the village and it is his license.

Whitney Singleton: They do not fool around. Their integrity is unapproachable.

Michael Stein; I would not even question.

Doug Hertz: What happens when we go over this 2 acre? What does this trigger?

Stanley Bernstein: They have to prepare a SPPP.

Michael Stein: In essence it is part of the application to the board they have. That is one of the things I said in my letter that you have not seen yet. The main issue to the village is to make sure that sediment and erosion does not come off site. To make sure their storm water is being treated. As part of the application we required the applicant to reduce the run off from the site by 20 %. All their sediment erosion control when the DEP went out there. There was an episode where the silt was coming off. That is where their pictures were.

Whitney Singleton: Technically not by DEP.

Ashley Ley: We have pictures of running water flowing off the site.

Michael Stein: Both AKRF and DEP and I have been going up on site and I know Kellard has been going on site 2 or 3 times a week and trying to make sure they have everything in that they are suppose to.

Doug Hertz: The reports that are in here are saying that they did correct that.

Michael Stein: They have been going through that and correcting. One of the things was the soil stock piles to make sure nothing would run off from it. We have walked the perimeter and from what they are saying is that they do that daily.

Doug Hertz: If they have essentially done something from what the village has asked them to do to what DEP would ask them to do how much more onerous is the SPPP?

Michael Stein: They are going to want to see proof of all the calculations showing that they have not increased any pollutants coming off site.

Whitney Singleton: They are no worse off than what is pre-constructed.

Doug Hertz: We are hoping that it is going to be better. You are talking about a 20% reduction.

Michael Stein: As part of doing the water treatment for the 2 year storm that goes into a gallery system was infiltrated into the ground. I am not saying it is going to be an easy run going through DEP.

Doug Hertz: What is in the best interest of the village?

Whitney Singleton: DEP that has been explained to me by corporation council does not want them to go over the 2 acre threshold. There was discussion with Premier that said ok and you are not over the 2 acre threshold but you are saying you are not over the 2 acre threshold by virtue of not disturbing areas of your site plan that are proposed for disturbance. Well then go to the village and modify your site plan. They have been telling DEP that they are going to go to the village and officially modify the site plan. They have not come to the village to officially modify the site plan. I said to corporation council so what you are telling me is you are going to allow the m to manipulate the rules to get under the 2 acre. They just have to come back to the village to modify the site plan. They said yes that is our goal. So it is not like do we want to throw them into DEP abyss. DEP doesn't want them there. DEP wants the approved site plan of the village to reflect what was represented to DEP to go on the site.

Doug Hertz: Are we in a position and I do not want to screw Premier. If this is on the threshold of working or not working or going under DEP, are we in a position to get a better drainage plan with less long term problems for the village?

Ralph Vigliotti: What recommendations are you making?

Michael Stein: My concern is if DEP comes in and shuts everything down you are going to have a site sitting there and not stabilized. Until the DEP is happy with everything that has been submitted the site will sit there and not stabilized. We are hoping they go back up there and keep everything going. Every time I have stopped up there any kind of truck that has gone on site they have a mechanical sweeper that follows the truck in and follows the truck out to make sure everything gets swept up. You look at the driveway coming down there is not any mud being tracked down, even though the site is relatively muddy on top. The silt fence is around the entire perimeter, hay bales, all the soil is stock piled. They are relatively stable. There is crushed stone which nothing will run off of. There is soil stock piled and that is where the vegetative matter over the top with the silt fencing and hay bales around it. Right now for the village making sure there is no mud coming off site and tracked down to Kisco Ave. At the entrance that is a different story it is where the asphalt is torn up and that is where we have the problems to begin with. The cherry trees are cut and that is why they have to provide mitigation.

Whitney Singleton: Where all the cherry trees are cut is that all part of the same disturbance area?

Michael Stein: Yes.

Anthony Sturniolo: If we look at for a moment what I would call a cavalier letter from Mr. O'Rourke, where he says that...

Whitney Singleton: You have to read between the lines in this letter. He says they are not over 2 acres.

Anthony Sturniolo: I have read between the lines and at one point he says that the property owner will not at his expense engage a land survey for these additional surveys. To a certain degree he contradicts himself in his last paragraph. As a start should we have this whole thing re-surveyed? Just so we can establish a benchmark of what is there today, and that maybe would also define have they gone over the 2 acres? Yes or no?

Michael Stein: If a new survey was done you would have to bring in a separate company to do it. Only because Johnson's office is already up there and have been up there. You would basically be re-checking all their coordinates and see where that boundary is.

Anthony Sturniolo: Would that establish a base line for the planning board and for DEP in a way. To say it is over 2 acres or it is not.

Michael Stein: It would have to be an agreed upon limit of where that disturbance line is.

Anthony Sturniolo: Prior to the survey?

Michael Stein: Yes. That is one of the things Johnson's office did. That is why we provided the coordinate on there. If anything it would almost be more worthwhile to have Johnson's office put stakes where they measured to be at those coordinates. Instead of having another guy go out there and survey. Have Johnson's office go out and this is a stake and this is where the end of it is.

Stanley Bernstein: Why don't we stake it and then observe it and see if their stakes are within the limits or on the edge of the limits. It is very possible that they have surveyed it and additional work or even prior work created more of a disturbance which was rectified at that point. If those stakes are there and we go up there or someone knowledgeable goes up there and sees that the disturbance is beyond the stakes. So whatever Johnson did is no matter.

Chairman Cosentino: I like that idea.

Michael Stein: Even at the same time why can't they move the stake?

Stanley Bernstein: They certainly can.

Michael Stein: That could always be the next question.

Stanley Bernstein: unless we have one of Johnson's reps come with us.

Whitney Singleton: Couldn't they do it with spray paint?

Chairman Cosentino: They could cover it with dirt.

Joseph Morreale: I know we are arguing whether it is 2 acres or not. The point you made was that do we want to take this on because if we do and it gets delayed then we have this site that could crumble. Particularly with April coming and the rains.

Michael Stein: As part of my memo that is in the package says that I was not in favor of pushing to get before the board before they start stabilizing that slope. That has already failed and that is one of the things we want to make sure it didn't keep going.

Joseph Morreale: That would make me believe to the conclusion or a belief from you that we should let this go and let them shore up the side, to prevent the sliding of the side of the hill.

Michael Stein: Yes. To stop them from putting up a wall if we start getting more water in the ground you are going to increase the chances of it sliding. The wall will be 10 feet. Right now it looks higher, but once they build the parking lot up and the fill behind the building it will be about 2 feet higher than shown.

Joseph Morreale: My view is this. They have probably exceeded the 2 acres, but do we really want to stop this and risk what could happen. I don't like letting them get away with this. On the other hand I am worried now about what the future damage could be, if we delay this. The last time I was making the argument shut them down. Remember I said that. If they are really going to do this they have to come back. Now that I see the consequences I am wondering if the board can push them to at least shore it up so it is stabilized. Then they come back.

Michael Stein: I walked the site around the northern end where the parking area is. There hasn't been any work up there at all. Everything is within the pit on the western slope coming down. Until the building and the foundation gets constructed there is no other work that is going to be done on the northern end. From what it looks like that pit is the number one priority where they are putting the foundation in.

Anthony Sturniolo: What is the reluctance if they went beyond the 2 acre threshold? Whitney said DEP doesn't want them to do that. DEP wants them to come back to the village. Where is DEP's view point on exceeding the 2 acres over and above they have to put together a SPPP. It sounds like we are being manipulated in a way by DEP.

Michael Stein: DEP also looking at it seeing that they are looking to cut back these areas. That is not what the approved site plan shows.

Whitney Singleton: They need to show an as built in accordance with the approved site plan. What they were planning on doing as best I can tell. They just weren't going to complete their site plan. DEP says no. If you say you are going to remove disturbance elsewhere, go to the village and get it approved. DEP is saying we have been waiting for them to do that for over a month. They have not done it. I don't think they plan on coming.

Doug Hertz: Do we want to call them back in?

Whitney Singleton: They made submission today. No we are full circle and the question

is they were trying to get on your next agenda. The question is they missed.

Chairman Cosentino: They made it but the landscaper did not. Mike told me they are coming in because of the damage that is up there if I would excuse the two days. Since this is dangerous situation.

Whitney Singleton: Do we have anything else on our agenda besides this?

Nancy Placona: One letter of correspondence.

Whitney Singleton: Can we adjourn this meeting because I would rather talk to you about some litigation issues associated with this also.

Chairman Cosentino: You have to do what you have to do up there and that is it.

Anthony Sturniolo: Motion to adjourn

Ralph Vigliotti: Second

Respectfully Submitted By,

Stanley Bernstein
Board Secretary