

Minutes
Regular/ Work Session of the Planning Board
Village/Town of Mount Kisco
Tuesday, December 8, 2009

The meeting was called to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York by Chairman Cosentino.

Members Present: **Chairman Joseph Cosentino**
 Vice Chairman Sturniolo
 Ralph Vigliotti
 Doug Hertz

Members Absent: **Sol Gibbons**
 Stanley Bernstein
 Joseph Morreale

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

There were no minutes to be approved and no conceptual or formal applications to be discussed.

Continuing Review:

Steve Finkelstein
156 North Bedford Road
PB2009-15

Present: **Steven Finkelstein, Property Owner**
 Barry Goewey, Architect

Barry Goewey: After our last meeting, you had a few revisions to make. You went for a site visit, and I apologize I could not be there that day. Steven went over your wishes and we have made the following changes on the site plan. We re-stripped the parking area into the standard 9.5 by 18.5. This amounted to one car loss in this area. We were able to gain additional spacing in the front of the building, but the parking has been re-laid out at the new incorporated size. We have also incorporated two handicapped spaces in the front. We are also planning to resurface the top of the parking lot and re-stripe. The next major item was to make one curb cut coming in. We've made the one curb cut. It is larger than one would normally have, but we need that for a safe passage of the tractor-trailers that get into the back storage room of the building and for the tenants. As you know, this is bulk retail. I had to push the parking closer to the building. At one point, the first submission I had it at eight feet away. I had to bring it in at five to capture some more so I could get better clearance from the front and to maneuver the parking in the front. I then took the landscaping that was in the front and put it in the right of way. According to the New York State right-of-way, they will accept planting in the right-of-way but it can be no higher than two to three feet. We took what we had of the landscaping there plus additional amounts because it's a long distance. We landscaped it within the right-of-way. I revised the landscaping and was able to put in two pear trees in the front and on the side and used the same combination of hydrangeas, pink spireas and three different species of ringlets to add color, which will give

us a variety of color during the seasons within this landscape area. We are also working on the photo metrics but the representative from the lighting company is on vacation, but we hope to have that soon. We anticipate no problems with the photo metrics because we have 100 watt lighting at the face. That is going to be quite a bit less from what was there, which was mercury vapor, 150 watt lighting in the front. Our fixture is more of a residential fixture. It fits the commercial scale but is basically a 100-watt fixture. We have a series of them along the front on the column detail. They are flanking the entranceway, the corner, two middle spots and the tenant on the end and side.

Chairman Cosentino: Since we're taking six feet on the right side of the building, I asked for a survey.

Barry Goewey: Yes we do. Do you need it for the submission?

Chairman Cosentino: Yes. If you're going to take the six feet, you have to make sure it's your property, so I am going to need an updated survey.

Barry Goewey: We have a survey from the eighties.

Chairman Cosentino: Is that sufficient, counselor?

Whitney Singleton: Yes.

Chairman Cosentino: From the finished line right now, they are taking six more feet, filling it in and putting in a uniblock wall. Since you're taking the six feet, we need a survey showing that you own the six feet that you're going to take.

Barry Goewey: It's a railroad tie wall there now.

Chairman Cosentino: Right now, you have a railroad tie wall. You're going over it, and you're making another wall. Now you're taking more land.

Barry Goewey: I don't believe it does, but I'll confirm that.

Chairman Cosentino: We talked about a uni-block since we're taking that railroad tie wall down to make your six feet. In order to take the six feet you are going to be taking part of the blacktop driveway. That's what you had said.

Steven Finkelstein: With your scale and your drawings, are you envisioning taking part of my neighbors blacktop driveway and expanding?

Barry Goewey: You're probably right. We probably will.

Chairman Cosentino: In order to put more shrubs and plantings there, we were going over approximately three feet.

Steven Finkelstein: If we can accomplish the same job without using our property on the other side, is that okay?

Chairman Cosentino: I don't care one way or another as long as you can put the plantings there.

Doug Hertz: I'd rather you make more green space.

Steven Finkelstein: I need to clarify.

Doug Hertz: Your building is a little off the property line.

Steven Finkelstein: I know that, and you have about three or four feet till the railroad ties. Four of the six is already taken up.

Chairman Cosentino: Whatever you want to take has to show on the survey.

Barry Goewey: I'm showing it right there. I can put a detail with the property line just as I did here.

Anthony Oliveri: In any case, we need the existing condition survey.

Barry Goewey: Also, the Board wanted a fence on the north property line near Dunkin Donuts. I did that fence all the way along the property line to the retaining wall in the back, but I realized that the sloping in this back area is steep and comes down towards this property. We really would like to make that just to come up to about where this break is. The fence would not be doing anything at that point. We'd like to cut that down.

Steven Finkelstein: I want to leave the evergreens there all year round. No one can walk through there.

Barry Goewey: It is a four-foot black vinyl Anchor fence.

Chairman Cosentino: We did not talk about a black chain link fence. That would look awful. We talked about a low cut, but not chain link.

Barry Goewey: Black vinyl works well because it disappears from view. It's less of an impact than galvanized wire. There will be no room for shrubs with 18 inches.

Steven Finkelstein: When we met and talked we all envisioned a nice, low picket fence of some sort with shrubs. The reality is that I don't have that much property, and if the Board wants a boxed, closed in separate block if you will, then a non-see-through picket fence with shrubs is what to do.

Chairman Cosentino: I don't like to see a black chain link fence. Can you put vines on to grow into the fence?

Steven Finkelstein: Yes.

Nanette Bourne: Luna's Restaurant has a black vinyl chain link fence to separate the upper and lower parking lot, and it becomes invisible.

Barry Goewey: It is a grass strip between two curbs with no pavers.

Whitney Singleton: I see where you say existing storage and one-story building, but I do not see what the allocation is as to the space. You have Tenant A, B and C, and it is not clear which space is which.

Barry Goewey: Tenant A is the existing furniture store, B is the new tenant, Sherman Williams, and Tenant C is Mr. Finkelstein's existing storage.

Whitney Singleton: You need to show it on the plans.

Barry Goewey: Yes.

Nanette Bourne: I think you counted the turnaround as a parking space.

Anthony Oliveri: I don't believe you have the aisle in the last two front spaces on there, either.

Steven Finkelstein: We met with the Building Inspector and did it with him last week.

Anthony Oliveri: You have 20 feet for these last two spaces, and these handicapped spaces need to be 9.5 wide, per village code.

Nanette Bourne: When you make those changes, you are probably down to 24 spaces.

Anthony Oliveri: You have to check with Austin, as the van aisle has to be eight feet. I don't know if he requires a van aisle. A regular car aisle is five feet, but you might need one eight-foot aisle between the handicapped parking. Mount Kisco village code is more stringent.

Steven Finkelstein: In that case, we'd be one car light.

Nanette Bourne: I don't know how the Board is looking at this. This is a difficult space. It is improved because of all the landscaping that is going to be proposed, but without that landscaping in the right-of-way; it is not the kind of space that you would permit.

Barry Goewey: I started with this 9.5 here and then went up.

Nanette Bourne: And how do you back out?

Barry Goewey: Like this (pointing). You back out here, turn and then come out.

Nanette Bourne: It is an odd angle.

Ralph Vigliotti: It has to be 9.5 all the way.

Barry Goewey: It's actually 9.5 and larger.

Nanette Bourne: The end result is a little bit of an awkward space. It could work because there is this landscaping here, it will not be the first space that somebody uses. But, it is an awkward space there.

Steven Finkelstein: I would like it to work. Understand that every spot we lose I lose revenue, because this line is a wall. That wall was not there. The tenant currently had the whole place for furniture, and this is how the numbers work. For every space I lose, this is dead storage and this is bulk retail. I cannot rent the space if this line is moved all the way up here. Why do you have to turn to the left when you come out of a parking space?

Nanette Bourne: It's an odd angle. It may technically comply but it is not the kind of space that you would typically have.

Chairman Cosentino: Does it comply?

Nanette Bourne: I cannot measure that by eyeballing it.

Anthony Oliveri: Technically it probably doesn't. If you take a perpendicular measurement off the end of the spot, you're going to hit the curb line.

Steven Finkelstein: Then I'll take some of the landscaping away.

Chairman Cosentino: I don't think this space is any big deal. Let's just live with it.

Doug Hertz: We typically require designated snow storage.

Steven Finkelstein: That is in the back corner.

Whitney Singleton: Please put that on the plan.

Ralph Vigliotti: If it's legal it's legal, if it's not legal then we have to deal with it.

Barry Goewey: It is legal. When I did this, it is nine and one-half feet.

Chairman Cosentino: The parking space is compliant. It's difficult to back out.

Ralph Vigliotti: The bottom line is that we have to follow the rules.

Anthony Oliveri: The bigger issue is here where you don't have the aisle width.

Barry Goewey: I have 42 and change to here. These get a little bit more diminished, but that is why I did the hammerhead. I didn't think that was going to kill it. I thought you would still be able to park in those two spots.

Steven Finkelstein: We showed this to Austin and we measured everything.

Barry Goewey: It was given room so a car can negotiate and get out. Here, you have this line and you have to go out this way. Granted it is a little bit more constricting coming out of this, but it still meets the 9.5 x 18.5 size. This allows you to turn and then make the turn out of here by elongating this. I could even make it longer, but I didn't want to take away from the landscaping.

Vice Chairman Sturniolo: That is also predicated on the assumption that everybody who would use that space would park in headfirst.

Barry Goewey: Yes.

Vice Chairman Sturniolo: Otherwise, it would become extremely difficult.

Barry Goewey: Everyone comes in and parks head on.

Chairman Cosentino: If you have a Sherwin Williams and an appliance store, you are not going to fill those parking spaces up at all.

Steven Finkelstein: This building has never had a lot of cars in the parking lot - maybe when it was a full auto parts store back in the eighties. This back building is dead storage, unmanned, and these are extremely low intensity uses.

Ralph Vigliotti: That's for now. Ten years down the road, we have to live with this site. We are not going to get to this site plan again for 20 years.

Barry Goewey: But according to your new law, every time you change use, you are going to see it.

Ralph Vigliotti: According to the law, you don't have the aisle space. If we are going to go by law, we have to go by law. Whether it's Sherwin Williams or any other company, the site plan has to meet the guidelines established by the village, and there is a reason for those guidelines. You cannot put an SUV into this parking space, pull out into that eight-foot turn around and think you are getting out. You will be able to do that with the second space, but not that space.

Doug Hertz: You have to re-design this anyway to make the handicapped compliant. Rather than beat ourselves all up, you have to shift this anyway.

Steven Finkelstein: Why do we have to have two handicapped spots anyway?

Barry Goewey: I probably could have one, if the code says.

Anthony Oliveri: Did you say you met with Austin?

Barry Goewey: Yes.

Anthony Oliveri: I don't think we've ever had a report from Austin on this. Now that you have the zoning data here and the parking counts, we need to get a report from Austin. He has to look at this and do a formal review.

Steven Finkelstein: We showed him what we were doing with taking the plantings away from the front and putting them down low to get that 42 and a half. He pulled out his measuring stick and came up with same thing.

Whitney Singleton: The number of handicapped spaces generally functions with the percentage of the overall site.

Nanette Bourne: It reads "Shopping centers and facilities with five retail stores and at least 20 parking spaces shall provide a minimum of ten spaces or five percent of the total number of parking spaces, whichever is less for use only by the handicapped."

Steven Finkelstein: I do not have five stores. I do not think that applies.

Whitney Singleton: It still does not preclude the application of handicapped parking spaces.

Doug Hertz: Someone has to determine how many handicapped spaces he needs, and then we have to make this compliant up front. Whether this works or not, I think you have to shift it anyway to make the handicapped spots the correct width. Rather than arguing about it ad nauseam tonight, wait until the handicapped spots are the correct width.

Barry Goewey: That rule on the 42 is for two-way traffic. This is really one-way in here.

Doug Hertz: But you also have to be able to back out with hitting anything.

Barry Goewey: That is why the curbs are there.

Doug Hertz: My eyeball says this does not go far back enough to work. If you want to do something that is going to be less than the width, I think it is going to be incumbent of you to show that turning radius and that you can make this turn.

Anthony Oliveri: The zoning code calls for a 24-foot aisle width.

Chairman Cosentino: What is your aisle width now?

Barry Goewey: From this point on, there are 24, and then it starts diminishing. By the time it gets to this point, it is maybe 40.

Steven Finkelstein: If I did not put the landscaping in, we were using that right-of-way, and using the sidewalk the way it is, would I have space?

Barry Goewey: Yes.

Ralph Vigliotti: This area needs to be a little more detailed showing the footage and the length of the space and the aisle space. We are guesstimating here.

Barry Goewey: We have 42 feet for this last one, so this space has 41, and this one has 39. We need 42.

Steven Finkelstein: Could we taper in the landscaping to accommodate?

Barry Goewey: We could come in to the right-of-way and make the 42 all the way.

Anthony Oliveri: I do not believe you could do that.

Chairman Cosentino: If you make it to 42.5, then we lose landscaping.

Ralph Vigliotti: I do not think we want to lose landscaping. I think we want you to meet and comply with the code. When we had Dunkin Donuts in front of us, they gave up the entire front of their property because they were short aisle space. We are not asking you do that. You may have to sacrifice one space to make it happen. By the time you move over and comply with the handicapped parking, you may lose half of that last space anyway.

Steven Finkelstein: That is a very good point.

Ralph Vigliotti: You need to magnify that section.

Vice Chairman Sturniolo: Make it proportion to this angle.

At this point, Ms. Bourne gave Mr. Goewey and Mr. Finkelstein the Town guidelines for the handicapped spaces, and a general measurement discussion was held regarding spacing for handicapped parking spaces. The Board informed both Mr. Goewey and Mr. Finkelstein of the difference between Village guidelines for handicapped parking and standard State guidelines.

Steven Finkelstein: What are the measurements of this striped area on the side that people step onto?

Nanette Bourne: It is supposed to be the same as the width of the space.

Anthony Oliveri: The width is five feet for a car, eight feet for a van.

Nanette Bourne: The ADA states all handicapped parking spaces must be a minimum of eight feet wide, however Mount Kisco requires that the space be a minimum of nine to 9.6, excluding handicapped access aisle requirements. The width of a typical van is 80 inches with the doors closed, increased by two feet with the doors open.

Anthony Oliveri: You need to make determination if you need an aisle space for a van.

Barry Goewey: If I keep this at eight and eight and a five-foot aisle, and you are saying, no, you have to make it nine and one-half, so I would take a foot and a half and a foot and a half and I would have a two-foot aisle.

Nanette Bourne: No, you cannot. The width that someone has to open up the door is what governs it.

Vice Chairman Sturniolo: That gives you 104 inches, which translates to a little less than nine feet.

Nanette Bourne: Admittedly, Mount Kisco's handicapped parking spaces are larger than the state's standards. It has been that way for a long time.

Doug Hertz: Haven't we been using nine and one-half feet for the stall and five feet for the striping on every application we have seen?

Anthony Oliveri: Yes.

Steven Finkelstein: How do we find out what is required?

Nanette Bourne: Why don't we reconvene tomorrow and look at what has been recently approved?

Steven Finkelstein: Is it possible that it's more than five feet?

Vice Chairman Sturniolo: We went thorough this with Target.

Nanette Bourne: Right.

Chairman Cosentino: This is very scary for us to decide what they need now, out of all of these site plans that we have been approving. We are going through this now and no one seems to know the answers.

Anthony Oliveri: Its nine and one-half feet and five feet on the aisle. That's what we've been doing.

Whitney Singleton: We don't have a report from Austin. If Austin says this is acceptable, it's acceptable. We need a report from Austin.

Chairman Cosentino: We will check with Austin tomorrow.

Doug Hertz: Going over the things we agree on, you are going to put an indication on the striping on this front space to show nine and one-half feet parallel to the front property line, indicate a dedicated snow storage space, when your lighting plan comes in you are going to show us your photometric plan, identify the A, B, and C, and provide a survey.

Nanette Bourne: They need to submit a permit from DOT and DOT will look for the approval from the Planning Board, and a condition of your approval will be getting this permit, and the permit follows.

Chairman Cosentino: Providing they get this all done we can put this on the January agenda for a resolution of approval.

Whitney Singleton: You have building plan for 22 feet, but you have more than one building.

Barry Goewey: I used the average grade around the whole building, measured it to the highest point, and got 22 feet.

Whitney Singleton: You have to designate "storage area" on the plan.

Chairman Cosentino: Providing you get everything done, we will put it on the agenda for January.

Steven Finkelstein: How do I find out for certain how many handicapped spots I need?

Nanette Bourne: We will review all these items with Austin, including that.

Vice Chairman Sturniolo: On the subject of the application prior to it, may I suggest that we create a paper trail that the Planning Board writes a memo to Austin summarizing our general concerns and giving him a "heads up" that the applicant or 156 North Bedford Road is going to be coming to him shortly to double check X, Y and Z, and the same applies to the Getty Station so that nothing falls through the cracks. Its fine that the applicant goes to Austin, but I think to protect ourselves we need to get it on the record that this is what we're looking for and the applicant will be coming to you for specific items.

Chairman Cosentino: Good.

Vice Chairman Sturniolo: Who will generate this memo to Austin?

Chairman Cosentino: I will work with Whitney and do it.

Ralph Vigliotti: We have to have consistency with the Building Department. Some applications come before us and Austin has a three-page memo, and some come before us and we have nothing. We have to have consistency. We were a little embarrassed tonight that we did not have anything from him regarding his recommendations on the site. We had nothing to work with.

Nanette Bourne: The issue of the handicapped parking, I think we need consistency in handicapped parking. Several people, including myself, think what had been applied is in excess of what other communities require for handicapped parking, and if that is what the village wants, then it should be enforced.

Chairman Cosentino: I do not know who put it in there.

Nanette Bourne: The decision was made by Mike Stein in 2005 that this is what the village wanted.

Chairman Cosentino: I do not think the village wanted this. I think he wanted it, or his father.

Nanette Bourne: And we have been living with it ever since.

Anthony Oliveri: Probably.

Chairman Cosentino: I do not know whether we should be or not, but we should talk about it.

Anthony Oliveri: We looked at it again about a year ago via a few emails from Austin. We could look at some alternatives.

Nanette Bourne: We were trying to comply with the State guidelines.

Special Discussion:

**New York State Law §27-1007.1.(b)
Maintain Reverse Vending Machines to Collect Recyclables**

Chairman Cosentino: You should have all received a copy of this new law that is going into effect with recyclables. I think if you read it, over 40,000 square feet you will need receptacles and over 80,000 square feet you will need four.

Nanette Bourne: A & P and Target will need eight. This is a good, important law. You don't want them outside; you want them incorporated on the inside. I would recommend that if someone tries to put them outside it is a modification of their approved site plan.

Chairman Cosentino: Should there be local legislation on this? State law says it could be either inside or outside.

Nanette Bourne: That is the State-enabling legislation.

Whitney Singleton: You have to make a determination as to whether or not this type of equipment constitutes a site plan element.

Chairman Cosentino: If it's inside the store, no, if it's outside the store, yes. It should be a Planning Board issue.

Whitney Singleton: That should be conveyed to the Building Inspector, and to the Building Department in written, uniform notification that that is the position of your board.

Chairman Cosentino: You would want to take the position like that of a walk-in box that could be put outside for a restaurant. The boxes were installed but never came before the Planning Board. We need to let them know that we don't want them outside.

Whitney Singleton: I think we should do that in a written memo.

Nanette Bourne: I provided this information to Austin and Austin wrote a memo that clarified this understanding and his concern that it needs to be inside.

Chairman Cosentino: We will work on that with Austin.

As there was no further business to come before the Board, on a motion by Mr. Hertz seconded by Mr. Vigliotti, the meeting was adjourned at 8:50 P.M.

Respectfully submitted,

Stanley Bernstein
Recording Secretary

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