

**Minutes  
Meeting of the Planning Board  
Regular Work Session  
Village/Town of Mount Kisco  
Tuesday, September 23, 2008**

Meeting called to order at 7:50 P.M. at the Municipal Building Mount Kisco, New York.

**Members Present:**            **Chairman Joseph Cosentino**  
   **Vice Chairman Anthony Sturniolo**  
   **Doug Hertz**  
   **Stanley Bernstein**  
   **Sol Gibbons**  
   **Ralph Vigliotti**  
   **Joseph Morreale**

**Staff Present:**                **Nanette Bourne**  
   **Anthony Oliveri**  
   **Whitney Singleton**

Before the meeting began, Chairman Cosentino reflected the sentiments of the Board as well as himself and welcomed Mr. Bernstein back after his illness. He was sorely missed, and we are happy to have him back.

**Public Hearing:**

**Radio Circle and Lexington Avenue  
440 Lexington Avenue  
PB2006-04**

**Present: Brad Schwartz, Zarin & Steinmetz**  
                 **Scott Blakely, RLA, Sr. Vice President, Insite**  
                 **Engineering**

**From the Public:**

**James Gmelin, Village of Mount Kisco Conservation  
Advisory Council**

Nanette Bourne: A revised draft is before you. The scope was initially prepared by the applicant, revised to reflect comments that were provided to us by the Board as well as some additional comments that we included. The purpose of tonight is to solicit any public input regarding items that should be included in the draft environmental impact statement which you are requiring to be prepared by this applicant.

Brad Schwartz: For the record, we have submitted a copy of the Affidavit of Publication from The Journal News entertaining that the notice for tonight was duly published.

Scott Blakely: The application before the board tonight is for a three-acre parcel located on the corner of Lexington Avenue and Radio Circle. The site is currently a vacant piece of property in the General Retail District. A water course flows through the southern property. The proposal is to construct a 28,000 square foot building which will house retail on the first floor, office space on the second floor; approximately 14,000 on each floor. We are proposing 145 parking spaces, 53 of which will be underneath the building. We have provided a storm water management report in conjunction with the DEP and DEC regulations. We have submitted a stream corridor enhancement plan along with a functional evaluation of the wetlands on the property. We submitted a traffic report prepared by John Collins' office. We have also submitted a geo-technical report that looked at the underlying soils for this site. We have basically provided a landscape plan to help bring down the scale of the building to enhance frontage along Lexington Avenue and Radio Circle. Storm water managing basins are located along Lexington Avenue. We provided a low retaining wall and plantings to help buffer the storm water basin.

James Gmelin: At the end of the June 24 hearing, which I attended, it was mentioned by Mr. Vigliotti that he would like to have a scale model of the site, and at that time it was suggested that it be addressed at the Scoping Session, so I hope you get into that tonight so we can get that scale model. Secondly, this area used to be a wetland. It has been filled in over the years, as has been brought out. My concern is if the applicant had considered, or if it's even possible, restoring some kind of a wetland there as

opposed to what they are proposing right now with these catch basins. I believe they are saying the water is going to go in, it's going to be treated and then returned back to the creek that eventually goes into the Kisco River which of course, we want to maintain the quality of; the environmental protection people will be heard in on that. I don't see that anywhere in the Scoping Document. Maybe it will be in the DEIS. I would like to have at least that considered. If there is any possibility to tweak what they are proposing here to have some kind of a wetland which, as we all know, filters the water naturally without these storm basins and the sediment that is created there? At one of the previous meetings Mr. Sturniolo was concerned where this water comes from, and I still am not exactly sure. I took out topo maps and walked it, and the main source of it would be the pond at the old Elks Club, which is fed by a stream that comes across 117. It may have even originated out of the golf course, but I can stand to be corrected. But there are fish in that little creek that runs into that pond at the old Elks Club. As the report says, they have found fish in it, so it's not a ditch filled with junk. It's at least clean enough to support fish life. Also, in the DEIS, "Use of Conservation of Energy" is not really spelled out. I would hope that when the DEIS is submitted that there is something in there with respect with LEED certification that they had planned to have this building abide by some of the Green Building rules. Certainly that would be advisable. Thank you.

Brad Schwartz: Mr. Chairman, a lot of those comments are contained already in the Scope. We are appreciative of them all. I think there are two items that are not mentioned in the scope. The scale model is something we would certainly be willing and able to add in, and we've indicated that we would provide that during the DEIS process, so if Nanette wants to add that in that's fine, with the LEED as well.

Nanette Bourne: With the addition of the scale model and the LEED certification and some slight rewording regarding some comments that were provided by Vice Chairman Sturniolo, you can adopt this as written or you can ask that I revise it and be brought back to the next meeting for adoption. Vice Chairman Sturniolo asked that we include the word "visual" - to visually demonstrate the surface water resources on the site, which underscores an item that is already in there and words it in a slightly different way. For surface water resources, it is a slightly different wording.

Vice Chairman Sturniolo: For the record, I had submitted those comments weeks ago. What I would consider key words were missing and I brought that to Nanette's attention tonight. It was not a last minute call on my part; it was something that was done several weeks ago.

Doug Hertz: Do we expect written comments from any other agency on this before we adopt this?

Brad Schwartz: We received comments from DEP and DEC as well as County Planning when they did not object to the Lead Agency designation.

Stanley Bernstein: Did they say anything about water control resources in a wetland buffer?

Brad Schwartz: I don't recall. They listed some jurisdictional issues.

Scott Blakely: There was no comment on that.

Stanley Bernstein: It's been their longstanding policy not to allow any water mitigation or any changes in water flow within a wetland buffer. This was a complete wetland at one time, and since someone filled it in at one time it became a wetland buffer. Even in a wetland buffer they are not allowed to put in what's proposed to be put in. I do hope the DEC will be more forthcoming on that point. I think it behooves you to double check with them. DEP doesn't have anything codified, but they don't like it either.

Ralph Vigliotti: A number of members on this board and members of the community remember this as a wetland that's been filled in over the last 30 years. I would like to see as part of the record; some historical topographical maps that will show the condition of this back in the '50's and '40's and '30's. I know DEP and the county and the state has those maps. I would like to have those maps secured and become part of the record.

Doug Hertz: I second that. I forwarded to Nanette what has become Item 2 B 3 which tried to get to that same issue.

**Motion to Accept Scoping Document for MRE - 440 Lexington Avenue (PB2006-04) as Modified with Certain Changes.**

**Motion:** Vice Chairman Sturniolo  
**Second:** Doug Hertz  
**Aye:** Sol Gibbons  
**Aye:** Joseph Morreale  
**Aye:** Ralph Vigliotti  
**Aye:** Stanley Bernstein  
**Aye:** Vice Chairman Sturniolo  
**Aye:** Chairman Cosentino

**Recommendation for Local Law:**

**Revised Illumination Guidelines**

Whitney Singleton: Incorporated in paragraph 110-32C to 7 starting on Page 3 - *"unless earlier removal is required by subsection 1 above, all other nonconforming commercial lighting shall be discontinued, modified or otherwise conform with the regulations as follows: provision should be in form by January 1, 2011. Applications to modify commercial lighting plans shall be made by the Building Department and provided no other site plan modifications are proposed, no application fee or escrow fee shall be required. The application shall be processed administratively or refer to the Planning Board depending on whether the proposed alterations necessary to achieve compliance with the illumination regulations require physical alterations triggering site plan amendments under 110-45.* The way that works is if it's merely changing a bulb to a minor modification to the site, it will be handled administratively through the Building Department and not put back before your board. If it requires complete overhaul to the site work or physical alterations to the site, it would come back before your board. Finally, Paragraph 7C states that *"in the scope of its review and existing site plan, the Planning Board shall have the discretionary authority to bide by or waive certain provisions of the illumination regulations upon finding that one substantial compliance with the spirit and attendance such local laws achieve, and two, it is the discretion of the Planning Board there are no adverse impacts on the adjoining or neighboring properties."* These are the only sections that had been actually proposing modification, although we will see in the back on pages 9, 10, 11, 12, some language that was existing in the proposed sign ordinance regarding amortization, schedules, and terms of continued use if non-conforming, lighting structures and the rest of it are not applicable. These first two sections have some language that I thought could be easily incorporated into the proposed regulations. Essentially, rather than have one drop dead date, amortize it based upon the cost associated with the original expenditure for the lighting plan on the particular site. Also, make sure that, to the extent that non-conforming lighting plans are allowed to continue, they are not increased, not structurally altered, there is no decrease in the degree of non-conformity, and that they're discontinued for more than 50% destroyed. I've had some discussion with the Chairman and the Vice-Chairman, but I didn't know if the pleasure of the board was going to be relative to having one drop dead date for conformity for the amortization or whether you wanted to go over a longer period of time on this. That is the substantive difference.

Vice Chairman Sturniolo: To my fellow planning board members, although we had initially thought in terms of the one hard date, by having the amortization date, it makes it more palatable for the property owners and it also mimics the direction that the Village is poised to adopt regarding the sign ordinance. So, we're trying to borrow some of that language and incorporate it here to facilitate the lighting guidelines. The thinking is to put the amortization date and dollar figures in there, to make it much more equitable for the individual property owners. It is a choice that we're faced with tonight. Do we want to go with the amortization approach, as Whitney said, or do we want to go back to whatever was on Page Five, which is the hard calendar date of January 1, 2011, which was the original thinking predicated on it was more expedient from an administrative and enforcement point of view. With the hard date you either comply or you don't. That's simpler, but one person's opinion on this board was it may not be equitable to all the property owners, and using the amortization scheduled seems to me to be a little bit more fair and balanced to everyone.

Doug Hertz: Not to pass the buck, but maybe we should pass the buck. We weighed in on the substance of what we feel the ordinance should be, but the Village Board has had a recent experience with the sign ordinance, and perhaps we can forward it to them with two options, and say here is the thinking behind both. They both have good rationale behind them, and it's really more a policy and administrative decision. It doesn't change the affect of the ordinance.

Vice Chairman Sturniolo: The nuts and bolts of the ordinance are still there. You're right.

Doug Hertz: It seems more of a policy kind of thing, and having to do with how it's going to be accepted by people and businesses in the Village, and maybe that's something better taken up by the Village Board. We want to weigh in on the substance of the ordinance because that's what we're going to have to deal with on an ongoing basis.

Whitney Singleton: That can easily be achieved.

Ralph Vigliotti: Would it be better if it left us with a positive recommendation to the board for their policy review, as opposed as just sending it to them without any recommendation? It seems like it may come back. It may come back asking for a recommendation anyway, and that may slow things up. This has been going on for some time; you guys have worked on this really hard. I am ready to make a recommendation for the proposed lighting plan to the Village Board. Personally, I think that's what we should do.

Doug Hertz: I can see a good argument for both sides. One, it's a lot easier administratively to have a single date rather than try to parcel it out over a series of years and try to determine who falls within what category, which is a lot of work. On the other hand, I agree with Tony that it may be more equitable in another fashion.

Vice Chairman Sturniolo: If we're at the point that we want to send this to the Village Board with Option A, Option B, and the Planning Board feels that Option A is the preferable way to go, collectively thinking.

Joseph Morreale: I would prefer we came down with a recommendation. Rather than simply giving them A and B and saying, "You decide," I would prefer we stand on what we believe in. I like the idea of having the flexibility of dealing with the amortization possibly.

Vice Chairman Sturniolo: So you're saying to send it to the Village Board with the amortization approach, what we recommend, and not include the alternate option of the drop dead date.

Joseph Morreale: Yes.

Sol Gibbons: I agree with that also. It's fair.

Stanley Bernstein: I agree too.

Doug Hertz: We talked about having a clause in here giving us discretion, and I see where it regards to site lighting. It's in a few places, on page seven, and on page four, that has to do with existing non-conforming. I am wondering if similar language should be in there regarding the ordinance as a whole. It seems that this is suggesting that it only has to do with bringing into conformity pre-existing non-conforming lighting.

Whitney Singleton: Correct. You're saying you want the ability to waive the requirements on a new application?

Doug Hertz: I thought the discussion was that we wanted to have some discretion on new applications.

Whitney Singleton: Once you have the discretionary authority to do something on a prospective basis, the applicants are always asking you to exercise that authority.

Doug Hertz: I'm not looking to make wiggle room around the guidelines. We've had a number of applicants come in and comply with them, and they've been able to comply with the regulations. I'm just concerned that there are some situations that we haven't anticipated; that we may lock ourselves into a situation that is not advantageous to us.

Whitney Singleton: Unlike the sign ordinance this section of our code will fall into zoning regulations. There will always be relief that can be achieved at the Zoning Board of Appeals. I think, as you know probably better than anyone else in the room that similar discretion was to propose to be inferred upon the ARB and they said they didn't want that discretion.

Doug Hertz: Done.

Vice Chairman Sturniolo: When we recently had a joint meeting with the Village Board over the lighting guideline ordinance, in part of the presentation of the guidelines at the time, I went through a list of the recent most, and I don't have the exact names with me tonight but I know the count number. I went through a list of 21 recent applicants that were asked to conform to the newly proposed guidelines even though they have not been adopted by the Village Board and this goes back two months ago. Out of that long list of applicants that I enumerated, there was only one applicant that has not conformed to the recently adopted guidelines. I say this now that everybody seemed to be on board with the philosophy of why the guidelines need to be changed in a healthy and constructive manner.

Doug Hertz: I'm just second guessing myself, that's all.

Joseph Morreale: Whitney, I'd like a legal interpretation of an existing site. I'm thinking about somebody coming in, not with a new site, but with an existing site and they just want to change some of the site plan aspects. Wouldn't that apply here that we could bear the option here? Or does an existing site mean anything that already exists on the existing site plan. Which is the intent of this?

Whitney Singleton: The intent is under 110-45 of the code, there is a provision that says all applications for site plan amendment shall be entertained and reviewed in the same fashion as a new site plan. So both applications could be heard the same. The distinction would be if you have one with a pre-existing non-conforming lighting plan, the question is whether or not you would be brought into compliance, as part of the new site plan amendment would be somewhat discretionary with your board if you thought that the expense was extremely significant, having no adverse impact on the adjoining property. You have to make two findings.

Joseph Morreale: So the answer is that a revision of a site plan is considered a new application, so they would naturally ask to adopt the new lighting standards unless we decided otherwise?

Whitney Singleton: Correct.

Joseph Morreale: So we still have that option, though.

Whitney Singleton: Correct.

**Motion to Recommend to the Village Board of Trustees of Mount Kisco the Acceptance of the Illumination Guideline of Section 89.16, (Page Nine) which is Amortization of the Non-Conforming Signs Ordinance and Canopies; the Guideline that Indicates Amortization Over Two, Three, Four and Five Years**

**Motion: Ralph Vigliotti**  
**Second: Joseph Morreale**  
**Aye: Sol Gibbons**  
**Aye: Stanley Bernstein**  
**Aye: Doug Hertz**  
**Aye: Joseph Morreale**  
**Aye: Ralph Vigliotti**  
**Aye: Vice Chairman Sturniolo**  
**Aye: Chairman Cosentino**

Chairman Cosentino: At this time, I would like to thank the board, especially Vice Chairman Sturniolo and Doug Hertz. Being a plumber I know nothing about foot candles, and you did a great job on this and I appreciate it. Thank you very much.

Vice Chairman Sturniolo: Can we also add that once this is cleaned up on the computer that we attach a cover memo and send this off to the Village Board?

Whitney Singleton: Yes.

**Formal Application:**

**The Park at Mount Kisco  
(Mount Kisco Sports Arena)  
333 North Bedford Road  
PB2008-16**

**Present: Michael Gallin, Gallin Design Studio, Architect for the Project  
Jim Diamond, Diamond Properties, Property Owner  
Ken Rudolph, Developer  
Lester Steinman, Wormser, Kiley, Galef & Jacobs  
Michael Landler, Fredrick P. Clark Assoc.**

Michael Gallin: Since we met last we have supplemented the application with a formal application. This evening we are in receipt of F.D. Clarke's memo in response to our application and have quickly read through it and will respond as requested. They requested some additional information including some case studies comparable to other facilities, and we will do our best. The proposed tenant does not have a similar facility, so we don't have data from the actual tenant, but we will be able to do some research and get some case studies of some other facilities around the country. We have supplemented the application with additional information on the landscaping in front of the facility including a meandering path running north to south and the major access here and some connection points to that with the intention of making this as park-like as possible in front of the facility, as we've been discussing over the last year or so about trying to soften up the front of the building and ultimately hoping to connect this new landscape space to the field to the south that the town is currently operating. The general parameters of the space have not changed from the previous application in terms of the types of fields and users. To give you an update, in the spring we did a traffic study that was deemed incomplete on a couple of important items in terms of truck counts, I believe; distinguishing trucks and cars. We were unable to redo the counts over the summer because the traffic conditions are not good examples of what we would be expecting. The new counts were finished last week, and we should have the summary by the beginning of next week and we will submit that as soon as it gets compiled.

Chairman Cosentino: Tell me a little bit more about the sports arena. Is this going to be a membership club?

Jim Diamond: No.

Chairman Cosentino: What are some of the things that are going to be in it?

Jim Diamond: There is a multipurpose field here which can be either used as a single field or divided up into up to three fields, in this scenario, three baseball infields, no outfield, but just infield use for training; hitting, catching, pitching. Two basketball courts, locker rooms, training tunnels, which are essentially like batting cages or pitching simulators, and then a golf area which is like a chipping and putting type area. Then there are accessory uses within the locker rooms, pro shop and lobby for the facility. The idea is basically to have a large field. In terms of weightlifting equipment, it's not in any way a health club. It's purely just a sports arena.

Michael Gallin: It's really slated towards training. For example, the space criteria for laying out this field are just to provide infields. There is an opportunity to do small training games, but no full out baseball games.

Chairman Cosentino: How many people at one time will participate in this training?

Jim Diamond: We provided an estimated participant count in the conceptual submission, which broke it down then depending upon how the facility was being used. The multi purpose field was projected at 30, which could be 30 people playing one game including coaches, or it could be ten in each of three games. You could have eight people at baseball plus two coaches on a field times three. The basketball court is twelve people on each, which would be ten players and two coaches. Golf training, ten people. The training tunnels, eight people. Pro Shop one person, locker rooms, offices, five people. So total participants, 78 people in the facility. This was sort of assuming everything was in operation at the same time.

Chairman Cosentino: What about participation of schools against another school?

Michael Gallin: None of the facilities are regulation size. That couldn't really happen in terms of a regulation type event.

Jim Diamond: But, as part of the training type program, there could be games of one team against another, but within these quantities of people, like 30 participants on this field, if you think in terms of 12 on 12. It still doesn't change the numbers in a sense that these fields are for specific types of games that have quantifiable quantities of people.

Chairman Cosentino: What do they do to join this club?

Jim Diamond: There is no membership, so it's not "join." The majority of the classes are one hour instructional type classes, so it's primarily reserved in advance, where people would call up and reserve. It could either be people purchasing a single lesson or potentially a program of six or eight lessons over a six or eight week period. Some of the things are not necessarily booked in advance. The pitching tunnels and batting cages and golf is more open to people sort of arriving and participating. But the facilities that require the fields or the basketball courts; just the nature of the type of operation requires more advanced booking.

Chairman Cosentino: Is there going to be a snack, luncheon, breakfast area?

Michael Gallin: There is a concession area which we show here.

Chairman Cosentino: What do they sell there?

Michael Gallin: I don't know the exact menu. We can get additional information. Hot dogs, Doritos, snacks.

Chairman Cosentino: What are the square feet, approximately?

Michael Gallin: 2500 square feet for the concession area.

Chairman Cosentino: How much seating?

Michael Gallin: I don't know if that's been solidified.

Chairman Cosentino: Please let us know.

Michael Gallin: Yes.

Chairman Cosentino: Days of operation; what time to what time weekdays and weekends?

Jim Diamond: It is a seven day operation. It's anticipated given the type of customer base, which is mostly younger people, high school students and younger, the busy hours would be in the afternoon. After school gets off into the evening. The morning is anticipated to be relatively quiet, and the intent is to make the facility open to other groups such as seniors in the community during the hours when the primary customer base isn't really there. I believe the plan is to be opened till approximately 10:00 at night.

Ralph Vigliotti: I am concerned about the batting cages. You kind of skimmed over it a little bit. General public can come in and use the batting cages?

Jim Diamond: Yes.

Ralph Vigliotti: So, kids, anywhere in northern Westchester can just come down and use the indoor batting cages?

Jim Diamond: Correct.

Michael Gallin: If we can just clarify the batting, because we call them training tunnels for a reason. They are not fixed wire cages. They are the flexible meshing with the intention being that they will be utilized for pitching and batting, so the actual pitching machine will be mobile, and they won't always be utilized for that. They will only be available if they are set up for that use.

Ralph Vigliotti: Let me just go a little bit further then. Can I come down to your facility and pay to use the batting facility?

Michael Gallin: If it's available.

Ralph Vigliotti: What would make it not available?

Michael Gallin: If a team comes in and schedules training classes, then there will be eight kids on the field and probably another eight kids in the batting cages and then they'll switch back and forth.

Ralph Vigliotti: I don't think the zoning in the Village allows batting cages. We can call it whatever we want internally speaking, which means kids, God bless them, I work with them all day long, and they're wonderful. But they will come down to want to use the batting cages at 7, 8, 9:00 at night, and I'm sure you will have common areas in which they can sit and get something at the concession stand until they are available. We want to be very, very careful as a Planning Board. We are now allowing batting cages. This is a big concern of mine. It's like having indoor miniature golf attached to the golf area. I want to be very careful with that.

Michael Gallin: Out of curiosity, what's the concern?

Ralph Vigliotti: We're trying to prevent indoor batting cages and/or miniature golf and things that we wouldn't even allow outside, never mind inside. And we want to make sure that what we're approving is what you're rolling out to us. Also, will there be areas for spectators to watch all of this take place? Mini bleachers, sitting areas?

Michael Gallin: It's impossible to keep the parents away.

Ralph Vigliotti: No, you're laying it out as though there are 30, 60 maybe 70 individuals using the facility. How many people in reality will be inside the facility, waiting to use the batting cages, waiting for the group to get off? We need a realistic number of folks that are going to be using this facility. Spectators, parents, folks that are using to get on the courts, etc.

Jim Diamond: Just to clarify something. The idea with the facility is primarily that it's instructional based. The idea is that somebody would call in advance, make a reservation, have an instructor, and get a one hour class on pitching or hitting. And they are expensive simulators, video based, where it looks as if a pitcher is throwing a ball at you; very impressive type of equipment. I'm not sure if rates have been set, but I would imagine it's something like 80 or 100 dollars an hour.

Ken Rudolph: There are two at \$100 and those are the simulators that come out with a high definition screen and a picture actually throwing the ball to the batter. The batter is the trainee. The other two are where we'll be doing our instructional. We'll have somebody in the actual cage with him showing him how to pitch and hit. There are two simulators and then there are two batting cages.

Ralph Vigliotti: I know in this area the parties for 10, 12, 13 year olds try to reach out beyond the pizza party in someone's basement. This may be something that may fit a family to have a party there. Is that something you envision here?

Ken Rudolph: It is and it isn't. The parties that we are going to be doing are instructional parties. We're not going to just rent out the space and say go.

Michael Gallin: Just to be clear on the participation counts that Jim was quoting in terms of the 30 people here; we were very careful in terms of semantics. We're not trying to represent the number of people in the facility, we're trying to represent the number of people participating and coaching. At the bottom we say, "The utilization numbers are for participants, coaches, spectators, which are not included or typically when the parents are participants and would not result in additional traffic or parking loads." The logic being that the parents and the kids are not going to be coming in separate cars with the age groups that would typically be utilizing the facility. We thought the number of people participating was more relevant, whether or not they come with one parent or two.

Ken Rudolph: We gave maximum numbers per field.

Ralph Vigliotti: I'm not sure what to believe. I'm trying to flush all this out because I want to make sure that everything is on the table before we vote on this. We already have something just north of you that is under scrutiny right now.

Ken Rudolph: We don't want to have that problem either.

Ralph Vigliotti: I don't think you wanted to have that problem with the other facility, but you have it. This becomes something that needs to be patrolled by the police department and/or fire department if there is an issue.

Joseph Morreale: Every building has a fire code regulation about the number of occupants. What is the fire code regulation here?



Michael Gallin: Way above the numbers right now. The occupancy code is based on maximum theoretical occupancy.

Joseph Morreale: You're telling us that number that you anticipate will be much lower than whatever that ceiling is?

Michael Gallin: By New York State building code, when we create a space like this as athletic fields, it is considered an assembly space by the building code. I have to base those codes in terms of the size of the doors and the fire protection system as though I have hundreds of people. It's a life safety issue.

Joseph Morreale: So we'll never see that?

Michael Gallin: No.

Joseph Morreale: Are the base paths 90 feet apart?

Ken Rudolph: 70. They can go 90 but those particular ones are 70.

Joseph Morreale: Is it primarily for younger children?

Ken Rudolph: Yes. Mostly little league. We can do high school, but then we would extend the base path to 90 but you wouldn't get any back up behind that.

Joseph Morreale: You're going to train kids for hard ball?

Ken Rudolph: Yes.

Joseph Morreale: How do you do that with three fields and that kind of space?

Ken Rudolph: In between each field is a pull net system. You pull the nets across and it makes three different fields. In actuality it's one big field. We'll have two or three diamonds and you can actually do three events at one time. You can do one event and have a bigger field for say soccer.

Joseph Morreale: Is it big enough for a lacrosse field?

Ken Rudolph: Usually when lacrosse is played, depending upon the age group, if it's a high school or adult they'll take the whole field.

Joseph Morreale: Will there be competition teams? Will they play other teams?

Ken Rudolph: There could be, but we're more of an instructional thing. We don't really have the lacrosse leagues coming in.

Joseph Morreale: That's not what you're anticipating?

Ken Rudolph: No.

Joseph Morreale: That would up the volume quite a bit.

Ken Rudolph: It would but we still would only have the same amount of participants on the field at one time.

Joseph Morreale: I'm thinking of parents watching.

Ken Rudolph: We didn't really designate an area for large amounts of people to view.

Joseph Morreale: I know that, but I also know what parents are like.

Michael Gallin: Parents are going to come. I'm not trying to deny that.

Jim Diamond: We're also not trying to say there is not going to be any competition but I want to be very open about what the intent is, and I think we're presenting it very accurately. It's really an instructional facility. It's about people taking lessons; one hour format, but it will be open to the extent that there is availability and they are able to schedule games into the mix.

Ken Rudolph: We are going to have teams that are going to be competitive teams that are going to play in the area. Four or five teams each for lacrosse, soccer. For baseball

we'll probably have a dozen teams or so. We can't play games in there for baseball, so we're not going to have a baseball tournament there. If we had a soccer program and we did one weekend for a soccer tournament for ten year olds and we invited five or six other ten year old teams to compete, we could do that.

Joseph Morreale: Is there an infirmary or a medical facility on the site if somebody gets injured? What is the surface?

Ken Rudolph: It's all turf, and we would have an EMT.

Joseph Morreale: So the potential for injury is there.

Ken Rudolph: It is.

Joseph Morreale: So what happens if somebody gets injured? What would you do?

Ken Rudolph: We would call an EMT or Fire Department.

Joseph Morreale: You would rely on the Emergency Room of the hospital?

Ken Rudolph: Correct. We were also going to put a ramp in where we can get a vehicle in there if we had a serious injury.

Chairman Cosentino: This gets sent to the Ambulance Corp for review.

Joseph Morreale: So there is no requirement that some kind of quick emergency medical attention right there?

Michael Gallin: Typically like ice rinks and other facilities, they don't have emergency technicians on staff.

Chairman Cosentino: A lot of these places have EMT's working there.

Ken Rudolph: Our director will probably be EMT certified. Hopefully we'll have some defibrillators in there along with the right equipment.

Joseph Morreale: How long is this project going to take?

Ken Rudolph: We figure the construction to be about four months. We're not really doing much as far as like construction; we're creating the field. Most of the stuff is turf. There is not that much build-out.

Michael Gallin: There are columns in these locations, and we are moving those columns, so there is some structural work. But in terms of finishing build out, it's more utilitarian finish.

Ralph Vigliotti: Do you plan on having special events in there?

Ken Rudolph: Other than the tournaments.

Ralph Vigliotti: So everything is athletic tournaments.

Ken Rudolph: No rock concerts or anything like that. Not that we plan for.

Ralph Vigliotti: So we won't see rock concerts or the circus. The facility is exclusively used for the purpose of sports.

Ken Rudolph: Yes. No outside use. Sports. We will have a concession area that is going to be for our participants. We are not going to do a restaurant to bring the people in.

Chairman Cosentino: How much seating will that be?

Ken Rudolph: We haven't really set up the seating yet. It's a small area.

Chairman Cosentino: 2500 square feet is not too small.

Jim Diamond: It looks more like 1200.

Michael Gallin: We'll give you more clarification in terms of the configuration.

Chairman Cosentino: So it's a little concession area?

Ken Rudolph: Right. It's not a restaurant. There might be a little area outside of it for seating if parents are there. With everything that's going on in this area, there is not much room for the parents to come up, so we planned on putting everything on an audio system and video so the parent could sit there and watch their kids at each field and tunnel.

Joseph Morreale: What is the overall square footage?

Jim Diamond: 71,600 square feet.

Joseph Morreale: Enough parking?

Michael Gallin: There is a relatively elaborate parking calculation because of all the uses in the building.

Vice Chairman Sturniolo: Would you ever anticipate any book signings, baseball autographs?

Ken Rudolph: Yes.

Chairman Cosentino: That has to be put under special events.

Ken Rudolph: We would probably limit it to our membership, our participants.

Vice Chairman Sturniolo: That can be hard, and forgive me I don't want to transgress into your field of expertise, but if Mariano Rivera is coming in to sign balls, and you say it's only going to be for the participants who have signed up to utilize the facility for that day, you are probably going to be in a lot of conflict with the PR people that represent.

Ken Rudolph: Steiner Sports does a thing where they actually e-mail you, prior to the event, and try to sell it out. They say we have X number of seats available for this signing, or this luncheon.

Vice Chairman Sturniolo: For that whole signing event, I would just in general be very careful.

Chairman Cosentino: You used the word membership. It's not a membership.

Ken Rudolph: No. People using our facility.

Chairman Cosentino: So you don't join for a year or six months?

Ken Rudolph: No. Absolutely not. I want to address, also that we will not be doing miniature golf. Golf especially will be specific training.

Ralph Vigliotti: Things have a way of evolving.

Ken Rudolph: Yes, but not miniature golf. We're not looking to do miniature golf. We have a serious gentleman who is going to be running our golf division. He's a five time national pro, and he's not going to want miniature golf.

Ralph Vigliotti: I think the signing autographs are something we have to take a look at as far as how many a year. You can get hundreds, thousands of people there. I don't know if your parking is going to support that.

Chairman Cosentino: How would he benefit by somebody signing baseballs? I can understand if Grand Prix did that. There would be racing, etc. Who makes money on that?

Ken Rudolph: If we had a basketball pro coming in to sign. He's not just going to come in and sign. We want to do an instruction and signing. You would take a half an hour instruction and get a signed basketball. We would charge for that, a different charge. We could set something up that we could put numbers and limits. We're not looking to do something where we bring in a Derek Jeter and he signs baseballs for 3,000 kids coming through the door. That's not what we're looking to do.

Chairman Cosentino: We don't want that either.

Ken Rudolph: We would do it so that we can use the facility.

Joseph Morreale: Where else are these kinds of facilities?

Ken Rudolph: The only one in this area is in Brewster. It's very similar to this. It's been very successful. They don't have ice skating there, that's a different facility. They have three basketball courts and a smaller field, 63,000 feet.

Ralph Vigliotti: I'd like you to consider that there is some time set aside for the Bedford Central Schools, particularly the high school sports program.

Ken Rudolph: We're going to do something where we would give the school district free time as a trade off if we needed an additional space at a certain time. We have no problem doing that. We also wanted to do something with the seniors in the morning.

Lester Steinman: There has been correspondence between the Building Inspector and the application with respect to the nature of the use and the permissibility of the use. I don't think there is going to be final resolution of those issues by the building inspector, so they should be requesting some further advice from the Building Inspector with respect to the proposed uses, and I would advise the applicant to touch base with the Building Inspector and make sure all his inquiries have been satisfactorily answered so that he can report back to the Planning Board. The special events, based on the experience we've had; it's very easy to imagine a charitable event drawing hundreds if not more people, or using the facility to conduct a charitable event that would attract that many people, so it's something that has to definitely be considered as the application goes forward. We will need to refer the application to the County Planning Board and we'll also have to make a referral to the Town of Bedford. There will have to be responses to the F.D. Clarke memorandum. While they are here, we also ought to hear a little bit of a quick update on the status of the traffic report that is owed the Planning Board in connection with the entire facility.

Jim Diamond: The counts were completed last Thursday. John Collins asked for an update as to the current status of vacant versus occupied space and space under construction and we sent that over today. I'd expect we'd probably have a traffic report back within the next week or so, ready to submit.

Michael Landler: We would like some example of the cost involved showing the financial side, kind of how it operates.

Ken Rudolph: We have that.

Michael Landler: We also ask that they show the number of vehicle trips generated by the use of this space.

Lester Steinman: Another aspect is going to be heard on October 28. If you are going to carry this forward, and the applicant can get the information in time, you might want to schedule this as well on October 28.

Vice Chairman Sturniolo: Can you also provide us with a spec sheet or technical information on the type of radar guns you're going to be using?

Michael Gallin: Yes. Is there a particular concern?

Vice Chairman Sturniolo: Just on how the energy is dissipated from the radar gun similar to the energy dissipated on a police car.

**Final Action:**

**Crossroads Plaza  
639-657 Main Street  
PB2008-15**

**Present:**

**David Steinmetz, Attorney at Law, Zarin & Steinmetz  
Brad Schwartz, Attorney at Law, Zarin & Steinmetz  
Richard Cohen, Property Owner**

David Steinmetz: For the record, it is wonderful to see Mr. Bernstein back. We received the memo from AKRF regarding the recommendations on the landscaping modification for Crossroad. We have no objection. The only concern we have is the question of when construction must commence and when it must be completed.

Chairman Cosentino: You have to find somebody.

David Steinmetz: Exactly. Would that be an administrative change if we don't start it for seven or eight months, or do we need to come back?

Chairman Cosentino: You have six months, and all you have to do is come back to extend it. That's been our practice here.

David Steinmetz: Can we do that by letter to the board if we needed to?

Whitney Singleton: I concur with Nanette on the exterior changes.

David Steinmetz: This doesn't relate to the interior modification of the space? Because the application is really for the Change of Use really relative to the inside. I know there are conditions as to the landscaping. If that's the case, then we're fine.

Whitney Singleton: It says under the third "whereas" site plan dated May 15, 2008, then it says the same thing again on the next "whereas." I want to make sure that we are not approving a site plan here, so I have some proposed language for a condition, notwithstanding the nomenclature used by the applicant in the submitted plans nothing here shall be deemed to alter the site plan of record for approved amendments to the site plan except as expressly set forth in Condition #8 relative to the site's landscaping plan. I don't want to take a position that this is site plan being approved here.

David Steinmetz: Just so we're clear, the first "whereas" that you read; that site plan is 1998, not 2008. 5/15/98; the original site plan that you approved. The second one as well.

Whitney Singleton: I want to also note that the parking calculations that are shown are based upon a plan that was submitted by the applicant. They have represented their spaces to be retail, not retail sales, bulk household items. It is theoretically possible that Calico Corners can go out 5,000 square feet and another general retail tenant can go into that space without coming back to your board.

David Steinmetz: With the associated 34 parking spaces?

Whitney Singleton: Yes. I don't know whether it was originally represented as household sales or whether it was retail. I know that one of you represented at the last meeting that the entire application was approved as retail.

Nanette Bourne: It was referred to as commercial retail. The reason why I included these numbers is just to show representative uses so that there is some match between the current and former tenants and the parking so there is a balance.

Chairman Cosentino: Right. He doesn't have to come back here unless there is over 8,000 square feet.

David Steinmetz: Or if we change the nature of the use.

Ralph Vigliotti: Nanette, do you want to dig a little deeper on the landscaping that we're showing here?

Nanette Bourne: We asked to go out and survey the site and determine whether or not there are some obvious areas for site improvements. The two areas that we have indicated are areas that could be improved with additional landscaping. We weren't figuring to go out and revise the landscape plan.

Ralph Vigliotti: We're just enhancing what's green or red. We're not gaining any green space.

Nanette Bourne: No. There really isn't anything to gain.

Ralph Vigliotti: Is there a way to look at a couple of parking spaces that are adjacent to the landscaping buffers and use that as a count into their parking? We've done it in the past, where we have said these six parking spaces can be green, but in the future if they're needed, then we know we can count on that.

David Steinmetz: Land banking parking spaces are what you're suggesting.

Nanette Bourne: I would not recommend it in this case because they're very close on parking right now.

Ralph Vigliotti: I just bring it out on the table because where your parking is located is the south gateway to the Village and I wish I had a little bit more parking so we can gain some green space and also allow that in the count.

Nanette Bourne: We had hoped to add a little bit more. It just wasn't there to add.

Ralph Vigliotti: If a use comes in that's not going to take all of the parking spaces, and there is an excess of six or ten, which is very rare, is that something we can revisit?

Nanette Bourne: The application can come back and request it.

Ralph Vigliotti: Thank you.

Doug Hertz: You identified the areas that the landscaping can be enhanced. What is the mechanism for determining what the enhancement is going to be?

Nanette Bourne: The applicant will have to come back for a building permit for their tenant space, and maybe we should modify this so that those improvements; the landscaping improvements will have to be done prior to the issuance of the building permit.

Doug Hertz: Other than identifying the location, we tend to get a landscape plan and get a sense of what it's going to be.

David Steinmetz: The way we're interpreting what's here; normally we have virgin territory and nothing is there. Here we have an existing center with existing landscaping, and the way we're reading this is we're being asked to increase in these two areas with similar quality and character. So whatever is out there, we've got to put something in of a similar nature and species. Certainly the decorative bench, that's pretty clear, and the comment about existing trees should be incorporated into any new landscape plan. Having read this quickly tonight it looks like there is enough guidance for us to get a sense.

Chairman Cosentino: There may be a problem there. Nanette had a good idea to limit it without a C.O., (Certificate of Occupancy) but the problem is, if he gets a tenant and it takes two months to do your renovations, now we're into the winter and you're nailing him down that they can't get a C.O. until the plantings are done. He's not going to plant in the winter.

Nanette Bourne: They would get a T.C.O (Temporary Certificate of Occupancy).

David Steinmetz: The resolution indicated no permanent C.O. until everything was completed. My understanding on plantings is I thought you could actually do them successfully during the month of November. My client is prepared to do that installation over the next two or three months while we are looking for our tenant. It will be an improvement to the Village to improve the south gateway. It will make the site more attractive and attract our tenant that we're looking for.

Doug Hertz: Do we want to say that you will oversee it to our satisfaction?

Vice Chairman Sturniolo: David, I need to correct something that was presented by your office to us regarding the 1998 approval of this. In your packet you kept making reference to specific lighting plan that the Planning Board wanted to see in place. Somehow that statement was tied into the unhappiness and then the unhappiness of the Timber Ridge residents. There were two separate distinct issues. Timber Ridge wrote to the property owner. The property owner wrote back and forth to Timber Ridge. The Planning Board was not involved in that. The Planning Board also was offered no constructive guidelines or statements that would cause you to write in your letter that the lighting plan was constructed based upon the recommendations, the thoughts and the suggestions of the Planning Board. None of that took place, and I know that because I went back and checked those records.

David Steinmetz: The lighting that was put in there was not approved by the Planning Board?

Vice Chairman Sturniolo: It was approved but the way you phrased the letter you made it sound like it was something that was deeply negotiated and something that the Planning Board wanted to see changed and modified, and then you also drew in the

issue with the Timber Ridge residents and it, in my opinion, clouded the issue and tried to make it sound like the existing lighting was there because of specific requests of the Planning Board and that was not the case. In my reading interpretation of it sounded like it was a sell to this Planning Board so you can hang your hat on a peg that a previous Planning Board approved all this lighting with the thought that we were looking out, the previous Planning Board, for the residents of Timber Ridge. And that was not the case. My other question was I thought this was going to be on the agenda tonight for a draft resolution.

Chairman Cosentino: We said we would approve the draft and they would get the proper draft to be signed.

Whitney Singleton: The applicant had requested and the board had agreed that a draft resolution should be created and put before the board, and if there were issues with it, it could be reworked for another meeting. However, if your board had felt comfortable with it, but not withstanding the fact that it was a work session, that the chairman had within his powers the ability to take action at a work session and it's clearly a function of whether or not you feel as though with these modifications that we discussed that the resolution go through.

Chairman Cosentino: I think we brought out the fact that I did say that we want to try to help out the client because he is losing money each month.

Vice Chairman Sturniolo: I, too, would like to help out the applicant; however, I just wanted clarification.

David Steinmetz: We appreciate that.

**Motion to Approve the Resolution of Approval for the Change of Use Permit at Crossroads Plaza, 639-657 East Main Street, PB2008-15 Subject to the Changes Counsel has presented.**

**Motion: Joseph Morreale**  
**Second: Vice Chairman Sturniolo**  
**Aye: Sol Gibbons**  
**Aye: Ralph Vigliotti**  
**Aye: Doug Hertz**  
**Aye: Vice Chairman Sturniolo**  
**Aye: Joseph Morreale**  
**Aye: Chairman Cosentino**  
**Abstain: Stanley Bernstein**

**Continuing Review:**

**Lexington Avenue Gym**  
**342 Lexington Avenue**  
**PB2008-09**

**Present:**

**Ciprian Captan, Project Manager, Atmosphere Design Group**  
**Pery Verrone, Owner Lexington Avenue Gym**

Nanette Bourne: This is back with several responses to a memo provided by Anthony Oliveri, and we appreciate the fact that they have been responsive to all of the comments and issues raised. There is an overriding issue concerning the site, and that is not questioning the use; it seems to be a good and appropriate use for the site. We met with the applicant and his property owner on site a couple of weeks ago and talked about the improvements that would need to be made to bring it up to the bare minimum. It's an awkward site. It's almost impossible to bring it up to every code. We talked about the most important ones, and it's almost inevitable that they'll need to go to the Zoning Board of Appeals if this application continues. We talked about a couple of options for them to consider. One is an option that just includes the parking area that is for this particular building and what would need to be done to bring it up to code, and maintain as many parking spaces as possible in order for them to have the use that they're proposing. The most critical elements concerned are providing curbing. Right now there is no curb, and it's just one long continuous driveway. Also, there is no drainage, no buffer, no landscaping. Those are components that we could deal with and maybe not meet the desired code but at least improve the site and really come up with improvements to the engineering. The second option was to do a larger more grand

plan that takes into consideration not only this applicant's parking area, but the adjacent parking area that is owned by Geiner with even the possibility of the parking area that abuts it and do a larger plan that really addresses not only the parking for all three sites, but takes into consideration and makes some improvements regarding the drainage, improved access and shared parking facility. We gave them suggestions and even though that's a grand plan, if they could come up with some plan that the Planning Board could be comfortable with, then they could present to the Planning Board some phased construction that would allow them to get a temporary C.O. for their existing use with the idea that, as they moved forward, they would need to implement the larger plan. The option that we said is not going to work is to do nothing. Simply to re-stripe the best they can is not something that staff could really support, and we didn't think the Planning Board would support that.

Chairman Cosentino: On the other hand, if he spoke to Geiner and made some kind of an agreement with Geiner, that would be the best plan, but then Geiner would have to come before us for a Change, and that could take months.

Ciprian Captan: This is the over riding issue. I agree completely with what Ms. Bourne said. The problem is we spoke with the owner next door, and as of now they have 80 parking spaces because they are striped as per the old regulations. There is not incentive for them to try to work with us. We discussed it with them and asked to at least look at it, and the site plan came the day that we had to do the submission. The moment we introduce the setbacks that are required for a C.L. district and you have the buffer zones in the back, it reduces tremendously the amount of parking spaces, and that will pose a problem for Geiner. That is one aspect. The other aspect; the moment you combine the two parking spaces, obviously you'll be required to create sub-zones as the zoning code requires. You have to do curbs. The moment you do curbs you are basically disturbing the existing drainage which is not the best. Obviously it can be improved tremendously. The other overriding issue is that we have rocks six inches under the asphalt. We did a test bit and we saw it. Obviously just to implement the draining system or just to provide new asphalt is a very costly operation. We're talking about at least a couple of hundred thousand dollars, which neither Geiner nor the existing owner is willing to do. Because from their standpoint, they have an existing warehouse, it works fine for them. On the other hand the look on Lexington Avenue is going to remain as is. We understand your concerns and we've been trying to address all the issues that were raised and we think that it's in your discretion to approve this. I agree that we would like to do more, but it's a small business. It's a son and his mom. Basically we're trying to improve the existing site as much as we can. We provided a landscape plan, and that's another issue. We tried to improve the landscape but there is only a small patch of green in front of the building that we can plant on. Obviously to provide trees in the back is prohibitive. It's rock. There are all these overlapping issues, and in the end it's at your discretion to address them.

Chairman Cosentino: You need to understand something. This board has standards, and we have to abide by them. There were other buildings along Lexington Avenue that are now turning commercial. They need to be concrete curbed and landscaped. If we allowed you not to do this, they are going to come to us and say, "why didn't they do it?" and they would be right. So we try to stick to our standards no matter what it is. You have some options, but you need to know what option to take.

Nanette Bourne: If I can just correct one thing the applicant said. You have the option to modify the buffer and the landscape. You do not have the option to modify the other requirements. If the applicant wanted to disregard those and get an approval without those, it would require another avenue. That option does not exist for the Planning Board.

Anthony Oliveri: The problem being that the plan before you has a number of issues; not just one or two. The handicap parking is at 3.2 percent. That's what you got it to. That doesn't go along with the code; you need 2 percent. There is still a question with parking counts, that's been revised, but it has to be looked out and commented on by the Building Department. Nanette mentioned no curbs are currently proposed, no buffers are proposed around the parking area, no snow accumulation areas are proposed, and there was some question with the curb cuts. There are some gray areas in the curb cut code, but there is another aspect of that. Under site plan, we need to look at having the three ingress and egress points coming out of the site, the safety issues near the crest of the hill. This is all within the Planning Board's purview to look at this. There is a problem with the last space on each of those aisles as far as maneuverability.

Ciprian Captan: They are 24 feet as required by the zoning code.



Anthony Oliveri: But there is no buffer area at the last space.

Ciprian Captan: I guess it can be rearranged to be improved.

Anthony Oliveri: If the Planning Board were to move forward it would have to be looked at. The lighting, also doesn't fully comply.

Ciprian Captan: The terrain is very narrow and very long. We have street one side and adjacent parking lot on the other side. We have inclines on two ways in the parking lot. As I spoke with the lighting designer, he explained to me, as the standards are very clear, it is very difficult because they are very specific in every category, so it's very hard to hit all the values because of the way it's set up. The first design that was submitted on the last application actually took into consideration an average of all the values and tried to bring it as close as possible to the values required by the guidelines. The second design starts with some given numbers, the ones from the site of the property and somehow it results in a different value in the other numbers. That would be for the lighting. As far as the curbing, there are sections in the code that basically give you the power to approve or disapprove this. Each and every one of these elements we suggested are within your power and the bottom of this issue is, to be honest with you, he's been on it, and we've been with him on this for the last six months, and there has been a lot of money spent on this issue. We cannot go any further. It's a small operation. Obviously it's up to your decision and consideration of all these issues.

Anthony Oliveri: I can't speak for the board, but to approve this the way it stands you would need a waiver on every one of these issues, and there are several issues. Maybe that's what the board is uncomfortable with doing on so many different issues.

Ciprian Captan: Then every other type of business that would try to move into that building will hit the same problem. We have a warehouse as it is. It's not very fancy, and the owner has only that building. We're not talking a big real estate company that has estates all over the country. It has been in the family for a couple of generations now, and they don't want to do anything as long as it produces money; obviously they have no interest in getting it to a higher standard. It's difficult and I agree, we need waivers, but again it's within your power to make this decision.

Vice Chairman Sturniolo: Nanette, would you mind repeating the part about a temporary Certificate of Occupancy that you mentioned.

Nanette Bourne: What we discussed with them was to accommodate the property owner's interest in getting this building tenanted and making the upgrades and the improvements to this site, because it's pretty awful looking right now, is coming up with a long term plan either for their smaller parking area or their parking area with a larger grander plan and phase the improvements so that the most important improvements would be factored in. The board could decide what you want to do in two or three phases. When you'd want curbing, landscaping, drainage improvements.

Chairman Cosentino: They have just told you the same thing I told you a couple of weeks ago; that Geiner has no incentive to do anything there. By giving them a temporary, where does that take you?

Nanette Bourne: There are two paths for a temporary. One would be for them to have a relatively compliant as possible parking plan just for their small lot, and for their small lot, phase in the improvements; just to get some cash flowing with the tenant. Post a bond so that within a period of time additional improvements would have to be made.

Chairman Cosentino: So let's say we give them two years. Two years goes by and Geiner doesn't want to do anything. What are you going to do?

Nanette Bourne: That would be independent of Geiner.

Chairman Cosentino: So where are you going to make the improvements if they don't have the land?

Nanette Bourne: They will still need to do the curbing, and they would just curb their spaces.

Chairman Cosentino: But if they don't do the curbing they don't comply with what Anthony is saying. It's a Catch 22 situation here. I'm not putting this board in a

situation where they are going to promise something and then they can't deliver. Because we may still be here.

Nanette Bourne: Yes. They could curb.

Anthony Oliveri: If they configure it with curbing, entrance and maybe two ingress and egress points, they are going to lose a lot of the parking.

Vice Chairman Sturniolo: Putting everything aside, the building looks like the fire was yesterday. When is it going to be cosmetically cleaned up?

Perry Verrone: We can't do anything there. We don't own it. I told him your concerns from our last meeting.

Chairman Cosentino: We sent him a letter, and the answer was he hasn't settled with the insurance company, which is very hard to believe, but if he says it, I take it. Also, he didn't want to do anything until you signed the lease so he can do construction all at one time. That is not your problem. That's his problem. It's a Building Department now because we urged the Building Inspector to go forward possibly with a summons for not repairing his building. But again, that's not your problem. If the board has an answer to this, I'd like to help you out, but if you do for one you have to do for all. Lexington Avenue is all going commercial right now and I can't put this board in a situation where if we do we're going to do for everybody else.

Vice Chairman Sturniolo: I think you have too many obstacles. How many times did you enumerate waving these items? It seems to me that if you waive these items and it's within your discretion, then what is really left? Maybe this is not the place to operate this. Putting curbing in impacts parking and drainage. You are at a point that every way you solve a problem, you now see two other problems created by solving one. I think you have to come to a realization.

Ciprian Captan: We are. For us, this is our last approach that we can do. Financially we are exhausted. Obviously we are looking for something to get this to work. The underlying problem is that whoever is going to be there, the problem is still going to be there. Unless these guys want to sell the building and somebody is really going to pour a lot of money into it. My understanding is that Geiner already approved the existing owners trying to buy the property, but they have no incentive to sell it. This is their building and the money is brought in on a constant basis, month by month.

Chairman Cosentino: I believe he has to go before the ARB again?

Whitney Singleton: If they made alteration changes that need to be approved.

Chairman Cosentino: I hope you understand where we are. I wish we could help you. I just don't know what this board can possibly do, and I suggested it shouldn't go further where you have to spend money. If you can come back with an answer where you can get land from Geiner, make some kind of arrangement with him where you can take parking from him and maybe improve a little bit from him in a joint venture, it solves the problem. Also, if he improved the parking lot and then he had a lease or an agreement with Geiner to rent more spaces, would that work, possibly?

Whitney Singleton: Not necessarily. Geiner is totally satisfied with his own parking requirements.

Chairman Cosentino: Geiner has no incentive to do anything. He's in the driver's seat.

Doug Hertz: Looking at your parking lot, is there another way to configure it and get your spots in?

Ciprian Captan: We tried everything and we don't reach the 26 spots that we need. In presenting this diagram of how this training facility is going to work, as it is now there is a very small peak hour, between 9:30 and 10:30 where you have a true overlap. Obviously he is keeping all his trainers busy, but in reality clients come and go. In trying to improve on the dangerous part, which is the access to the site, instead of having three accesses, is it something that you would consider? If the number of parking spots is reduced.

Nanette Bourne: You still need to curb.

Ciprian Captan: So again the problem of the property remains. Thank you very much.

**Special Discussion:**

**Louis DiLisio**  
**486 Lexington Avenue**  
**PB2005-12**

Chairman Cosentino: There is no one here associated with DiLisio. We approved a barn on this property a year ago, and Code Enforcement went over there and took pictures which you have in your packet. I went over there the last three or four days and I could not find what is in these pictures. I saw no barrels, no wood. His contention is that he cleaned the area up, and he gets deliveries on barrels and as you can see, they don't fit in the barn now, and they come and pick the other barrels up. There was nothing, as he says, in the resolution saying he couldn't transfer the barrels. That's what it's all about. I did see which was not on the original site plan, a picture of some outside barrels there ready to be unpacked. It's up to this board to decide what should be done. Do you want to make a site visit as a board?

Doug Hertz: There are some structures here that were built.

Stanley Bernstein: There is some sort of a dumpster, container. Part of the resolution was for him to get rid of it, and it's still there. It looks like a dumpster, but it's got locked doors.

Whitney Singleton: Did you say that the applicant was not notified that they were on the agenda?

Chairman Cosentino: He didn't have to be here if he didn't want to.

Whitney Singleton: I certainly hope he was notified especially if the board was going to take any kind of action.

Chairman Cosentino: We won't take any action tonight. We'll write him a letter telling him we want to make an inspection. That's the way Austin does it.

Whitney Singleton: I don't know what you have in your package; I know I don't have a copy of the site plan in my package.

Vice Chairman Sturniolo: The site plan is listed as an item on the agenda and it wasn't supplied.

Whitney Singleton: I don't know how you can evaluate compliance of a site plan if you don't have a site plan.

Ralph Vigliotti: Let's put it back on the agenda, and Mr. DiLisio needs to be here for that meeting.

Whitney Singleton: I think you should have an analysis done by the Building Inspector in preparation of that meeting.

Chairman Cosentino: Let me continue a little further. Austin sent this to us to evaluate it, and the minutes, because he couldn't find anything in the minutes that said he couldn't have barrels and he didn't know what to do.

Whitney Singleton: That's why you shouldn't have to go to the minutes. If it is not on this approved site plan as a permitted use as identified on the plan, it is not permitted.

Chairman Cosentino: So what is your recommendation?

Whitney Singleton: That an analysis be done as to whether or not there is compliance with the site plan.

Chairman Cosentino: Fine.

Doug Hertz: Also, if we're going to have that review, I'd like to see if the landscaping has been installed as per the site plan.

Chairman Cosentino: Donna, I would like you to send this back to Austin for a site plan review and give us a report on it. I don't want this back before us until we have that.

Ralph Vigliotti: The question is did Austin look at the site plan rather than looking at the minutes?

Whitney Singleton: According to his memorandum there is a dispute as to what was contemplated and not contemplated, and fortunately you don't have to worry about what was contemplated.

Chairman Cosentino: I look at it as we are saying we want the area cleaned up. Barrels are included in cleaning up.

Whitney Singleton: I don't believe outdoor storage is permitted as part of the site plan.  
Vice Chairman Sturniolo: There is also the ancillary attachment, the improved pole barn building at the end.

Doug Hertz: And every other business, when they get a delivery, they deal with the delivery. They have people there who can accept the delivery and do with it what's appropriate.

Chairman Cosentino: Whitney, thank you for that information.

**Continuing Review:**

**Northern Westchester Hospital Center  
400 Main Street  
PB2003-02C**

**Present: Scott W. Blakely, R.L.A., Principal Landscape Architect, Insite Engineering  
Michael Caruso, Northern Westchester Hospital Center  
Steven Doherty, SLAM Collaborative  
Joel Seligman, Northern Westchester Hospital Center  
John Partenza, Northern Westchester Hospital Center  
Steven Barschoff, attorney for the applicant**

Nanette Bourne: This is a big group with a very small item, and the applicant has submitted an expanded environmental assessment form. At the last meeting I provided a very brief review of that to the board, and the board directed me to discuss my issues with the applicant that required a pretty substantial revision to the Environmental Assessment Form (EAF). They have provided, for your review now, an EAF that is in response to my initial issues, and it's now up to the board as Lead Agency to review the expanded EAF and make a determination with regards to SEQRA. As you all know, you did not get the EAF until Saturday, so the purpose of tonight was to receive any comments you have on this, if you have some. If not, the expectation would be that at your next meeting any comments that you would have on this could be related to the applicant and if it needed some further tweaking that could be done, and then to proceed with the mutually agreed upon schedule for moving this project forward.

Doug Hertz: I have one minor comment on the EAF. In Section 2-44; a, there is a statement that says "there is an excess parking supply for the hospital spaces... the 904 spaces. I don't think you have an excess of 904, I think it's 94. In general, this is excellent. It's very thorough, and I think it does address a lot of what we're looking for.

Whitney Singleton requested he receive a copy of the EAF.

Vice Chairman Sturniolo: If you could update us on where things stand with John Slaker and the berm and the approach with him and SLAM. What is the progress on that newly created relationship?

Michael Caruso: One of our consultants did have a conversation with John last week. I know that he has started to review it. I have a call into him whether or not he is to be engaged directly with Northern Westchester Hospital or as a consultant to the Planning Board; I don't know that you guys wanted to get some dialogue. The conversations have gone back and forth with him and he has started reviewing what has been submitted.

Vice Chairman Sturniolo: The fact whether he works for you or for the Village, is that question holding up his comments and/or involvement in the creative process of the berm?

Michael Caruso: Not as far as I'm concerned, but I believe he had the questions. He was going to reach out to someone on the board to get that clarification. But we did ask him to start reviewing so we can get the dialogue going.

Vice Chairman Sturniolo: Did he indicate that he would start the review process while the semantics are being worked out?

Michael Caruso: Yes, and I know he has because what he had commented on was very detailed; so he has started looking at it.

Vice Chairman Sturniolo: Thank you.

Ralph Vigliotti: Gentlemen, you have come a long way on the parking garage from where we were a year ago. Thank you. I think it's something that's going to fit, and I thank you. It's a long journey.

Joseph Morreale: I felt after reviewing this once again that you really did come to grips with many of the things we've talked about, and it's about time to move on.

Sol Gibbons: I had the opportunity of being in the Emergency Room on Labor Day, and being in the corridor is not very comfortable. I'm glad this has come this far. Your staff is absolutely wonderful. The doctors, nurses and the person that rolled me to the CT scan. They were all terrific people, and you should be proud of them.

Stanley Bernstein: That's two of us with the same experience.

Doug Hertz: Does it make sense to ask John Slaker to come to the next meeting so we can give him our feedback.

Michael Caruso: Yes, we will have conversation prior, and we will be here with him.

Vice Chairman Sturniolo: Calendar wise, Nanette, what shall we do next?

Nanette Bourne: If you are all comfortable that this addresses all the potentially significant adverse impact issues, then at your next meeting - and I am hesitant - you just got this on Saturday, and I am reluctant to recommend that you do a Negative Declaration tonight because you just haven't had the time. I also think that this needs to be submitted, belts and suspenders, to the Fire Department for their review. At the next meeting you can issue a Negative Declaration, schedule the public hearings that are needed for the special permit and for the natural resource disturbance permit. You can even schedule those public hearings tonight.

Steven Barschoff: That would be my suggestion, because what Whitney is saying is its 15 days notice. Given the two-week cycle of the meetings.  
*Discussion followed regarding dates and coordination of meeting/public hearing scheduling.*

Michael Caruso: As a side note about the Fire Department, one of the chiefs is one of our staff members who is actively involved, and we have just completed our oxygen tank project and the chief was on site. We actually walked him through the entire site, so we understand it's about what's happening in the back there for our current things that are going on. So we do try and keep the Fire Department up to speed.

Nanette Bourne: So getting him to write a letter is good.

Michael Caruso: Absolutely.

Vice Chairman Sturniolo: Is that the only other Village entity?

Nanette Bourne: No. The proposed zone change text amendment has been referred to you, so at the next meeting you could not only do your Negative Declaration, consider the text amendment because you need to make a recommendation back to the Village board.

Steven Doherty: We also have the Architectural Review Board.

Nanette Bourne: And that's independent; you just move on with that.

Vice Chairman Sturniolo: The next Planning Board meeting agenda, the hospital is back on for a declaration and for a recommendation to the Village Board pertaining to a

discussion for the text amendment change. Again, the text amendment change strictly deals with where two lots merge and two different zoning districts and there is no necessity to have a buffer between the two as they meet.

Doug Hertz: The one area that I don't understand yet from all the drawings is night lighting with regards to the height of the parking structure and what some of the night view issues are going to be. I don't know if I just have missed these items on the various site plans, but maybe no one on your team has walked us through yet. One of the issues for me is how we're going to light the parking lot; how visible the structure is going to be at night, and what the issues are going to be with that. I don't want to hold this up, but is there a way to have this hearing but also get that information? Certainly that is an environmental issue.

Steven Barschoff: I know we can address the issue at the next meeting, and I know that the hearing will be one meeting for sure after that.

Doug Hertz: Whatever you can do. I don't know what you have in terms of simulations or drawings.

Steven Doherty: I believe we can just within the time frame to get the images together and get them submitted to you.

Vice Chairman Sturniolo: One of the things that could work to your benefit, is instead of so many poles in the traditional manner, approach it more of a type of lighting that you see at a major airport, specifically Kennedy Airport. Picture going down to the airport and above you is a bridge and there is an actual plane that is taxi-ing over you as a bridge, and on that bridge, the way its illuminated is a lot of light fixtures are built into the sides of the wall and the sides of the parking lot. The same lighting approach that you see with these small strip lights in movie theaters for safety. That kind of lower lighting, over and above low bollards, that you can build into the parking lot and illuminate the parking lights here, and flood it this way at a level of two or three feet high, maybe doing that can eliminate some of the poles that are necessary.

Ralph Vigliotti: Are we required by law to illuminate the top deck if it's not in use? The parking garage structure is going to be filled to capacity during the day, but at night the first two levels may be the only levels being used. If there was a gate system that would shut down that upper level then would there be a need to fully illuminate the upper level?

Steven Barschoff: The only issue would be a safety issue, but that doesn't necessarily mean full illumination.

Joseph Morreale: By the way Tony your description was accurate and interesting. I agree with you on that, low level lighting. You don't have the poles and create a problem with the neighborhood. I'd like to get something clear. We're already on September 23<sup>rd</sup>. Tell me what we said about scheduling.

Nanette Bourne: You can consider issuing a Negative Declaration on the Environmental Assessment Form, you could have the public hearing on the Natural Resource Disturbance Permit and the special permit and you could consider the re-zoning text amendment.

Vice Chairman Sturniolo: All on the 14<sup>th</sup>?

Nanette Bourne: If you wanted to.

Joseph Morreale: Would we then be ready to vote on a resolution or are we still going to go to the 28<sup>th</sup>?

Nanette Bourne: The real critical time constraint is the Negative Declaration that allows the applicant to submit their storm water pollution prevention plan to DEP so they can begin their review. And DEP has a 45-day review period for completeness.

Vice Chairman Sturniolo: And the other part of it is on the 14<sup>th</sup>, making the assumption that we would open and close the public hearing that night then we still have the written comment period to keep written comments available, and then we still deal with your 45 days, if you need that.

Scott Blakely: Our office has been working very closely with the DEP on resubmissions of the storm water pollution prevention plan. They just can't take it any further.

Vice Chairman Sturniolo: Correct, until the neg dec is declared.

Nanette Bourne: The one thing we left out is that you need to finish your site plan review and approval. There are a lot of details in this that need to be flushed out. That is probably a full meeting, and it's going to be dependent on the SEQRA and the special permit just to make sure that all of the aspects of this are very clear to the Planning Board sequencing, schedule, landscape plan, lighting plan.

Vice Chairman Sturniolo: What did we miss that you want to bring forward?

Steven Barschoff: I think if we were able to set the public hearing date tonight that would be excellent. Then the next meeting it will be important for us to address many of these concerns as possible. Hopefully the landscape architect will be able to come in and have that dialogue next time. Then I think you'll have a good sense between that and the public hearing as to how many more meetings you feel we will need with you in order to finalize all of the matters and details.

Whitney Singleton: How do you foresee us going forward? The Planning Board can't approve something that's not consistent with the zoning. The Planning Board has to issue its findings before the Village Board can with regard to the rezoning.

Steven Barschoff: I don't think they quite have to issue findings. I think all that the Planning Board has to do is make a recommendation as far as zoning is concerned, obviously it could be pro or con, but whatever that recommendation is, it would then enable the Village Board to act on the zoning.

Whitney Singleton: Prior to the Lead Agency?

Steven Barschoff: No. The NegDec would certainly have to happen first, but I thought you were talking about the matters relating to the site plan and the special permit. The sequence as I would see it is NegDec first then the report to the Village Board regarding the rezoning, the Village Board will have to schedule it's own public hearing and the actual timing of the Planning Board formally adopting a resolution of approval ideally should follow the re-zoning. You could do it as a condition.

Vice Chairman Sturniolo: If I'm hearing both of you correctly, the zoning can be considered by us as a condition?

Whitney Singleton: Presuming there is a Negative Declaration.

Nanette Bourne: The question is can the Planning Board give site plan approval with the rezoning being conditioned? That's another issue.

Steven Barschoff: And to be honest, my own sense is I would prefer to see the zoning in place because it's cleaner. I have seen it done the other way, but truthfully that's the cleaner way to do this.

Whitney Singleton: I don't think that should be too much of an issue.

Steven Barschoff: Since we're on that topic, if you do want to make a recommendation to the Village Board in favor of the proposed rezoning, it was really clear that if this is perceived by the Village Board as an initiative of the hospital as opposed to the hospital doing what we needed to do in order to make legal the design that the Planning Board encouraged us to develop, the latter is what I think we would need to have communicated to the Village Board. I was frankly told by one Village Board member that we were engaged in an act of deception.

Joseph Morreale: If you don't get the final approvals until early December, what is that going to do in terms of a construction project? What are you then going to do, break ground in December?

Michael Caruso: Based on final approvals, we didn't put the project out to bid yet. We need to get the project out to bid. We want to say we have a complete project before we release it out onto the street. If we could start in February, we would be able to do site work.

Joseph Morreale: You told us last time it would take something like 18 months.

Michael Caruso: 18 to 24.

Vice Chairman Sturniolo: Again, those three phase dates still hold up.

Michael Caruso: We spelled that out in detail with our revised submission.

**Correspondence:**

Notice from New York MTC Workshop

CPC - Hudson Valley Main Street Summit

Letter from Timothy Idoni to the Mount Kisco Planning Board dated September 4, 2008  
re Final Subdivision Plat 133 West Main Street.

As there was no further business, on a motion by Mr. Vigliotti seconded by Mr. Hertz the meeting was adjourned at 10:35 P.M.

Respectfully submitted,

Stanley Bernstein  
Board Secretary

dm