

Minutes  
Meeting of the Planning Board  
Regular Work Session  
Village/Town of Mount Kisco  
Tuesday, April 13, 2010

Meeting called to order at 7:45 P.M. at the Municipal Building Mount Kisco, New York by Chairman Cosentino.

**Members Present:** Chairman Joseph Cosentino  
Joseph Morreale  
Sol Gibbons  
Stanley Bernstein  
Doug Hertz

**Members Absent:** Vice Chairman Anthony Sturniolo  
Ralph Vigliotti

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

**Acceptance of Minutes**

March 23, 2010

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

**Public Hearing**

MetroPCS New York LLC  
304 Lexington Avenue  
PB2010-3

**Present:**

**Neil J. Alexander, Esq., Cuddy & Feder, Attorneys at Law, on behalf of the MetroPCS**

Austin Cassidy: Mr. Chairman, presently there are no signatures on the sheet.

Chairman Cosentino: Are there any members that want to speak on behalf of this? If not, we will close the public hearing, leave it open for ten days for written comment.

**Motion to Close Public Hearing**

**Motion:** Stanley Bernstein  
**Second:** Doug Hertz

**Aye: Sol Gibbons**  
**Aye: Doug Hertz**  
**Aye: Stanley Bernstein**  
**Aye: Chairman Cosentino**

Neil Alexander: Thank you very much.

**Conceptual Application:**

**Gail and Edward Smilkstein**  
**340 Spring Street**  
**PB2010-4**

**Present: Gail Smilkstein,**  
**Edward Smilkstein Property Owners**

Chairman Cosentino: I am gathering you want to take approximate 20 feet, and make that part of your land?

Edward Smilkstein: Yes, 17 feet.

Chairman Cosentino: Is there any particular reason why you want the 17 feet?

Edward Smilkstein: We feel that it would give us a little bit more room for our plantings.

Gail Smilkstein: We have plantings there already and we did not realize that the land was available. We just recently found out.

Chairman Cosentino: If you notice on your plan, you are in RM12 zoning. The land that you need is in RS6 zoning, which is single-family. If you have the RM12, you don't have the zoning for that, as you cannot mix the zoning.

Gail Smilkstein: So we're changing zones?

Chairman Cosentino: Yes. You cannot combine two different zones.

Gail Smilkstein: What do you have to do?

Chairman Cosentino: You have to change the piece of property that you want the 17 feet to an RS6 to make all the property conform to the rest of the property on the street. The frontage on this is really on West Street.

Austin Cassidy: As you are probably well-aware, the property was intended to front on West Street, which was intended to merge into Spring Street. That never happened, and instead you have an access directly off Spring Street across the old right-of-way of West Street into your property. Being that this lot to the north was essentially a West Street block, it was part of the West Street zoning which is a multi-family zoning district in that portion of West Street. You have multi-family housing right alongside of you to the immediate north. The point here is that in shifting interior lot line south to capture more land for your lot, you're taking part of land that is in another zone. Your newly created lot cannot have two zoning designations.

Edward Smilkstein: How can we rectify that?

Chairman Cosentino: This Board does not rezone. The only Board that rezones is the Village Board, so you would have to go to the Village Board and get this piece, this 17 feet, rezoned. You will have to talk to your counsel.

Whitney Singleton: Right now both zoning districts allow for placement of single-family homes. You have a single-family home in one district; you're allowed to have a single-family home in the other district. It's poor planning to have a lot be located in more than one zoning district. I don't want to make it sound like it's a horrific event. You would just go to the Village Board, request a re-zoning of the property, and they will tell you whether they can give you relief. I had an opportunity to look at it, and I think given the fact that the access on West Street was de-mapped and given the fact that your setback is not astronomical for the RM12 district, you would be better off asking for the balance of your property to be rezoned in RS6. If you were to look at the zoning provisions, and I encourage you to look at those with your attorney and engineer, you will find that for any future utilization of any of that parcel you would be better off in the RS6 zoning. There are 80-foot setbacks in the RM12. You would have to be in the very middle of your property towards the back with one structure to do anything multi-family, and it would be very limited. You can ask this Board what they are inclined to do.

Chairman Cosentino: We really could not change the lot line. When I saw this I was amazed this was RS12. If you wanted the RS6, this Board would support that for you through the Village Board so you can get that 17 feet, as your mom's lot is very big.

Gail Smilkstein: Are we in a multi-zone lot?

Chairman Cosentino: Yes.

Whitney Singleton: The problem with it is that it is fine if you have an enormous piece of land. Because you have 80-foot setbacks, on parcel this size you can see that it's almost impossible.

Gail Smilkstein: Does this RS6 zone have an 80-foot setback?

Whitney Singleton: No.

Edward Smilkstein: What is our next step?

Austin Cassidy: You need to write a simple letter of petition to the Village Board requesting a shift in the district line to the immediate northern boundary of your property between you and the multi-family next door to the north and to make your parcel wholly within the RS6. Which of the two lots is your personal lot?

Gail Smilkstein: The one in the RM12.

Austin Cassidy: That is the northern one. You want to move the district line, not the lot line, to your northern with the multi-family next door.

Edward Smilkstein: Those are the condominiums?

Austin Cassidy: Right and you would want these two lots to be wholly within the RS6. The condominiums are in that zone already. Contact me tomorrow and I will lead you through it.

Whitney Singleton: When you do eventually come back, there is an error in your location map. The dividing line is between Mount Kisco and North Castle. It should be New Castle.

Edward Smilkstein: We will do so. Thank you very much.

**Special Discussion:**

**Nikolas and Stuart Pinnetti  
38-40 Oak Ridge Road  
ZBA09-05**

Austin Cassidy: This is on tonight's agenda exclusively for your craft the requested comments that the ZBA had sought from your board. You asked at the last meeting to have input not only from your Board but also from the Department of Public Works, Emergency Medical Systems and the Fire Department.

Whitney Singleton: At the prior meeting when the Chairman was not here, the Board members individually spoke to the record as to what their observations were on their site visit.

Chairman Cosentino: This is solely on the road?

Whitney Singleton: Correct.

Chairman Cosentino: Is there anyone who wants to review the recommendation letters from the municipalities that were put in the packet?

Doug Hertz: I would like to comment that all of our individual comments as well as the feedback that we have gotten from all the various departments seem to be uniform in their concerns.

Chairman Cosentino: I think they were all very concerned about the road.

Austin Cassidy: For the purpose of your written record, please give a little reflection of the comments of the agencies and your concerns.

Chairman Cosentino: The Ambulance Corp. wrote a letter stating that it would be very difficult for the ambulance to enter and turn around. They recommended a turn-around at the end of the road. The Fire Department echoed the same, stating they did have an incident where they could not turn something around. We understand that the sanitation truck has to back in to pick up garbage, which is very difficult to do. There is a big edge around the corner where they have to stay going up to Oak Ridge Road more towards the right. Our engineer spoke to the same on the road according to his memo.

Austin Cassidy: I believe DPW also made comments; I think stating that the infrastructure – water and sewer – beyond the turn of the road is private and not dedicated.

Chairman Cosentino: It's in the rear of the houses.

Anthony Oliveri: It would be necessary to extend the sewer and water main up that roadway.

Chairman Cosentino: According to what the reports back to us state: the road is not up to par for large vehicles going up and down. In crafting our communication to the Zoning Board, we would like it to say that Oak Ridge Road is not a passable road for large vehicles. We recommend, if anything, that the road be widened, with a turn around constructed at the end of the road.

Doug Hertz: Everyone has echoed that unless the road is substantially improved, and no one sees there exists enough land to do that, that no further development on the road be suggested. It simply cannot handle even what it's doing today, let alone anything beyond that. It's woefully undersized for all its uses.

Chairman Cosentino: It is a very dangerous road for emergency vehicles. Emergency vehicles cannot handle that road in the respect where they would be safe.

Whitney Singleton: I would like to seek clarification on one item, and I apologize for not taking it up with Austin and Anthony. There was reference to the improvements that were going to be done to the road in the plans that had been submitted to the Village Board. In the Village Engineer's letter, he indicated there are no such proposed improvements. I would like to confirm that what you are looking at to make the recommendation, does not to the best of anyone's knowledge here, incorporate any proposed improvements by the property owner.

Anthony Oliveri: To clarify that, the letter that was addressed to the Board and me asked whether the modifications proposed by the applicant sufficiently mitigate any non-compliance. I don't know of any modifications that were proposed by the applicant. We were not given a plan of the roadway with any modifications proposed.

Whitney Singleton: When that issue was vetted a little bit with the Zoning Board, I know the response of the applicant was that they gave improvements of the plans to the Building Inspector. These are the plans that date back to the original submission to your board. I am not aware that those plans incorporated any proposed improvements.

Chairman Cosentino: The records should show that no engineering plans, as far as improvements to the road were given to the Building Department.

Austin Cassidy: I would agree. I am not aware of any specific plans. In listening to oral statements made by the father of the property owners, I am envisioning that what he may be talking about is perhaps utilizing part of his private land lot for creating some wider space beyond the right-of-way, but if your planning file has no such document, how can you possibly review it?

Whitney Singleton: The meeting before the Zoning Board has now been adjourned for a second month because promised documents are not being submitted. There were documents that were requested to be submitted that were referenced at the public hearing as long as two and a half months ago, without having received them. We are all

operating from the perspective that what has been submitted is the full scope of what is being proposed, which is basically nothing.

Chairman Cosentino: Now that we have reviewed it, we will be sending it back to the Zoning Board of Appeals with our findings. In speaking for the Board, we gave them our findings and we do not want to see this application back before us because of the road conditions. We still want to see a final draft, but as far as the road, we've given our recommendations. The Zoning Board of Appeals now has to do what they have to do from there with our recommendations.

Austin Cassidy: Do you want a draft of the document that is being sent to the Zoning Board of Appeals on the next agenda of this Board?

Chairman Cosentino: Yes. We should be able to review any documentation before it is sent.

Austin Cassidy: You will have that draft on your next agenda.

### **Project Updates:**

#### **Memorandum from Anthony Oliveri, P.E. to Austin Cassidy, Building Inspector dated March 16, 2010 re Northern Westchester Hospital Center Emergency Department Expansion (Site Plan – Loop Road Retaining Wall)**

Anthony Oliveri: The memorandum refers to a change in what was essentially the rock-face wall along the back of the road. It turned out that there wasn't enough rock existing in the areas of the loop road, and they proposed a segmental concrete block wall, essentially the same heights and configuration. They provided a planter, and it's basically the same road alignment. There are no major changes. The Chairman and I met with them, reviewed the plan and basically came to the conclusion that we should be able to deal with this on an administrative level. It will be reflected in an "as built" drawing at the end of the project.

Chairman Cosentino: The change actually from the rock to what they are doing is costing them a great deal more money, and it really beautifies it. I must say I've been around a long time and saw many projects go up, and I think this is one of the smoothest projects.

Anthony Oliveri: We have had no issues with them. They have been responsive to any comments we've had.

### **Correspondence:**

- Minutes of the Mount Kisco Beautification Committee dated March 3, 2010
- Climate Adaptation and Mitigation: Westchester Responds to the Changing Future

Nanette Bourne: I asked this be put in the agenda. It happens to be something I am involved in. This was a survey that was done of the communities in Westchester and all but five or seven responded to the request. It shows where Mount Kisco compares with other communities in terms of what Mount Kisco is doing with climate

change and climate action initiatives. We intend to do an update every year to see how the communities are adapting their laws. It was good to see that Mount Kisco is in the middle of the pack. There are communities that are way more progressive, as Bedford has a major climate action plan adopted. They are kind of leading the way. Mount Kisco has done some very significant things, and the village shows well.

Stanley Bernstein: I have to say our Conservation Advisory Council volunteers are spending a lot of their time on this very subject. They are consulting with Bedford and other groups from the county and state. If they had more time and more people, I think they would be just about up to Bedford. It's unfortunate they are in the position that they are in. I was at the Pace Seminars they give every year. Mike Gerard was there giving a lecture on the state that Westchester County is in at this time and how we are and are not adapting. Barbara Gerard, the Supervisor of New Castle, was explaining what she was doing as well.

Whitney Singleton: Did you want to discuss the upcoming agendas?

Chairman Cosentino: There are only two items on the next agenda as of now. I believe BMW, MAC and 333 re-zoning. MetroPCS can be moved forward.

There being no further business to come before the Board, on a motion by Mr. Bernstein seconded by Mr. Hertz, the meeting was adjourned at 8:25 pm.

Respectfully submitted,

Stanley Bernstein  
Recording Secretary

dm