

Minutes
Meeting of the Planning Board
Regular/Work Session
Village/Town of Mount Kisco
Tuesday, August 25, 2009

Meeting called to order at 7:40 P.M. at the Municipal Building Mount Kisco, New York.

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

Members Absent: Sol Gibbons

Staff Present: Nanette Bourne
Whitney Singleton
Anthony Oliveri

MINUTES:

June 23, 2009

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

July 14, 2009

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

Public Hearing

**Mount Kisco Athletic Club
333 North Bedford Road
PB2009-05A**

Present:

**James Diamond, Diamond Properties, LLC, Property Owner
Michael L. Gallin, AIA, Principal, Gallin Design Studio, Architect
Richard Guzman, Manager, Mount Kisco Athletic Club
John T. Collins, John Collins Engineers, P.C.,**

David Stolman, of counsel for the Planning Board
Lester D. Steinman, of counsel for the Planning Board

From the Public:

Susan Diener, Brookside Development

Michael Gallin: The application that is currently in front of the board involves filling out some existing space at 333 North Bedford Road. The facility at North Bedford Road was originally built as a warehouse building. Over the last several years, the site has been improved and upgraded to become a mixed-use facility. The majority is still a warehouse facility, but there is a series of other uses there including a private membership club for Grand Prix New York, a self-storage facility and some warehouse facilities. Immediate application is to build out the 29,380 square feet as the Mount Kisco Athletic Club. They will be relocating from their existing facility to this new location. In addition, there is a 6,581 square foot existing building as well that was originally used as a truck maintenance garage and storage facility. The proposal was to convert that building to a physical training studio, a/k/a dance studio, Pilate's studio, etc. As part of the application, we have updated the site plan to show those uses. We have also submitted a full floor plan for the proposed athletic club showing the specific layouts of each of the functions. It is really a conventional athletic club with cardiovascular work out areas, free weights areas, spinning, etc. There are also locker rooms, a small multi-purpose room in this area for aerobics, a small child-minding area and then a reception area. As part of the analysis on this use, the board had asked us to look at the projected occupancies at different hours and try to anticipate how those occupancies are going to impact the community. We have done a detailed analysis showing plans, and how many people would be in each area of the facility. These were projected out to an hourly basis and show the impact in terms of cars in the parking lot and also trips generated. Finally, based on that data, we created a series of diagrams showing how the cars would be accommodating within the existing parking facilities, looking at the multi-use building and peak occupancy hours for different uses and demonstrating that at any given time there will always be ample parking. The final piece of this analysis was an analysis of the trip generation. We have done a detailed report demonstrating the impact of the potential new trips on the community.

Chairman Cosentino: You used the word "build out." I think the public should understand you are not adding to the building.

Michael Gallin: Correct.

Chairman Cosentino: I have been going to Bedford Hills twice a day. The traffic from Ice House Road is backed up to the BP gas station. I do not think that traffic light is working properly. If the traffic is going to back up from Ice House Road to the gas station now, what will it be later on? There needs to be an answer to this question, because traffic cannot back up the way it is now.

John Collins: You are correct, Mr. Chairman. I observed the same thing from a different fashion, coming north at Preston Way. We have had that discussion with the New York State DOT after the last board meeting. When we put the signal on Ice House Road in, it was a state of the art traffic control system that was required by New York State. In addition,

we were required to give the state the coordinating equipment to make sure we coordinate traffic along 117. In the States design of a new control, which we get from the state, were incompatible with the existing 179 control for north and south. The state put on to their slot a replacement of the controller at Preston Way, the Burger King driveway and to the north. I recently asked the State to look at it, telling them that we have to put those new controls in as soon as possible, because you already have the equipment. Before tonight's meeting I contacted the regional engineer, he is out on vacation this week. Next time I will have definite information i.e., a timetable for the State to put those controls in.

Chairman Cosentino: A few weeks ago, there was an accident, and the box was hit, the light was blinking and it worked better.

John Collins: I agree. They are not connected with the system. If the synchronization goes out, the system is operating independently.

Chairman Cosentino: For this application, we need to get that completed and fixed.

John Collins: I will do my best.

Joseph Morreale: I have been very concerned about this from day one. We have not been given a lot of assurance about this. I ran a test run tonight at 5:20. It took me five minutes to go from Preston Way to the Dollar Store and I was stuck three times.

John Collins: If the system is out of phase, I get the green light to go north or south to Preston Way on 117, but then I have a red light at Burger King. So both northbound and southbound traffic is stopped at the Burger King driveway. When that turns green, if you are heading northbound you go but you are already stopped and now the light is red back at Preston Way. If you are heading southbound, you get the green light to get through Burger King, but then you're stopped at Preston Way. They are out of sync.

Joseph Morreale: They are up further also, because I'm seeing the same thing at Staples, the entrance to the shopping center. They are all out of sync.

John Collins: The three down at the south should work because of the distances involved. They are very short.

Chairman Cosentino: I think Jim wants to get this to work properly.

Stanley Bernstein: I think more than the lights it is volume, which has increased tremendously, not only during the rush hour. Anytime of the day before 7 P.M. and after 8, are you are going to get stuck from the Indian all the way to the last light. Going south, it's the same thing. There is a problem with the curb cuts, but there is more of a problem with the lights. It's a horror show. I appreciate all the engineering that went into it, and I have a great deal of respect for your knowledge and expertise, but something is not working. There is something wrong with the volume. I would like to see Mr. Diamond continue with his project, because it's an excellent project.

Chairman Cosentino: If the lights were working properly, those dog tails would take over, because you're going to be in the left lane to make a left. Also, in the right lane to make a right.

John Collins: We set a cap on this project, and we are still below that cap. We will probably do a mix in there to make sure we are below that peak hour line. I understand the problem coordinating the light, but also at that time, I can't control the flow of traffic other than my project in the corridor.

Chairman Cosentino: The traffic comes from other places as well. I say this only because of what I viewed on Kisco Avenue. Kisco Avenue is really a bottleneck. It is too small. I think by moving to 333, the parking is better, the ingress/egress is better, but you take an area that is bottlenecked with cars now, and you eliminate that so Kisco Avenue can really move traffic.

Jim Diamond: One of the interesting things that came out of John's report is that in the last couple of years, traffic volumes have actually declined at North Bedford Road and in fact, 2009 was below 2008, which was below 2005. In his report, John took the 2009 numbers, the recent counts that we just did, and he added ten percent to those numbers to account for the fact that perhaps the recession is the difference between the decline from '08 to '09. I do think the synchronization is a big part of the problem.

Chairman Cosentino: This board needs to see that the traffic flow is running. The correct signalization should be part of this application. If something cannot be done and the traffic is backing up, the village will be very, very concerned. As a Planning Board, we have an obligation to the village, and as chairman, I will follow it through.

John Collins: I can get a commitment from the DOT and a timetable as to when they are going to replace it.

Chairman Cosentino: That is what we're looking for, and understand where we're coming from.

John Collins: We will push to get it in.

Ralph Vigliotti: We had conversation with regard to signalization at the north entrance. Please share.

John Collins: They were reluctant to do it, but they have not given a 100 percent "no." As a side, we are looking at a different analysis.

Ralph Vigliotti: As you fill the capacity of this site, the north entrance is vital and the traffic light is vital.

John Collins: The only problem is, the minute I offset, I have to take some green time away from 117, which is precious. I have to give a clearance interval between the offset roadways. If it were a question of a corridor working or the driveway working better, I would rather go with the corridor being better than the driveway.

Chairman Cosentino: I was very concerned with coming out of the Brookside Development.

Susan Diener: I think its better. Even if I have to wait, at least it's safer.

Jim Diamond: In terms of exiting from Ice House Road, we are at 80% occupancy right now. The vast majority of the site is filled, and we're not having a queuing problem at all at Ice House Road. 90 to 95% of the time, I am able to exit on the very first green light, and there is usually no more than one to three cars on the road. Occasionally there will be five cars and maybe I'll miss the green.

Vice Chairman Sturniolo: John, when you finally get some feedback from the engineering DOT, please compose a letter to us summarizing what he said.

Chairman Cosentino: Does DOT actually go and look at the situation there?

John Collins: Because of the way things are right now, the replacements of those lights were already on the program, but they were three years out. We have to bring it forward again.

Joseph Morreale: Having done all this, what is the percent increase you anticipate with the build out?

John Collins: If I build out the site now with Mount Kisco Athletic Club, I'm well within the program I had before, for 300 cars.

Joseph Morreale: But we don't know how much time it takes to travel 117. That's an interesting slippage in that whole analogy.

John Collins: I would gather that if I put the two lights on 117, you go the distance between the two signals a little under two minutes. The issue is what is the coordination needed to make sure that it works, and what is additional the traffic generated by the project? What we are talking about now is not the additional loading this project onto 117, its how do you handle the traffic that is already on 117.

Joseph Morreale: The next question then becomes how much more load is there?

John Collins: One of the reasons we have the light here is because if in fact we can only process five or six cars per cycle letting people out, people are just going to have to wait. But the queuing is going to be on the driveway, not on 117.

Joseph Morreale: You won't change the light?

John Collins: No. The state won't let us. We have no control over the light.

Joseph Morreale: The timing of it?

John Collins: The state sets the timing.

Vice Chairman Sturniolo: If I understand your answer to Dr. Morreale, as things progress the worst case scenario is that more cars stack up on Ice House Road and no impact on 117, predicated on Mount Kisco Athletic Club and/or any other tenant.

John Collins: Yes, because you're only allowing a certain number of cars to leave 333 in a given cycle. It's not a problem with the site; it's a problem with the corridor.

Lester Steinman: We need to continue the public hearing, but we also should address the Safe Haven, which is in the site plan amendment and the training studios. With this meeting, the only applications that were noted for the public hearing was the athletic club special permit. I would suggest when you pick a continuation date for this public hearing you also set public hearing dates for the other two elements.

Joseph Morreale: When are you aiming for the move for the athletic club?

Jim Diamond: Approximately six months from now.

Chairman Cosentino: We will put you on for September 22, 2009, where we will continue the public hearing.

Continuing Review

**Grand Prix New York
333 North Bedford Road
PB2005-21A**

Present:

**Jim Diamond, Property Owner
Jose Tjedor, General Manager, Grand Prix New York**

David Stolman: We had worked on an amended and superceding resolution awhile back. As I recall, you were presenting a colorful booklet with some changes you were making. The discussion of the Planning Board was to put together in a resolution in a draft, and that's where we are.

Jim Diamond: I made comments to your proposed resolution and made copies of my comments, which includes all of your comments and I will distribute copies to you so we can run through it. Before we get going, I would like to introduce Jose Tjedor, who is the new general manager of Grand Prix.

Jose Tjedor: I came aboard the last week of June. My background is the hospitality business. I spent 22 years in hotel business, sales, management and marketing with companies like Hilton, Princess, Prime Hospitality, etc. From there, after getting bored with the hotel business, I jumped onto a horse and ended up working for a place called Medieval Times in Lyndhurst. I spent 13 years there. The commonality between a place like Medieval Times and Grand Prix New York is primarily the initial concept. Both concepts were created to solicit corporate business and become successful by going after the corporate business. Nobody anticipated we were going to have a recession like this. We had to re-direct our marketing efforts and appeal to families. We developed an educational program. We created more things for families to do, birthday parties, etc. We are at a point here where we feel we need to expand in that direction, bring more attractions to bring more business and more families. We have determined for the most part, what those attractions

are going to be; we want to be more family friendly and have more kids coming to Grand Prix.

Chairman Cosentino: As you speak, please keep one thing in mind. I realize there is a recession, and I realize Grand Prix has to change the type of business they do to survive. If Grand Prix came to us two years ago and said they wanted a catering hall, the answer would be "absolutely not." Under the circumstances, we understand what's happening, so there has to be a little give and take. We don't want to see any empty building. That's not what we're here for. We want to help you survive.

Jim Diamond: I think the analogy that would be most applicable would be a golf membership/country club. You have a golf course and a clubhouse, and you have members. Primarily people are there to play golf. Obviously, during the week and on weekends they have additional events, weddings, parties, etc. It is primarily not an event facility. It's a golf course. Because 95,000 of the 120,000 square feet of Grand Prix are racetracks, Grand Prix will always primarily be a racing facility. The intent is to keep it that way and not to change it. What we saw in the past year and a half, in addition to the corporate market suffering is that the demographic is extremely narrow. What Jose is talking about is that we're doing well with male racing enthusiasts who are in a certain age range. We're trying to broaden the age range to a little younger and a little older, but all within the existing capacity caps that we have. We're saying we had a limit on the number of trips that Grand Prix could generate, which in my opinion was the most important part of the original approval resolution. We don't want to change the number of trips that Grand Prix generates. We're having a hard time getting to the number of trips because of all the restrictions that were put in place that don't really serve any meaningful purpose. They were added on top, as the main objective was that we stay at that trip level. We're not proposing to change the trips.

Chairman Cosentino: I think you can generate more parties, etc., than you could for corporate. A small family affair will work better for you than you will get corporate.

Jim Diamond: For the majority of 2008 we did have a lot of financial service firms. That was our primary corporate business; hedge funds, investment banks, etc. Late last year, that business really stopped. Corporate is still a very important part of Grand Prix. There have been a lot of major Fortune 500 companies, dozens of them over the past year and a half. Corporate will continue to be a substantial part of Grand Prix; it's just not going to be enough to support the entire business.

Chairman Cosentino: The board needs time to compare this to the original one.

Jim Diamond: Anything that is in not in color, not underlined or crosses out is the original approval resolution. David's additions are crossed out in black and white, and my additions are all in red and yellow.

Vice Chairman Sturniolo: If I read this correctly, starting on page seven, this is the resolution that is in our packet tonight with the suggested changes by Jim.

David Stolman: Yes. The resolution has the same draft date on it as the one you have in your packet.

Jim Diamond: The first thing I deleted in terms of the large event permit being issued by the Village Manager upon the recommendation of the Building Inspector in consultation with the chairman of the Planning Board, I tried to simplify that so it's one person - the Village Manager. Obviously, it's within the Village Manager's discretion to go to as many people as he wants, but I was trying to remove that as an obligation to streamline the process. Same with the following comment where I said the chair of the Planning Board as opposed to the entire Planning Board. One of the challenges that Grand Prix has is the turnaround on event permits. There was an event a few weeks ago where they submitted it and it was approved three weeks later, but it was not enough time, so they actually had to cancel the event shortly thereafter. In our opinion, it's important to streamline the process as much as possible. In the following section, I deleted a fee. It doesn't seem like there should be a fee for a large event permit. There are currently no fees in the special event permit process. I tried to shorten the number of days for submission from 15 days to 10 days in advance. In the following section, we discussed at a previous meeting the importance of insuring if there is multiple events that happen to be going on at the same time that they be coordinated, or in fact not occur at the same time. There was a provision added if there was a blank number of persons supposed to be taking place in these large events, they would need to be coordinated and prioritized. My assumption here is that if the events are going to the Village Manager and everything requires his approval, he is aware if there is more than one event and we can coordinate them through that process, because it is too difficult to try to come up with a number as to what number of persons would trigger an additional review.

Vice Chairman Sturniolo: So you're saying one central control point, meaning the Village Manager who would have input predicated on a previous event as he reviews a second event?

Jim Diamond: Yes. If Grand Prix has already submitted an event for a particular weekend and then Mount Kisco Athletic does the same thing, the Village Manager can simply say I'm sorry, we've already received one large event, and we don't have the capacity at the site for a second event.

Chairman Cosentino: The Village Manager will probably hand it down to us, but definitely the building and fire inspector.

Jose Tjedor: Typically the higher the size of the event, the longer the detail. So you know what's coming on a large scale.

Chairman Cosentino: I hope you work that way, because in the past we weren't told that.

Jim Diamond: The vast majority of events at Grand Prix are relatively small. I was just there for dinner, and there were six events going on all with 10 or 15 people. In the past year and a half there have not been a lot of events over 300; the Northern Westchester Hospital Center was one. Grand Prix will be limited to 12 a year, so the likelihood of conflict is unlikely anyway.

Chairman Cosentino: We also said you would coordinate the events with Mount Kisco Athletic Club and the sports arena, so no one has events at the same time.

Vice Chairman Sturniolo: I remember at a previous Planning Board meeting Mr. Buseman saying that if there was a big event at Grand Prix and they were planning something, they would pull back from it and look for an alternative date, so you need to work that out.

Jim Diamond: In the next section, General Use Limitations, you can look at that whole section in the aggregate. Basically, we are proposing that the primary restriction in place that occupancy in the facility is limited to 120 people during the day and 185 people at night and on weekends. The additional restrictions that were layered in on top don't really serve a positive benefit, but negatively impact Grand Prix's business model and their ability to get creative with their marketing to try to get a sustainable number of people in the facility. Things like: "GPNY will not advertise parties or events in which a DJ or live band is hired primarily to attract spectators to visit the facility and/or where drink prices are part of the advertisement, GPNY may play background music but it should be for ambient purposes only and not as the primary entertainment mechanism." Our belief is that having a DJ playing music on the facility on a Friday or Saturday night while people are racing adds a little bit of life and energy to the facility, and the people at the event feel more dynamic. It's a very large facility; sometimes it feels a little empty.

Chairman Cosentino: There are a few reasons why we put that DJ piece in there. The music could be loud, and there is Brookside across the street. When you say a party, is this for members or non-members?

Jim Diamond: Members.

Chairman Cosentino: How are you going to advertise a party or a dance?

Jose Tjedor: We may advertise a party in conjunction with the racing. Still, racing is going to be the primary focus.

Chairman Cosentino: I don't think they can do that.

Lester Steinman: The focus is when there are any meetings it is membership only.

Chairman Cosentino: Are you eliminating membership?

Jose Tjedor: Absolutely not.

Chairman Cosentino: What you just said, you can't do. You just can't advertise and have other people come in.

Jose Tjedor: If we can offer racing and a membership.

Chairman Cosentino: My question is; are you going to advertise for outside people to come in and have a party with a DJ? There is a difference.

Jim Diamond: The idea is we want to advertise to bring people into the facility.

Chairman Cosentino: So, you're saying it's an open house?

Jim Diamond: As Mount Kisco Athletic Club is as well. Of course, they want as many members as they can. They advertise and bring members in. That's the whole point.

David Stolman: This would allow you to have advertisements on the radio saying come down, listen to the DJ, nickel beers, come one, and come all. Only some will race.

Joseph Morreale: If you look at all the things crossed out and then read the first paragraph, and then anything goes.

Jim Diamond: My question would be, if we were saying that we don't want to change the trip counts and we're okay with the capacity limitation, what is the negative? The point is we want to get people in the door. When they get in the door, there are two giant racetracks. So the people we get in the door are going to go racing. That's the point. We have to get people to walk in the door, see the racetracks and go racing without affecting the trip count or the capacity of the facility.

David Stolman: The way you have it structured, this really sort of cracks the whole thing wide open.

Lester Steinman: In a golf club, people pay a substantial amount of money for an annual membership and they use it to golf and do other things. Here, I assume you're going to have a very nominal membership fee to allow people to get into the facility, and some of them won't race. They will just be there for the entertainment. I'm not passing judgment whether it's good or bad; I'm just saying that is what the sum and substance is of your request.

Jim Diamond: I think its important to look at the facility two years ago, when we were here in front of the board, no one knew what to expect. Now the facility has been open a year and half and the vast majority of all the events that have happened there, and all the people that have come in off the street, it's all about racing. The facility is a racing facility.

Chairman Cosentino: We never had a problem with the racing. I think you're circumventing what you're talking about. I think this board has a problem with DJ's and parties and bringing everyone in. Know we want to work with you, but I think it changes the whole concept. It could turn into 300 kids or adults going there for dancing and drinking and just a big party and not racing. That could happen.

Jim Diamond: The limit would be nights and weekends 185 people in the entire facility. To put it into perspective, an Appleby's can't probably have 185 people in it at any one time.

Chairman Cosentino: But they won't have dancing and DJ music.

Jim Diamond: We're not saying that we want to have DJ music everyday and dancing all the time. I'm sure there has been a time there has been dancing, but I don't think there has ever been dancing there. Dancing is currently allowed at a private event.

David Stolman: This is starting to sound more like a nightclub atmosphere.

Jim Diamond: I think that is a perception more than a reality. I'm not sure what the difference is on a Friday night of playing a lot of loud-recorded music or having a DJ there playing music.

David Stolman: Nightclub is not a permitted use.

Jim Diamond: We're not trying to make it a nightclub.

David Stolman: But you certainly could. I think everybody appreciates that there are tough times. I think the Planning Board would like to work with you and be a bit more lenient than they would have been otherwise, but it seems like you've gutted this whole thing, frankly, and it could very well turn into a nightclub the way you've gutted the resolution.

Jim Diamond: That is definitely not the intent. You added a provision at the very end that the special permit approval shall be subject to an annual renewal from the Planning Board. That was vague. I wasn't sure exactly what the intent was there. From our perspective there can't be an annual review where a Special Use Permit can simply end and Grand Prix goes out of business, but if there is a mechanism by which Grand Prix could be called before the board at some time, and we would just revert back to the original Special Use Permit, then I think something like that would be reasonable and would make sense.

Vice Chairman Sturniolo: Are you suggesting a periodic review at the discretion of the chairman and the Planning Board to go through the Special Use Permit and to see if anything needs to be adjusted?

Jim Diamond: Yes. Then, if it is determined that somehow a less onerous restrictions are somehow abused by Grand Prix, then we can just go back to the original approval resolution. We feel that these modifications are necessary in order for Grand Prix to really survive. We don't think it is going to become a nightclub. It's not the intent, but we don't think a DJ once a month is a dangerous thing that makes it into a nightclub. We'd be okay with the idea that if it is determined that it's not operating the way it's supposed to, we can just go back to the original approval resolution.

Ralph Vigliotti: When you advertise that you will have a live DJ, are you also going to include a hot and cold buffet, open bar, and an opportunity to drive the carts? How is the advertising going to look? I understand how you're advertising is now, but whether you like it or not, you're moving more towards a nightclub. When you start to bring in a DJ with live music including with that a hot and cold buffet, are you saying it's going to be an open bar? Unless they come in and buy a ticket to drive one of the vehicles they should not be there.

Jose Tjedor: It would be to our best interest to maximize revenues. We are going to include dinner and racing but again, our primary business is racing. We are going to channel the business to maximize that.

Chairman Cosentino: I'm beginning to believe that racing is a tool. We really want to work with you and I didn't find anything wrong with what you said until you got to this point. Don't use racing as a tool to do other things that you want to do. Every time you want to do something you bring in racing. It may not be racing. Let's be frank with one another. You may have a party with just a DJ and no one is going to race. It may be your intent, which is a good one, but they may not want to race. They

may want to come in, dance, have a drink and leave, because it's a party with a DJ. I take umbrage to the fact that you're using the racing as a tool. We need to be frank with one another. So, far I have not seen one thing wrong to this point. I and the other board members will go over it, but when you got to this point, I felt that a button was pushed.

Jim Diamond: Let me give you an example. A few months ago, Grand Prix implemented a pre-fix type program, because they were trying to increase the value proposition in the recession and also get more people to do more things within the facility. For \$65 on weekends, \$50 during the week, you get two races and a three course dinner. It's sold as a package. First you go racing, and then you go to dinner. Beverages are additional.

Chairman Cosentino: Nothing wrong with that.

Jim Diamond: But I think that's what Jose was saying. Maximizing revenue by offering food. He was trying to by one way or another coax people into both racing and eating and drinking.

Lester Steinman: Given that plan, no one is going to come to your facility that is not going to race. The value is getting the discounted racing. I guess the board's concern is that there will be other packages where entrance will be a dollar and people will be allowed to drink, listen to music and socialize and not have to race.

Jim Diamond: Just to back up, in terms of the zoning code, it doesn't seem to have such a restrictive interpretation of what membership means. From my reading of it, of course I'm not interpreting it; it says membership clubs conducting leisure time and recreation activities for use by members, customers or clients on a periodic or seasonal basis. It's pretty broad. It's pretty general. I think Grand Prix clearly currently is operating within those parameters. It clearly intends to always operate within those parameters. It doesn't say anything about creating a highly exclusive walled environment where only people who have paid a large initiation fee can walk in the door. The idea is to get more people in the door, get them involved in the activity, get them interested in racing and build a loyal clientele. The problem we're having is not that we have too many people, but too few. It's these types of restrictions that are honestly killing Grand Prix. Imagine an email blast going out to the 30,000 people in their database (people who have been members and have raced in the past) and they send out periodic email blasts to that entire group once a week or so. Imagine an email blast going to that group talking about how Wednesdays there is going to be backwards racing on the track and its four races for a \$50 package instead of three, and there will be a DJ in the facility as well. The idea is to create excitement, to make it a destination so that we're able to get the 185 people in the door. Because if the board goes there on atypical weekday night, you will see there is approximately 30 people in the facility. I think we need to keep it in perspective that we are suffering from a lack of attendance. Not too many people.

Lester Steinman: I don't have a problem with that. Obviously the board has to make a decision. What you still have not addressed is will a lot of people be able to come to the facility for a nominal charge (\$5 or less), enjoy the music, have a few drinks and then leave without racing? That is really what the board is concerned about. Not the packages of discounted racing.

Jim Diamond: Yes. We think that there should be no prohibition on people coming in, as people currently come in. Right now if you go there on a typical evening, guys will be there, their wives and children will come; maybe only the guys are racing and their wives are not, which is fairly typical. There are people who are sitting around doing other things there. It's a giant racetrack facility. If you visit the facility, you will see there are typically not a lot of people there who are there to race.

Ralph Vigliotti: Yes, but it's what your promoting - the evenings when you have a DJ and food and an open bar or pay by glass bar. This is a normal day. Our concern is if you're doing a promotion and the promotion doesn't link itself to racing.

Jim Diamond: Our promotion always links them to racing. We have to keep going back to the fact that we are still limited in our trips and occupancy.

Chairman Cosentino: For example, if you have a promotion and it turns out to be very successful, which I want it to be, who is going to police over 185 people? Nobody, so you're defeating the whole purpose of having over 185 people.

Jim Diamond: To be fair to Grand Prix, I don't think there is another business in the Town/Village of Mount Kisco that has any of these types of restrictions in place. The theoretical questions that we're asking, you can say who is to police that 500 people don't show up.

Chairman Cosentino: Don't take it personally. It was just a question that we have to ask that I want to be on the record.

David Stolman: You would have the kind of space where based upon the way you modify the resolution you could advertise, come down, live DJ, nickel beers, nightclub atmosphere and get a lot of local kids. You can't do that. Just to put a fine point on it, do you want to be able to do that or not?

Jim Diamond: Yes. You're obviously leading the question - we're not trying to offer nickel beers.

David Stolman: You struck that part out of the resolution.

Jim Diamond: I'm not sure why the Planning Board should be telling Grand Prix that they can't say that their beers are \$4.00. Does it matter?

David Stolman: Yes. Because I think the thing we are fearful of is that you are going to be attracting very large groups of people to a nightclub atmosphere.

Chairman Cosentino: Providing my board agrees, for the record, Mr. Diamond and Jose Tjedor think it is going to work and there won't be a problem. Would you object to us reviewing this every three months?

Jim Diamond: I think that is a little frequent.

Chairman Cosentino: Let's try it. If it works out, we'll go to six months. If you're confident that it's going to work, we can, as I said in the beginning, give and take a little bit.

Stanley Bernstein: I dispute one of your statements, Jim, about no restrictions on other places. We have a very strong restriction on cabarets. Many restaurants would love to have music, and it's a restriction from both zoning and due to Planning Board initiative. You're asking for a cabaret.

Jim Diamond: I don't think we are.

Stanley Bernstein: The difference being "live" and a live DJ. Today, there is very little live music.

Jim Diamond: With "cabaret," I thought you meant dancing.

Stanley Bernstein: With a DJ, you would expect dancing.

Jim Diamond: The only dancing we've ever had in the facility is during private events. Bar mitzvahs, parties, etc.

Stanley Bernstein: Suppose a client came in and said I would like to make a wedding? There doesn't seem to be much of a relationship to racing with a wedding. Do you expect a certain percentage of those wedding guests to eventually join up or want to race? Are they going to go to you because you have a very favorable situation for a wedding, which they can't find in a normal catering hall? That is a problem. In other words, you're advertising, and the way you promote this to the public is key to what you're going to do.

Jim Diamond: We've been open 18 months now. We've had hundreds of events, large and small, not a single wedding. We've had several bar mitzvahs because the facility is conducive to 13-year-old boys racing and having a party. It's not the most romantic facility. I couldn't rule out a wedding; the groom might like it, the bride probably won't.

Stanley Bernstein: My point was not wedding, per se. I used the wedding as an example. My point was the attraction by your advertising; how you develop a particular party. Is it conducive to racing or is it not?

Chairman Cosentino: You're probably right. We said we would try to help them out and see what happens. I think we all agree on that. Do we have the right to ask Grand Prix to review this every three months?

Lester Steinman: I think you could establish a period of review; you could even call it a probationary period. A few things have to be requisite that. One, we should have the benefit in writing of their aggressive new marketing plans so the board understands exactly what is contemplated so they have their eyes completely open. Two, that plan ought to be reviewed by Austin Cassidy to determine that in his view that is part of the permitted use. Then assuming you get through those two things, you could set it up to allow these uses temporarily. If things get out of hand you can go back to the original restrictions after a period of time.

David Stolman: The wording that was going to be in here was, "all events are required to rent either one or both tracks to use concurrently with the other uses on the premises." That was one concept that was going to be struck. "Use of the tracks for racing must be an integral part of the event." That would be struck as well. "The removal of both tracks for an event is prohibited." That would be struck as well. By virtue of all, I

think we could take both tracks out and have some huge event that is entirely unrelated. Then it becomes a catering hall, pure and simple.

Jim Diamond: My concern with absolute rules is that there is always a time where it just ends up not making sense. When you say an absolute huge event, any event that is huge has to go to the Village Manager for review. There was a situation a couple of months ago where there was a bar mitzvah in the facility and the event permit was submitted late. It became somewhat of an issue because on the night of the bar mitzvah, there was no racing. They had racing the following Sunday. The occupancy was fine, but they had the party one night and the racing during the day on a Sunday during the day a few days later. From our perspective, there is nothing wrong with that. We're keeping the occupancy the same, it's not affecting trips in the town, and if somebody wants to race on Friday night or race on Sunday in conjunction with the event, it's basically the same thing. If you make it an absolute rule, there is a time when that rule has no reasonable basis, and then Grand Prix just loses that business and it makes it more difficult from them to survive.

Lester Steinman: In the past, there's been a trade show, nothing to do with racing, just occupying the entire facility. Is that also part of your model? In other words have conventions, keep the tracks up, have conventions and nothing to do with racing. That's what bothers me.

Jim Diamond: In this scenario, anything above a certain size gets submitted to the Village Manager. If the Village Manager determines that it's unacceptable, he can just say no. If he determines that it needs additional review, he can send it to the chairman of the Planning Board.

Lester Steinman: I take it the answer to my question is yes, but subject to the control of the built in review of the Village Manager.

Jim Diamond: Yes. As you could at any golf/country club.

Chairman Cosentino: I still say that as long as we have a periodic review, anything can be changed if we don't like it.

Jim Diamond: Even three months to start would be fine, and in the long run I'd like to spread it out a little more infrequently. I think it's good to get going in three months because I do think there is going to be a process over the next year where Grand Prix as a business is going to need to look at additional product lines and we will come back and talk to you about them in the future. One of the things that have come up as a result of several corporate events and bar mitzvahs is, "we love the racing but what else can we do? We're having an eight hour corporate event here; we can't race for eight hours." We've looked at things like adding a climbing wall where the arcade currently is. Doing things like that so we can broaden the functionality of the facility.

Chairman Cosentino: We'll have to talk about that because that is out of the question right now. I feel better about the review; you feel as if you have not lost control and give us a little muscle.

Jim Diamond: Yes, and that's why the periodic review makes sense.

Lester Steinman: The way to go here is to let the board have a chance to digest this. Then the applicant should submit a business plan with the

types of service so the board can go into this with open eyes, and to make sure with the Building Inspector that those uses will be condoned.

Jim Diamond: Grand Prix does not have anything dramatically different than what is going on today. My idea is to remove some of the restrictions.

Lester Steinman: I understand but we need information about the types of events that could occur, types of events that would be successful so the board has an idea of what you'll be out there doing during this probationary period so it doesn't come as a surprise. Give us what you hope to get accomplished.

Jim Diamond: A page or two in bullet type format of ideas?

Lester Steinman: At least to start, and let's see what Austin says in terms of compliance with the ML Zoning, and then the board has that in front of it and can decide. This way you have a record, so a month down the road nobody is saying, "you didn't tell me about this." Do it in time, and you can be on the September 22 agenda with the public hearing as well.

Jim Diamond: Thank you.

Conceptual Application

**Tony Singh
540 Main Street
PB2009-10**

**Present: Tony Singh
Inder Singh, property owners 540 Main Street**

Tony Singh: The cell phone store we had for the last 10 years was doing fine until A T & T opened up a store down the street, and we cannot sell phones anymore. Since then we are having a tough time making a living over there, so we are trying to put a dry clean drop store, just a drop store. One man comes in and picks up and drops off loads at the same time.

Chairman Cosentino: We have a report from the Building Inspector. He says there are less cars going to this that went to the phone store, there is parking for 11 vehicles I understanding. It's a lesser use that was there before. I don't have any problems with it.

Whitney Singleton: With regard to this and the next application, this has been deferred to you by the Building Inspector for a Change of Use Permit because there is a permit pending before the Board of Trustees, a proposed legislation would change the way Change of Use Permits are evaluated. All applications, in order to be approved, must satisfy both the existing law and the proposed law. As you recall, your board had recommended changes to the village board that allows your board to evaluate all applications for a Change of Use Permit when there is an increase in intensity, not just a change in parking. The Building Inspector will determine his estimation that there will not be an increase in the parking part of this or the intensity of this particular site, and that in of itself defers to your board for that determination.

Chairman Cosentino: I don't see a problem with this. I think it is a good use, not an over use, a lesser use than what was there before.

Doug Hertz: For clarification, what is the procedure? This is our concurring or not with the Building Inspector? What is the process?

Whitney Singleton: The process is as follows. Three months ago there was no proposed change in the legislation. A sole mechanism by which change of use permits were evaluated is whether or not there is an increase in the parking requirements associated with the mixture of uses. In this particular application, there is a decrease in the parking requirement purposes per the Building Inspector. However, the proposed zoning change will now require, if approved by the Village Board, all new tenancies come to your board for evaluation as to whether or not there is an increase in traffic, foot traffic, circulation, a general increase on traffic patterns and other public safety issues. Because that is permit pending, an application cannot be approved unless it complies with the current law and the law as it is proposed to be changed. Under the current law, they don't even come to you. Under the proposed law you would need to make a determination that their proposed change of intensity in this case will not have any impacts on the site.

Doug Hertz: So our action is a determination.

Whitney Singleton: Yes, as to whether or not you feel as though it is going to increase or decrease the impacts long term in evaluation of the site plan.

Joseph Morreale: Is it fair to say that we would then go beyond what Austin Cassidy said? He is only talking about parking, and we would want to know pickup/drop off, intensity of use of the whole area, etc.

Whitney Singleton: Correct.

Joseph Morreale: I think it's a good idea and an interesting business, but one, what is your view about how many cars would be coming in and out, and because you're also a gas facility, people can stop and get gas and walk from the car to the back, drop the laundry off and come back to the car. Secondly, where is the dry cleaning going to occur?

Inder Singh: It's going to some outsider, and they are going to do it for us: outside of Mount Kisco.

Joseph Morreale: What about the increased flow of traffic?

Inder Singh: It will be like one customer coming and buying milk or something and it's the same thing. There is no other change.

Joseph Morreale: You have 11 parking spaces?

Inder Singh: Yes.

Chairman Cosentino: Austin determined there are 11.

Ralph Vigliotti: The drop off would be inside the existing facility within the cell phone store?

Inder Singh: Yes.

Ralph Vigliotti: As you know I use the store. I find the most valuable parking space is where the vacuum and the air compressor are located. I find myself parking there, being called out when somebody wanted to use that space. Those spaces there would become the most valuable spaces.

Tony Singh: There are four spaces there.

Ralph Vigliotti: Yes, and you will lose one.

Inder Singh: We can always change it to the other side, to the last spot on top.

Ralph Vigliotti: That would be my only recommendation. Is that something you would consider doing?

Inder Singh: Yes.

Ralph Vigliotti: I think that would work better for the flow of vehicles through there.

Vice Chairman Sturniolo: Nanette, in looking at their application where it says site plan subdivision approval. Should that have been changed for Change of Use similar to the strike out and adding change of use for the other applicant, since we don't have the form yet generated?

Nanette Bourne: It is in fact not only a change of use but the comment that was raised by Mr. Vigliotti would require a modification of site plan. It is an important issue you brought up. It would be a subdivision getting crossed out and would say site plan approval and change of use.

Vice Chairman Sturniolo: Can we just make that written change on this or hopefully they do not need to resubmit?

Nanette Bourne: I don't know what they would have to resubmit. They would make that change and the most important thing would be the resolution that will identify this as a project for a Change of Use and a site plan modification. It would require that they submit a plan of their site not just this layout, but the space where the dry cleaner would be, and your full site, which shows the relationship of the building to the parking, and show where you're going to be moving the vacuum.

Stanley Bernstein: How often does the pick up truck come in?

Inder Singh: Once a day, a box truck does both delivery and drop off.

Vice Chairman Sturniolo: Individual customers come to drop off dry cleaning. Another business in another make believe town may have a similar business to this, will they ever take their picked up or dropped off dry-cleaning and bring it to you in bulk?

Inder Singh: No.

Vice Chairman Sturniolo: So the only people coming in are the one-on-one customers?

Inder Singh: Yes.

Joseph Morreale: How soon do you want to do this?

Inder Singh: As soon as possible. It has been eight or nine months since we had any income there.

Joseph Morreale: Nanette, to comply with what you said, how long is it going to take them to do that?

Nanette Bourne: You need to get someone to survey your site and draw the change; it should be soon within 15 days of the next Planning Board meeting.

Vice Chairman Sturniolo: You would need to submit it by September 8.

Whitney Singleton: Just to be clear, they are taking their existing site plan and you want to see the vacuum cleaner relocated on that site plan, and you want to show all the point of ingress/egress and the parking layout.

Ralph Vigliotti: The store should say dry cleaner on it as opposed to cell phone store.

Anthony Oliveri: The change to the site plan has to be done by a licensed engineer or a land surveyor and has to be signed and sealed.

Tony Singh: We have no income now as it is. That means we have to get somebody and pay more money to somebody. This is very simple. All we're doing is changing one thing.

Stanley Bernstein: I myself see no problem. I don't think we have to go through all of that.

Whitney Singleton: We could do exactly what you did with Pizza Pizzazz.

Vice Chairman Sturniolo: Agreed, but they are still going to have to go through the time and expense of someone to draw it; whether they draw it in time for September 8 or it's drawn two weeks later, you're still going to have to go through it. We surely can put this on the agenda for the 22nd of September.

Whitney Singleton: When we approved Pizza Pizzazz, the condition of approval was that they had to submit an updated plan showing the changes. He didn't come back to the board. You can approve it this evening if you want subject to that condition.

Vice Chairman Sturniolo: So we'll put you on for the 22nd. In the meantime start to get the drawings prepared by your engineer or licensed architect, showing where the drop off dry cleaner is, and the relocation of the vacuum air compressor unit.

Inder Singh: Do you really need that?

Chairman Cosentino: It has to show it on the site plan.

Inder Singh: You want us to move that thing? The vacuum has to be moved?

Ralph Vigliotti: In my opinion - and I'm not trying to hold you guys back or give you any additional costs - being a customer of the site I have found and seen some conflict with the vacuum cleaner in that area, since

it is one of the most valuable spaces to the store itself. I think with a successful dry cleaner, those four spaces are going to become very valuable. Why should someone have to come all the way across the lot to look at the dry cleaning store when there are four spaces and one is basically left open because people need to vacuum or put air in their tire?

Joseph Morreale: In passing such a resolution this evening, with the subjectiveness to the 22nd, when can they open up?

Chairman Cosentino: I think we need a draft resolution for the next meeting and approve it, if we agree, on the premise that the vacuum would be moved. Are you willing to try to keep the vacuum there and see how it works and make it a condition?

Ralph Vigliotti: As one member of the board, I am giving you one observation in trying to make the business in the long term to be more successful. Wouldn't they have to submit a site plan anyway showing the change from one use to another?

Nanette Bourne: There are two options. One would be to have a resolution for September 8 with a condition before they get a Certificate of Occupancy, or have the site plan and resolution done for the 22nd. The best thing they can do starting tomorrow is to start getting this drawn up. If you want to have the site plan before you on the ninth, then you would have to waive the 15-day rule. That is the best-case scenario. In terms of certainty, I think that you would rather see it than imagine it, which is what you would be doing.

Tony Singh: If we move it to the top of the hill, it won't be very safe.

Nanette Bourne: You wouldn't be moving it for the ninth; you'd just be having it drawn.

Ralph Vigliotti: And it doesn't have to be up on the hill.

Tony Singh: There is no other spot.

Inder Singh: It worked there for so many years. We've been there for over 20 years and we never had a problem.

Ralph Vigliotti: It's a keen observation to be brought up.

Chairman Cosentino: Stan, do you feel it should be moved?

Stanley Bernstein: It's hard for me to tell, I've never used the spot.

Vice Chairman Sturniolo: I've never used the spot. I'm not a patron so I don't know the problems. I need to defer to Mr. Vigliotti.

Doug Hertz: I'm also not familiar with the specifics of the site. Maybe we can put forth this resolution, get this thing moving and have a quick site visit.

Joseph Morreale: I know what it looks like. I think you're going to have an issue in either place.

Chairman Cosentino: I agree. One of my fellow Planning Board members wants it moved. If I was to make a decision now, I would say leave it, but I respect Mr. Vigliotti's decision.

Ralph Vigliotti: What I have found - and I have seen people have that conflict, which is - it ends up becoming a space you can't use unless you vacuum your car. So it's one less space. I wanted to bring a key observation to this new retail business that hopefully will be very successful.

Chairman Cosentino: Knowing the place, I think it is more of burden putting it at the top of the hill then leaving it where it is. It is flat where it is, if you put it on a hill you cause a problem. I don't have a problem leaving it where it is, but, Mr. Vigliotti if you're stuck on it.

Ralph Vigliotti: I am not stuck on it. As someone who lives in the area and frequents the retail stores there, that is a concern that I have. You haven't seen it - that's okay. I am only one member, and I wanted to bring forward a concern. We are always concerned about parking issues and what may work for a site. Hopefully this retail site is going to be very, very busy.

Inder Singh: Do you think it's convenient for people to go up to the hill and vacuum?

Ralph Vigliotti: I agree that it would be inconvenient, what is inconvenience versus picking up the best parking space in that region?

Inder Singh: Do you suggest anyplace else?

Chairman Cosentino: Can't you put it on the spot further down?

Ralph Vigliotti: It doesn't make sense.

Joseph Morreale: I'm thinking people are not going to park there. They are going to drop things off and leave. A lot of time that area is going to be open for people who want to put air in their tires.

Ralph Vigliotti: Maybe you could put some signage indicating that that space just isn't for vacuuming for those that need to vacuum their cars.

Tony Singh: The problem is someone will park there and then they'll leave. That will be trouble then.

Vice Chairman Sturniolo: Do you know what time of day the pick up truck is going to be there?

Tony Singh: We can call anytime. It's up to us.

Vice Chairman Sturniolo: You call, and then he comes?

Tony Singh: Yes.

Vice Chairman Sturniolo: So, therefore, you know your business model, you know when most of the customers are there to buy gasoline, and you know when most of the customers are there to go into the convenience store, and you may also know when the vacuum cleaner is used more, or is it hit and miss?

Tony Singh: It's hit and misses.

Joseph Morreale: I'm going to envision that people are going to fill up with gas, go to the dry cleaners and come back and leave. But you still need a site plan.

Tony Singh: Yes, we understand.

Vice Chairman Sturniolo: So, Nanette we'll have them back on the ninth?

Nanette Bourne: Yes and the decisions are to let it stay?

Vice Chairman Sturniolo: The vacuum cleaner - yes.

Conceptual Application

Viktor Solarik
222 Main Street
PB2009-11

Present: Viktor Solarik

Viktor Solarik: We filled out an application for a conceptual review for an outdoor display stand at 222 East Main Street. It is an existing retail store and it's being refurbished by a new tenant. This is Main Street going up towards the hospital. There is an existing restaurant towards the left hand side, and there is a new French restaurant being built. This is the store that is being built out. They would like to put out an outdoor fruit and produce stand. It would be movable so at night it can be taken in. This is all we're asking for, nothing more, and nothing less.

Chairman Cosentino: The prior merchants had one out there.

Viktor Solarik: Yes.

Vice Chairman Sturniolo: Will it be refrigerated, electrified?

Viktor Solarik: No. It's going to be filled with ice. This is a very simple conceptual drawing to the photographs. Here are some other photographs of the area.

Chairman Cosentino: It's on their own property?

Viktor Solarik: Yes. Actually, they have quite a bit of sidewalk in front of the store.

Joseph Morreale: What kind of produce?

Viktor Solarik: Meat, dairy, baked goods. They specialize in meat. They have a meat counter. They would not store the meat outside. Outside would be vegetable.

Joseph Morreale: Since the other one left, you're coming with almost the same thing.

Viktor Solarik: Not quite the same. They have several stores. One in Stamford and one in Port Chester. It's a green market. The two stores

are doing well, that's why they are opening a third one. The idea with this one is that it moves so it's not open to vandalism at night. We don't want anyone jumping on it or playing around with it after hours.

Joseph Morreale: Do we have any specific restrictions for food outside to sell?

Chairman Cosentino: That's not up to us. That's up to the Board of Health.

Viktor Solarik: They are subject to the state egg and market laws.

Stanley Bernstein: The final sentence of Austin's report is to note that the restaurateur immediately north is making application for the creation of outside dining, which would be adjacent to this. It's something to be considered.

Chairman Cosentino: This is on his own property.

Viktor Solarik: It's also around the corner. The northern property is this one, and he's proposing to put the dining out there.

Stanley Bernstein: Do the sides line up?

Viktor Solarik: No. They offset. This would be the outdoor dining for Mango, and it's recessed in about eight feet.

Stanley Bernstein: The north side restaurant is going to ask for the same thing as Mango. It will be adjacent to the stand. They already have the doors that open up to the area.

Doug Hertz: What are the hours of the store?

Viktor Solarik: I'm not exactly sure, but I don't think they are going to be open after seven o'clock. I will get the answer for you?

Doug Hertz: Where does it get stored?

Viktor Solarik: Inside the store overnight. It gets pulled out every morning and pulled back in every night.

Vice Chairman Sturniolo: Is it decorative?

Viktor Solarik: It's not built yet. It's going to be a custom piece. There is a sign already approved by the village that is going along with the same design of the cart?

Chairman Cosentino: Is it plain plywood?

Viktor Solarik: No. It's going to be painted nice and it's going to look nice.

Chairman Cosentino: I'm not worried about the merchant next door. Why should we penalize him because they might put tables outside? I don't have a problem with it.

Viktor Solarik: In other situations where we've seen this there was maybe a removable fence or barrier that separated the properties.

Nanette Bourne: This is on as a conceptual, now they need to file a formal.

Viktor Solarik: Thank you.

Whitney Singleton: When you come back, make sure the application is signed by the property owner.

Doug Hertz: How much space would there be in front of the sidewalk?

Viktor Solarik: There are seven feet width on the sidewalk and then 12 feet from here to the storefront.

Vice Chairman Sturniolo: When you do the formal application, we would like as much detail as possible about the construction of the cart.

Viktor Solarik: Definitely. Thank you very much.

Formal Application - Change of Use

**681 Main Street, LLC
681 Main Street (Dunkin Donuts)
PB2009-09**

**Present: John Bainlardi, Owner
Peter Marrinan, President, The Beacon Group,
(franchise)**

Doug Hertz: Mr. Chairman, before we begin I need to disclose a relationship. A business partner of mine has a separate business, which is doing renovation work at this property. There is no direct relationship, but I want to disclose that for the record.

Chairman Cosentino: So noted. Thank you.

John Bainlardi: The property is 681 East Main Street, which was formerly the Calico Corners building for many years. After that, we purchased the building in 2000. We had the pet connection come in, which remained in the building until the early part of 2007 when they moved down the street and then subsequently went out of business. We have currently commenced construction on the total building remodel. There is a copy of the building permit and the Architectural Review Board approval in your packet. We have done complete internal demolition of the building. There will be all new systems and a new floor. On the exterior, we are tearing down the front façade and rebuilding it. The front façade, which faces Main Street and wraps around the corners of the building on both the Lexington Avenue side and to the south will be a masonry façade with all new windows and doors, corners and a stone base. The remainder of the building will be a stucco finish over the existing block. We are not proposing any additions to the existing building with the exception of one wall we are replacing in the rear of the building, which is currently attached to the building and is internal space but a wood frame structure. We are removing this and replacing it with a block and stucco structure. That particular piece of the building is about 200 square feet, and we are reclaiming that piece as a mechanical room and will be unavailable for rent. The proposal on the Change of Use is on 1500 square feet of this existing roughly 6,000 square foot building. The use would be a Dunkin Donuts store, which would be a typical Dunkin Donuts with seating for

approximately 20. That would be located on the northern section of the building on the Lexington Avenue side. The remainder of the building at this point use is undetermined, but we expect there to be a straight retail use. The parking on the property is existing of 53 parking spaces. I believe Mr. Cassidy did an analysis of the parking for us, and he indicated that 11 parking spaces would be for the Dunkin Donuts use. 30 spaces would be required for the balance of the space as straight retail use. It's a total of 41 parking spaces and we have some excess parking on the site. A short history about what we've been trying to do from a leasing standpoint throughout the last couple of years - the economy has been a factor in a couple of the tenancies that we had worked on. In particular there was a bank that was interested at one point, several banks for that matter, but being resident of the village, my preference is to not put a bank if we could avoid that, and try to keep a retail use there.

Ralph Vigliotti: You think Dunkin Donuts is a better use on that site than a bank? As a resident of the village?

John Bainlardi: I don't have a problem with the Dunkin Donuts use.

Ralph Vigliotti: You're saying it's a better use than a bank?

John Bainlardi: It's a different use than a bank.

Ralph Vigliotti: You said it was a better use than a bank. In my opinion, as a resident who shops and spends quite a bit of my time in this village, I would prefer to have other options than another bank. And a Dunkin Donuts, because that's what you have on record. I just want to make it clear. As a resident of the village, you indicated that there were several banks that had interest but you preferred a Dunkin Donuts would be a better use for that site. I want that on record.

Joseph Morreale: Would there be a drive in?

John Bainlardi: No.

Joseph Morreale: Good. We wouldn't want to see that.

John Bainlardi: We are not proposing and I know it's not permitted under the code in any event.

Joseph Morreale: What would happen to the Dunkin Donuts on the north end of town?

John Bainlardi: Nothing. It's a separate Dunkin Donuts operated by a different operator.

Joseph Morreale: That's very busy, so this is going to be a very busy corner.

John Bainlardi: We have some projections with respect to the use by Dunkin Donuts; what is generated as far as customer trips, etc.

Peter Murrinan: The DOT did a traffic count on the roads that converge right on this property in 2008, and they counted just a shade fewer than 17,000 cars on a daily basis. From a historical perspective, whether you're in New England or Florida, Dunkin Donuts pulls 2.76% of the autos that run in front of the various properties that we're talking about. When

we did our projections, we looked at a three percent capture rate, and we also compressed the time that it was opened. It didn't go a 24-hour period of time, because the store would not be opened 24 hours. We compressed the 17,000 cars to only the hours of operation of the business and got to a place where it was a 510 bar capture rate out of the 17,000 cars we had before that traveled in front of the site. My group also owns a number of Dunkin Donuts (about 30 in Westchester County). As we looked at the historical average hourly transactions in all of our stores in Westchester (excluded the others) overlaid that onto this 510 car potential capture rate, and found out that certain hours of the morning would be the busiest, which came as no surprise). We should not exceed somewhere between 50 and 60 cars per hour coming in and out of the lot. Once you get passed the hours from 7 to 11 (I'm not exactly sure that's accurate without looking at my papers) those numbers drop off dramatically, as you can imagine. The busiest time and the highest traffic or occurrence would be in the morning hours and should not exceed more than 60 the first hour.

Vice Chairman Sturniolo: Would you be able to provide that statistical information to us at a future Planning Board meeting?

Peter Marrinan: Of course. The basis for it, is that the heaviest traffic and the highest capture rates are in New England, because that's where the business started. It's well rooted there. The average unit volume is in New England and considerably greater than they are in New York. A store in New England, for instance, would do \$35,000 per week, and a store in New York would do, for instance, half that. Even at a 2.76, the capture rate is driven out of a study that was done in Maine. Maine is a very, very strong market for Dunkin Donuts. I would venture to say, but could not represent with any kind of confidence that the 2.76 in New York would be less. That is just a feeling.

Joseph Morreale: I go to about four or five of them. The other part of the building is what concerns me. With that kind of traffic flow and the business I've seen before, those parking lots often get very overloaded.

Peter Marrinan: I wouldn't argue that. What I would say to you is generally speaking, the stores that we own and operate, 53 parking places are significantly better than the way we're operating presently. Not knowing what would go next to us, we often times find ourselves with a complementary use area, where the majority of our business is in the morning, and a complimentary use is something that does an afternoon or evening business and we co-exist very peacefully and very well.

Joseph Morreale: Like what?

Peter Marrinan: Drug stores and things of that nature. Dry cleaners, etc.

Chairman Cosentino: I need to learn more about the front parking. Of course, there is one curb cut that I don't think should be there going into the direct traffic. The other curb cut may be okay, but there should be a sign no left turn for traffic going south.

John Bainlardi: I am assuming you're talking about the southern access point.

Chairman Cosentino: Correct. The ingress/egress closest to the light should be eliminated.

John Bainlardi: The problem with that is the parking spaces are on a diagonal. There is not enough room to make those parking spaces straight in.

Chairman Cosentino: How much room do you have?

John Bainlardi: From the end of the parking space on the diagonal, you have about 12 feet to the Belgium block curb. Then you're into the right-of-way. We've looked at that because I agree with you that the curb cut that is closest to the intersection on Main Street is not ideal. The problem is how do you keep the parking spaces that we have so we're not under parked and at the same time address that issue?

Chairman Cosentino: The Planning Board has the responsibility of safety and welfare of the people who are going to patron this store. With the stores that may be there, plus Dunkin Donuts, we are not thinking of the people of this village. I realize it is tight getting a car out of there, and I don't know how you're going to do it.

John Bainlardi: Once people get into those parking spaces, I don't think you can do it in a way in which people can safely turn around to come back out into traffic.

Chairman Cosentino: And yet it's unsafe to go into traffic with the amount of stores you're going to have.

Anthony Oliveri: When you look at the parking in terms of the current codes and regulations, the northerly curb cut really should not be closer than 20 feet of the intersection. If you do close it, there would be no way to use the space. You'd have to back out of the whole area. As it is, I think there are a few spaces there that are really not workable. The southernmost space is really backing out into the curb cut area. You also have to look at the dimensions of the angle parking. I'm not sure the dimensions quite meet in terms of the stall width under the current code.

John Bainlardi: I think they do. I think we made sure of that when we re-stripped.

Anthony Oliveri: This scaling it off of here is a requirement of the perpendicular depth. These go back at about a 45 degree angle. The code, I believe is about 17.5 feet. On the eastern side, there might be a couple of spaces where you're not meeting the aisle. It looks like you've got a 16-foot aisle down in this area, and if that is brought into compliance you can use maybe one or two spaces there. There are some issues with the parking. Current regulations require a snow accumulation designated area. The lighting, of course, would have to be looked at as well.

John Bainlardi: The parking as it exists may be non-conforming in some respects but it's there. Going back to the parking spaces in front, we want to try to see if we can come to some way of resolving the curb cut. I don't want to lose the parking spaces in front of the building. When we striped, we located two of the handicap parking spaces in the front with the expectation that those parking spaces wouldn't be used as often as non-handicapped parking spaces, which would restrict or limit the number of cars that are parking in the front of the building. We considered eliminating those last two spaces that are closest to the intersection, the corner in the front, or converting those to a landscaped area with a

sidewalk or walking path that will tie into the front façade of the building. We will do a decorative paver in the front where there is currently macadam, and carry that decorative paver out to the corner so anyone who is walking to the intersection from there is coming directly onto that path, and landscape the balance of that space. This would eliminate the two spaces that are the furthest to the intersection. Currently there are eight parking spaces, two of which are handicapped.

Ralph Vigliotti: The calculations on the parking will be something Anthony will have to work out. My understanding is the sidewalk needs to be minimum five feet wide?

Anthony Oliveri: Are the handicapped spaces here now?

John Bainlardi: Yes.

Anthony Oliveri: It's more of a building code issue, or an ADA issue to show that five-foot wide aisle and the sidewalk area in front. You have to look at the dimensions of the space and the car overhang.

Ralph Vigliotti: Is it five feet for the sidewalk?

Anthony Oliveri: There is a two-foot overhang. You have to look at the length of the spaces to make sure.

John Bainlardi: When we do the decorative pavers to replace the macadam, we are going to curb that with Belgium block.

Chairman Cosentino: You can't have concrete stops; you have to have poured in place concrete.

Ralph Vigliotti: When we do the calculations for the front of the building, its five feet for the sidewalk and two feet for the wheel stops.

Anthony Oliveri: It's a function of the length of the parking stall. It's not clear on your application.

Ralph Vigliotti: What is the aisle space that is going to conform to building code? I don't think you have enough space up front for all that to occur.

John Bainlardi: Aside from that's what the code says now, these are existing parking spaces.

Ralph Vigliotti: This is a safety issue. The reason you're here is we want to make this site safe and accessible for pedestrians and vehicles. You are going to have many people walking there. This is a keystone building for the village, and we want to make sure of their safety.

John Bainlardi: With respect to the façade, clearly we are making sizeable investments. In doing so, we took into consideration that this is a gateway to the community. I live and socialize with many people in the community and got lots of feedback. We're not going to satisfy everyone, but we're trying our best to satisfy as many as we can. In making this investment and we have no financing lined up for this as we don't have any leases in place. We have worked through a number of potential tenants that have come and gone. Pharmacies, banks, several hundred inquiries; we have tried to be as selective as we can. With respect to the

bank, the bank clearly, aside from the pharmacy, is the most lucrative deal for me personally. When I say no to a bank, or I'm trying to do something else other than a bank; as I get a lot of feedback from the community, I want to be on the record as saying we're trying to do the right thing. We are making a significant investment up front in trying to do the right thing with the brick and the façade of the building and spending the money on the aesthetics. I am willing to make modifications to the site, to the extent that it is possible. If you need five feet and two feet, it has to come from somewhere.

Ralph Vigliotti: If building code dictates and that's a recommendation, that is something you need to look at.

John Bainlardi: Providing we can comply with that. We have at least a four foot sidewalk that has been there for many, many years.

Ralph Vigliotti: For 30 years, it was a site that had very little street traffic. I live in the area and the pet store did a nice business, but it did not have the kind of traffic and movement that you and we are envisioning for the site. Are we putting a sidewalk on the Route 128 side of the building?

John Bainlardi: I have not proposed any sidewalk.

Ralph Vigliotti: How could you not if you're going to have pedestrian traffic?

John Bainlardi: There is macadam in front and we have always cleared it.

Ralph Vigliotti: The side of the building requires a sidewalk. Folks coming from Mrs. Greens and the medical group to Dunkin Donuts using that facility should have a sidewalk there. Right now, they are walking on mud and grass. We are trying to make this work. There should be a sidewalk and correct lighting on that side of the building so people can make access to all of the stores that will exist at some point. It is an active part of this building. Not to put a sidewalk there is dereliction in planning. Also I do not see garbage storage on the site plan.

John Bainlardi: Garbage storage is in the rear on the southern western side in the back corner up against the retaining wall, adjacent to Mrs. Greens. I removed the dumpsters because they were not in use. We will have new dumpsters in place and we will be screening that spot with a fence.

Doug Hertz: My understanding is that we are dealing with an existing site plan and you are before us with a change of use. I understand you're making changes, but I think there are going to be things that Planning Board members may want to have. If we can make that work, that would be great, whatever those things would be. I was looking at Austin's memo about parking counts and I can't figure out how he got to his numbers. What is the square footage of the building?

John Bainlardi: Approximately 6,000 square feet and 1,500 in Dunkin Donuts.

Doug Hertz: So Dunkin Donuts is about a quarter of the site. My math on the parking count for this part of the site is different.

John Bainlardi: I guess you're classifying as what type of use Dunkin Donuts is. If it's a restaurant, it's one percent of the five. I think Austin was saying it's not the restaurant, but a bakery that offers some seating.

Doug Hertz: I think he said it was a retail bakery.

Vice Chairman Sturniolo: Are you going to bake the product here?

John Bainlardi: The food is delivered by a truck to a loading dock area.

Peter Marrinan: The product is made off-site, and the truck will come in once a day and drop off racks of donuts. They will simply come in through the back door while the business is not open.

Ralph Vigliotti: Are you just doing donuts or are you making hot sandwiches and other products for lunch?

Peter Marrinan: It will be a full Dunkin Donuts menu. If you have been to a Dunkin Donuts store, and I just want to be clear with you, because you are asking a question to me that is somewhat ambiguous. If you have been to a Dunkin Donuts store, it will be a full menu Dunkin Donuts.

Ralph Vigliotti: If you would share with me the lunch menu for the record?

Peter Marrinan: Sure. There are frozen sandwiches that come in that are reconstituted in what are called turbo chef ovens, which are very similar to microwave ovens. The product comes in frozen, put into an oven, and heated for 45 seconds or somewhere in that range and sold.

Ralph Vigliotti: How many of those types of sandwiches or menu items do you have for lunch?

Peter Marrinan: Three different types of sandwiches, if I'm not mistaken. There is a ham and cheese sandwich and a cheese sandwich and one other option.

Ralph Vigliotti: I am not sure why Austin called this a retail bakery when there is, in my mind, it is certainly not a restaurant where you are doing dinner, but you are certainly doing lunch.

Peter Marrinan: Candidly, that is a huge leap, and I think if you looked at what the actual product movement is, you could make a very strong argument to what you're saying is not necessarily accurate.

Ralph Vigliotti: So in the other 35 retail outlets that you own, it is referred to as retail food or retail bakery?

Peter Marrinan: Absolutely.

Ralph Vigliotti: It's not called restaurant in any shape or form?

Peter Marrinan: I can't speak for every single one of them.

Ralph Vigliotti: That's what I'm trying to get to. I don't look at this as being retail bakery, if you're doing a lunch menu that is not bakery items.

Doug Hertz: He's calling it food retail.

Ralph Vigliotti: Okay.

Nanette Bourne: The representative for Dunkin Donuts has given you information that you normally don't have, and that is that they capture three percent of the traffic, and he's given you the peak hours. Normally we don't have the luxury of that kind of information. So it doesn't matter if they're a retail bakery.

Ralph Vigliotti: It matters to me, and I'm trying to get to that point.

Nanette Bourne: I know, but what we are trying to do is to come up with how much parking is necessary.

Ralph Vigliotti: And if we go with the count that Austin came up with, that is way too low.

Nanette Bourne: I would agree. And I would say, regardless of the use he has given us the data that allows us to come up with the parking demand during the peak hours, which is what you want. Whether they bake donuts or sandwiches on premises.

Ralph Vigliotti: If it is a bakery, you don't sit down at tables that house 21 seats.

Nanette Bourne: I'm assuming you have all sorts of data about the duration of customers. If you can come up with three percent of your capture rate and know the duration and give the parking counts.

Chairman Cosentino: We don't want this to be another Apple Bagel, where you can't get a parking space.

Peter Marrinan: The average total transaction time is less than two minutes.

Joseph Morreale: That's the count. We are asking how long people stay.

Peter Marrinan: I wouldn't be able to answer that because we don't watch after the transaction.

Chairman Cosentino: You just said two minutes. Go down to this Dunkin Donuts over here in the morning. You stand in a line that is out the door.

Ralph Vigliotti: That's not part of the transaction. That's waiting time. I have been the 17th customer on North Bedford Road and I've waited 12 minutes, and yes the transaction time is a few minutes. But you're waiting in line and there are 18 to 24 cars parked in that Dunkin Donuts.

Peter Marrinan: We don't own or operate that store and I can't speak to it. I'm not going to sit here and debate.

Ralph Vigliotti: I've been to other Dunkin Donuts and that trend is pretty typical. The number of tables also tells us. This isn't family style seating where you're going to car pool with your family and you have one car with five members. There are 21 seats, and that will help us to determine whether this parking is going to match. It doesn't sound like the parking is going to work.

Nanette Bourne: But we're all in agreement that the calculations that were provided in Austin's memo, whether he did it right or wrong, it just doesn't make sense, particularly in light of the data he has provided.

Whitney Singleton: I'm looking at the parking calculations and I could come up with an array of uses and put a label on this use. You can call it a fast food restaurant, you can call it a food retail use, and then there are different ways of calculating each of them. I do agree with Doug that Austin should reconsider how he calculated this and came about with this number. The most restrictive application under fast food, and I'm not saying this is fast food, for this use would be 30 ----- There is certainly enough on site. It does make a question of what about the balancing (sic).

Ralph Vigliotti: That is what it comes down to. The allocation for this site versus what is remaining for the future sites. That is really what is being held here.

Whitney Singleton: It's a similar issue to what we dealt with before, and there is a certain amount of risk and self created hardships that the applicant is going to have to deal with.

Nanette Bourne: There is certainly enough parking on site.

Ralph Vigliotti: Without any question, but I don't think they want to give all of that parking.

Nanette Bourne: It's a matter of whether or not, based on your numbers, if you're parking is 20 or 22.

John Bainlardi: Or 15. If it was 1 per 100, which I think Austin had also made a similar assessment for Panera, when Panera was in earlier, then its 15 parking spaces. So you're talking about four parking spaces, and we have a surplus already. If you're going to have any kind of straight retail use for the balance of the space, there is not going to be a parking issue. Obviously, if I came back and said I wanted to do a restaurant, and came back before this board with a Change of Use permits application, having this conversation and with whatever I've done and had approved this go round, I'm stuck with. I understand that. What we are trying to do here is trying to get a good credit tenant, viable use for this corner that is going to help me finance what we're doing here, and also give me the ability to try and deal with the mom and pop type of store, which is what I am trying to get accomplished if I can and not have to be concerned if they are going to make it through the next six months. This is one of the reasons why we like the Dunkin Donuts use. We've done our research. They are an excellent operator. We just opened one in Pleasantville. I think when we have plenty of parking, signalized traffic intersection; even if you're talking about 60 transactions in an hour, they are not all there at the same time. They are spread out over a period of time. If they are using 15 parking spaces, chances are the other stores are not going to be open at 7:00 A.M.

Ralph Vigliotti: What are the hours of operation that you're discussing?

Peter Marrinan: We are proposing from five in the morning till 11 at night.

Doug Hertz: The parking uses as defined in the code, I believe, are guides. Lacking other information, it's a way for us to determine a count.

If we have that information, we like to get to better counts and better understanding. Where we have businesses like this that have lots of data on parking, we can get smarter. The law allows us to require more or less based on the best information we can gather.

John Bainlardi: We are willing to provide that. It's already in place.

Doug Hertz: What we want to get clear is that we don't want you to be in a situation where you have Dunkin Donuts come in and ultimately we discover that their parking studies, or whatever data we were provided, require X amount of parking, then you have this large building that you may not be able to use in a way that makes sense to you because more of the parking you intended is eaten up by that. I for one want to be clear that ultimately the whole site has to - this is 25% of your square footage and it may use more than 25% of the available parking on the site - so you may have to find a complementary usage that has off hours or something else, which I think would be wonderful. We want you to be very aware of our responsibility to make sure the space counts add up to more than the spaces on the site.

John Bainlardi: I understand that, but I think the board should also take into consideration that it is an existing building, and we're working hard to try and improve the corner for the benefit and the betterment of the entire village. I don't have to go and spend the type of money we're spending and making the investment we're making on this building. We can let it sit there and we can look at it the way it's been looked at for the last 40 years. I don't want to do that, but at the same time I need to have viable tenants. I cannot have the array of tenants that are available to me under the code as permitted tenants being reduced to such a small pool that I have difficulty renting the building. With all the parking that we have, and I think we have one of the best sites in the entire Village. I go to Big Apple Bagel often. I don't want to beat up on them. That's in a 6 to 7,000 square foot building with maybe 18 or 17 parking spaces. I appreciate that we want to make it the best that we can. Also, there is an economic side to this as well. We are trying to do as much as we can given the resources that we have, keeping in mind that we are sitting with an empty building for two and a half years.

Vice Chairman Sturniolo: You just said there is an economic side to it. There is also another side to it and that is the point Mr. Vigliotti brought out before talking about the additional sidewalk. There is an issue of the health, safety and welfare of the community that you are aware of and we are obligated to preserve. As you acknowledge, this is the entranceway to Mount Kisco. A safety issue has to be paramount along with whatever type of enhanced planting beds, etc. It all really needs to work together and not to diminish your economic concern, but things like the sidewalk, lighting and all those other issues are going to be extremely important to us.

John Bainlardi: I can address a couple of those things if you like. As far as the landscaping, we have intentionally not landscaped all the existing beds that are on the property because we were not sure what was going to happen. We were not sure if someone was going to come in and knock down this building, and build something else and divide the property. That was a distinct possibility. All of the existing beds that are on the property now will be fully landscaped. I could represent to you on the record and what we want to commit to is the property directly across the street, Buckingham. If the board thinks that property is landscaped well

and appropriately, we will commit to that level of landscaping and all of the existing beds that we have. Ultimately, if we create an additional bed on the hard corner, we will landscape that accordingly as well. We did have some pole signs, which we have removed. I think we might have had the ability to grandfather those for a period of time. We never liked the signs to begin with, so we took them down. We will be coming back in at some point in time to get a monument sign approved in the same location, which will be designed to complement the building and comply within the ordinance. As far as the lighting is concerned, we have existing lighting. I plan to come into the board at some point for an illumination plan, because I would like to put some decorative posts again similar to what is across the street.

Vice Chairman Sturniolo: If I could call to my fellow Planning Board members attention the memo addressed to you from the Architectural Review Board. It says all lighting is to fall within the illumination guidelines. We have had 19 applications before the Planning Board including the hospital, which is probably the biggest one. We have asked them all and they have agreed to conform to the newly proposed illumination guidelines. This is something we are going to be looking for as part of the overall photometric lighting plan.

Ralph Vigliotti: There was discussion on the south ingress/egress driveway on 117 as far as right hand turn in, and no left-hand turn in going south. This needs to be addressed and on the record. Anyone that is coming south on 117 that wants to get into that site would have to cross a holding lane plus a bypass lane to make a left in there, and that will hold traffic up in that area coming through in that 9 to 11 am time frame. That has to be a no left-hand turn coming in, and a no left-hand turn going out. I'd like to see you work with our engineer on designing an ingress/egress that would prevent someone trying to barge their way in and design it to only make a right to go out. We need to take a real good look at that. The last piece is whether those parking spaces with the sidewalk would be 24 inch with the tire stops, the length and width of the parking spaces and aisle space all work out, engineering wise, for that area.

John Bainlardi: You can't have a tire stop.

Ralph Vigliotti: If there is nothing to put a tire stop, and folks will, depending on the type of vehicle will end up pulling straight up and taking up that three, four or five foot sidewalk. That front sidewalk, no matter how many retail shops you have, is vital. It is vital that the sidewalk be, as most of the new sidewalks that we have for some of our retail shops, five feet wide.

John Bainlardi: I believe we have the five feet.

Ralph Vigliotti: I hope you do.

John Bainlardi: If we do not, I don't know how to remedy it because you can't move the building.

Ralph Vigliotti: Whitney, as we're going through this by code, is this applicant obligated to follow the existing code with regard to sidewalk and tire stops, etc?

Whitney Singleton: Let me break that up in two parts. If the zoning amendments go through, your board will have the ability to re-evaluate the site to make sure that it's - and I'm going to use a very vague term and I know John is going to call me on it - up to snuff on pedestrian and vehicle safety, ingress/egress and functionality, deliveries of materials and that the site works. There are people going in and out of various portions of this building. That being said, as far as being code compliant, yes, the changes being made to the site have to be code compliant. I am not suggesting to this board to relax any single item, but I can tell you it is at the discretion of your board. I do recall earlier application wanting to do something more than what the code required. Your board responded to that and it's up to your board's discretion whether you seek modification.

Nanette Bourne: May I make a suggestion so the applicant knows where they are going on this? They are on this agenda for a change of use permit. The board is saying there are site plan improvements you want to see - a whole bunch of them. It is a challenging site. The building is there, the parking lot is there. We are trying to preserve as many parking spaces possible balancing that with trying to upgrade the aesthetics. It seems as though before the applicant comes back, they should come back with some proposed site improvements that address your comments and still meets their business needs. That would mean a modification to the improved site plan as well as the change of use. You've talked about ingress, recognizing this is a significant corner. You've mentioned landscaping on this corner that can really improve the site, the lighting, showing the dumpsters and all the basic requirements, figuring out how you can deal with the parking along the East Main Street side, and bring that back to the board to look at.

Ralph Vigliotti: It's not necessarily "the best you can." It is the safest way to go to the village. It has to be safe for the people in this village. Ingress/egress out, sidewalks the right size, parking spaces the right length, aisle spaces the right length. This is more than an opportunity. We need to make this site safe for the 21st century, for the 50 years worth of retail that will take place there for the next person that comes in. There should be a sidewalk along the east side on Route 128. Folks coming from that neighborhood who choose to walk to the retail shops should not have to walk on muddy grass to get to that front sidewalk. That is absurd. You need to think about that. There is a neighborhood, believe it or not, south of this site. There are three or four streets in which the sidewalk ends in Mrs. Greene's lot, and on your site it's all grass. And it turns to mud, and I've seen people, including myself walking on the street to get around it. That was when it was just a pet store or Calico Corners and not a lot of foot traffic. There was no reason to get there on a daily basis. But with a Dunkin Donuts or any other retail shops, you're creating a dangerous situation. You have to have a sidewalk. As much as I love the green space that is there, it's not safe. You'll have to take a look at that.

Whitney Singleton: I want to follow-up on the proposed traffic controls for the ingress and egress, landscaping, lighting. Did you discuss how you're going to accept deliveries to the site?

John Bainlardi: There is an existing curb cut for deliveries as far as Dunkin Donuts - simply a truck coming in at 4:00 in the morning rolling some donut racks to the rear door.

Whitney Singleton: We would like Austin Cassidy to offer you a greater insight as to the parking.

John Bainlardi: I would like to get some feedback. I don't want to spend a lot of money and a lot of planning unless I have some sense that there is going to be a yes at the end of the day. We have other options.

Ralph Vigliotti: What ever goes in there I think we're going to be addressing all of these things.

John Bainlardi: Not necessarily. I could come back here with a straight retail use and never come back before this board.

Stanley Bernstein: No. There is a new law.

John Bainlardi: I know the new law. I have not made any changes to the building. There are no alterations to this building.

Stanley Bernstein: It does not matter.

John Bainlardi: Read the law.

Chairman Cosentino: We are not going to stay here and have an argument. I think what Mr. Vigliotti is saying is that he doesn't have a problem with Dunkin Donuts; he's got a problem with the safety and welfare of the people. Rightfully so. That's our job, and he is justified by saying that.

John Bainlardi: I agree.

Ralph Vigliotti: I'm talking about something as simple as a sidewalk, which makes everything we've talked about, and you're against the sidewalk.

John Bainlardi: I'm not against the sidewalk, but I have not proposed the sidewalk. First it's the sidewalk, and we're going to try to address or perceive a perfect site. There is no perfect site in the Village of Mount Kisco. This site is far from being inadequate. So I'm willing to address certain issues, I just would like some guidance that there is going to be a reasonable limitation on what we would be asked to do, because it is an existing site. It is a site in which businesses have gone for many years and a tax-paying, revenue-generating part of the village. We're trying to keep that and keep rents up at a reasonable level to support the investment that we're making.

Vice Chairman Sturniolo: I'm not being cute with you, but you just said a reasonable level of expectations of what you would like us to do. You heard the general comments tonight. Speaking as one Planning Board member, I don't see the Board going through the comment list that we created tonight and paring it down drastically. That may not meet your definition of reasonable expectations. You need to think it through on balance.

John Bainlardi: I can make some changes on the site plan to show some of the things that we've talked about which I'm willing to commit to and come back in.

Chairman Cosentino: I honestly think Dunkin Donuts is going to make a hit there. It's not going to be small; it's going to be big. You've got people in the area that are going to serve you.

Peter Marrinan: And we're excited to be part of the community

Chairman Cosentino: And we welcome you to the community, but we have a responsibility here. We want to get it done. Not one person on this board said they didn't want Dunkin Donuts.

John Bainlardi: My concern is really more to what extent - we're touching every single aspect of the site of the building. We're trying to put as many dollars as we can to the physical appearance of the building.

Ralph Vigliotti: Without any question. We haven't even discussed the building. We've discussed what is needed to make this site work and to be safe. We're talking about the business operation and how it may affect parking and ingress and egress, making it safe for travel for cars and pedestrians. There is no question there is plenty of parking. That's the easiest piece. Allocation of parking is another issue. It's what we're going to do to make that site safe. We know there is one retail shop going in that is going to be busy. We don't even know what the others are going to be, but we have to think about that now. We have to look at the busiest scenario for that corner and make sure we have everything early on. We're not going to get you a year from now and say, "oh, remember that sidewalk that we talked about? Can you put it in now?" That's not going to happen. It never does.

John Bainlardi: Fine. With respect to safety, I'm not going to argue with you. But landscaping or other aesthetics or whatever it may be, at the end of a day we are going to have a substantially improved corner.

Ralph Vigliotti: Absolutely. We are trying to define what is going to be safe on that corner and how we can as a Planning Board make it safe. Also, work with our code and our engineer to make sure that it all works. There is a reason for the code.

Whitney Singleton: To pick up on that, I think to bridge between where the two of you are the applicant is here before you with a conceptual application. One of the reasons for that is for the applicant to get some feedback from the board before they spend an enormous amount of money on plans, moving forward with the application, giving them a sense of where the board is, or whether or not you have enough information before you. I think that is kind of what the applicant is looking for - is whether or not your board feels this is something, without committing yourself to a definite course of action.

Chairman Cosentino: The application has merit. I know we're repeating ourselves, but we're not saying we don't want this done. We want it to be safe

John Bainlardi: My concern is that we may want to try to address some of the issues that you're relating to and we may not be able to come up with the perfect cure

Chairman Cosentino: Then you have to come back and tell us that. You need to work with Nanette and our engineer.

Nanette Bourne: My suggestion is since this is a conceptual and you typically only see an applicant on one conceptual, you may want to consider a second conceptual, where you come back with something visual that is not hard-line.

Chairman Cosentino: He can come back with another conceptual.

John Bainlardi: I'd like to be able to come back with a site plan with modifications and get to a point where you can say, okay, we'll approve this with the following conditions.

Chairman Cosentino: If you come back with a site plan, another conceptual wouldn't do us any good because we can question you on a regular application. He comes back with a formal application like everybody else.

John Bainlardi: Do you want me to put your requests on my site plan? I have an existing site plan.

Anthony Oliveri: That is a survey; it's not a site plan.

John Bainlardi: It's a survey, but there is also site plan, which is not part of this application, it should be.

Chairman Cosentino: This is not an application, it's a conceptual.

Ralph Vigliotti: You'll need to work very closely with our engineer with regard to all the parking and ingress and egress and right lanes, sizes, widths, the sidewalk and all of that in front of that building. And make sure that it is done according to code.

John Bainlardi: To the extent that we can accomplish that. If we can't accomplish that, it is what it is.

Anthony Oliveri: I think it's obvious that all the spaces on the existing site as they are now are not going to comply fully with the regulations. So, do we want to come back with a site plan that isn't fully up to the current code? Just the fact that we have the curb cut close to the intersection doesn't comply with current code.

Ralph Vigliotti: It should comply with current code. This is a major site.

Anthony Oliveri: I think we haven't really made that determination.

John Bainlardi: I don't believe that is the case. This is an existing building on an existing site.

Anthony Oliveri: I don't want you to come back with something that doesn't comply. I think a determination should be made now. Is the board going to be willing to look at something that is not quite up to current code standards? There is some compromise

Chairman Cosentino: Like he said, if he doesn't have five feet, he can't move the building.

Anthony Oliveri: I think the biggest thing is the curb cut close to the intersection.

Ralph Vigliotti: There are a lot of pieces here. We need to see a full-blown drawing showing the size of the sidewalk with the tire stop, with the length of the parking spaces with a 45-degree angle with the aisle space.

Anthony Oliveri: As soon as he comes back with the site plan with the curb cuts close to the intersection, he's not complying with the current code.

Chairman Cosentino: I am making a decision here. Come back with a conceptual again. See Nancy downstairs and make application.

John Bainlardi: I have submitted everything for a formal and paid the fees. I think what you want is a site plan. I prefer to come back as a regular if I can. I need to try to get to the point where we know we can do this store. I need to be able to help Peter and him to me. I have financing that I need to deal with.

Chairman Cosentino: John, you are an attorney. You know there is a process, and you're going through the process. I respect what you want, and you want it fast, but we have an obligation.

John Bainlardi: And I'm willing to provide you what you're asking.

Chairman Cosentino: I think by speaking to the engineer and Nanette and when they agree that everything is set to come back, and then come back.

John Bainlardi: So I am asked to address the items that were discussed. The sidewalk issue, landscaping beds, the location of the dumpsters, snow storage and try to address this curb cut.

Whitney Singleton: I think Mr. Vigliotti is saying that if there may be more that comes up later on, and it was not necessarily fully flushed out at this meeting. He wants to reserve the ability to address the issues as specificity.

Vice Chairman Sturniolo: Nanette, could you look at the short EAF? On page 1, numbers 10 and 11, do they also need to reference Change of Use Permit as far as permit approvals?

Nanette Bourne: A Change of Use and a site plan modification.

Chairman Cosentino: I think all this has to be listed out for him.

John Bainlardi: If it's okay with the board, I don't have any problem with speaking directly with Nanette and the village engineer.

Ralph Vigliotti: He needs to have the engineering data so he can understand how to put this site plan in place.

John Bainlardi: I have a full site plan of what currently exists on the property.

Ralph Vigliotti: Pull the building back eight feet and you've got it. You'll have the sidewalk, the tire stops, the aisle space and you're done.

John Bainlardi: Again, I'm willing to address items where I can reasonably address them.

Ralph Vigliotti: What you need to understand, John, is that building had virtually no traffic going onto that site for 35 years. If there were ten cars there, that was a lot.

John Bainlardi: The pet store had parties for 50 to 60 kids.

Ralph Vigliotti: That was rare. I live in the area, two blocks away. I've been there for 33 years and I know the site. It's going to be a very different site, when it's all said and done and it's fully occupied. If there were eight designers at Calico Corners, that was a lot. The pet store had maybe 8-10. It was not a busy store.

Stanley Bernstein: Nanette this is a designated Main Street area, correct? Do they have to deal with the DEP on this?

Nanette Bourne: He has to see what he is going to do.

John Bainlardi: I'm not going to add impervious surfaces and add the DEP into this.

Chairman Cosentino: What other store do you own?

John Bainlardi: Pleasantville.

Joseph Morreale: Just to point something out - the one that is opposite 711 is a terrible place to go.

Peter Marrinan: I would ask you to reserve comment. We bought it a year ago, and come the first quarter of 2010 we will spend \$300,000 not to make it a disaster. I agree with you.

Ralph Vigliotti: How is it a disaster?

Peter Marrinan: Aesthetically, it's not a very good store.

Ralph Vigliotti: I was looking for a traffic pattern.

Peter Marrinan: Traffic is fine.

Correspondence:

- Letter from Ronnie J. Ross to Chairman Cosentino dated July 7, 2009 re Buckingham Properties/Crème de la Crème billing.
- Letter from Edward Cohen to Chairman Cosentino and Planning Board members dated July 21, 1009 re Two Morgan Drive board appearance.
- Letter from Stewart R. Alpert to the Mount Kisco Planning Board dated August 3, 2009 re pending rezoning to the proposed housing project McLain Street and Route 172.
- Letter from Andrea A. Oninciau to Wilton Morales dated August 5, 2009 re proposed site improvement to 36 Gregory Avenue.

- Letter from Matthew Giannetta, CPSWQ to Jeffrey Contelmo, Insite Engineering dated June 30, 2009 re 211 Kisco Avenue.
- Letter from Scott Blakely, Insite Engineering to Nanette Bourne dated August 7, 2009 re Carolex Corp, LLP, 211 Kisco Avenue.
- Memorandum from Anthony Monteleone to the Village Board dated August 11, 2009 re the Mount Kisco Diner Petition to re-zone.

As there was no further business, on a motion by Vice Chairman Sturniolo seconded by Mr. Vigliotti, the meeting was adjourned at 11:10 P.M.

Respectfully submitted,

Stanley Bernstein
Recording Secretary

dm