

Minutes
Meeting of the Planning Board
Regular Work Session
Village/Town of Mount Kisco
Tuesday, January 12, 2010

Meeting called to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York.

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

Members Absent: Joseph Morreale
Sol Gibbons

Staff Present: Nanette Bourne
Whitney Singleton
Anthony Oliveri

Acceptance of Minutes November 10, 2009

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

Formal Application

BMW of Mount Kisco
240 Kisco Avenue
PB2009-16

Present: Robert Sherwood, Co-Owner, Premier
John Slaker
Rich Stavridis, Owner, Premier

John Slaker: This is what I presented to you in November. We had conversations about reducing the number of cars, reducing the impact and potential ability of people coming in and coming down the driveway. We looked at the site plan again. We moved the driveway and the access point further up the hill, and we are going to use grasscrete, so it is going to appear like a lawn instead of a gravel driveway to get to the first group of four cars and the display area. The connecting point in here will be grasscrete again so it is not gravel, and then we have four more cars. We have reduced it from 12 cars to 8 cars and we eliminated the BMW potential planting in boxwood, and we are going to do a massive planting in this area and apply for a sign on the back wall. I also pulled everything back and little bit in the front to keep the curb line a minimum of 10 feet away from the property line. In doing so, I was able to change the grade, so I reduced the height of the back wall, which was originally six and

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half feet. Now it is only going to be five feet in height. We talked about the potential if there is some ledge rock; we are proposing to do some test pits. If there is ledge, we may expose some of that ledge instead of putting a wall in front of it. Basically, we reduced it by moving the access point up the driveway, when you are coming up an around that turn you are not even going to realize there is the ability to get into this area. I think that will pretty much restrict the concern about people stopping and trying to go in here. We can always put a barrier or a gate across that area. As far as lighting, it is going to be all landscaped lighting. Low, in the shrubs like you would light up a garden. They will be directional, so they may shine towards the cars and we may do some up lighting just to wash that back wall. There will be no overhead lights at all. I think we have accomplished reducing the mass of this. Yes, there will be a wall across the front, but I think that will be an amenity to the property. It is about 14,000 square feet of total disturbance, including all of the replanting on this upper hill - not that we are going to be re-grading it, but we are going to be replanting this whole area across that whole front.

Doug Hertz: Do you have a view of it from the street?

John Slaker: We have the other rendering, but we did not realize it for this meeting. If you look at that rendering, basically, everything you see from here over will be gone. All of this will be just planting.

Doug Hertz: Is the front wall the same?

John Slaker: Yes. That will be a four-foot high wall. The back wall will be reduced in height from six and one-half to five feet.

Chairman Cosentino: It is an improvement, and you did what we asked you to do.

John Slaker: We tried to hear what you said and tried to respond to it. It is important to BMW, because people cannot find us. We also provided you with cross-sections and the steep slopes. We did the steep slopes plan, and the whole area is steep slopes. Basically, I think this had created man made slopes. When I did the original building many years ago, this slope was created for the driveway. Then we did the cross-sections. If you look at the various cross-sections, there is not a lot of cut and fill. I tried to put that wall in front to hold up the earth and what we excavated to the back to be pushed to that wall. The only real excavation is for the footing for the wall. As we said, the wall will be just like the stonewalls and stonework that is on the existing building, a concrete wall with a stone veneer with a granite cap on the top. As you can see from the plant list, we are basically putting thousands of plants on that hill.

Chairman Cosentino: It looks nice, and I think it will dress up the area. There is a possibility that other dealers are going to look at this and maybe want to do the same thing.

Ralph Vigliotti: For the record, we have tried desperately in this village to protect that urban forest which is known as Kisco Mountain, all the way down to Kisco Avenue for 100 years. We have worked very closely on any development that has occurred off Kisco Avenue. As far as the color of the building so you cannot see it from the rest of the village, this commercialization to bring attention to the business -

you have done a beautiful job - there is no denying that. As one member of this Board, I will not allow the steep slopes there to be disturbed the way they are going to be disturbed. The disturbing of that urban forest floor, which is on Kisco Avenue is a sensitive area. It is an urban forest. To put in eight display cars, I find this to be absurd, just so you can bring more customers to your site. I don't know if that is being Kisco friendly or Kisco Mountain friendly, but this Board, with a lot of pain with every single development, down to the color of the roof; we have worked so hard to preserve what we can. This comes in and it floors me that we would desecrate this area to put eight cars on display. I find it absurd. We have our planners that have indicated all sorts of things that we cannot discount. We need to go over those one at a time. Steep slopes, retaining wall lengths and heights, total disturbance of that entire area. It says here "by constructing retaining walls we will actually be leveling most of the steep slopes and heavily planting all disturbed areas." So basically you're leveling all of that side of the mountain. I do not know if an acre or a half acre, but we have an obligation here as planners in this village to protect this village. We do not have an obligation to the businesses to enhance their business. We have an obligation to reinforce the local legislation that has been put into place by our forefathers for a reason - to protect this village and to give future planners such as us the opportunity to continue to protect. For us not to look at the steep slopes and to look at the disturbance of that area, we are not doing our jobs. I feel, as one member, and a very conservative member, if we are going to protect what is left of this village as far as green space, we need to hold to the legislation that is in place and do our duty. If we are not going to do our duty, then perhaps we should not be on this Board. We have an obligation to protect the legislation in the village, the adoption of that legislation and to protect the green spaces that are left in this village and not entertain this kind of application that will cause total disturbance. Whatever the slopes are, we have to maintain the slopes ordinance and what is talked about by Nanette's firm, our engineer, our Building Inspector, etc. I leave with that.

Chairman Cosentino: Mr. Vigliotti, I am glad you said that it is your opinion, but I do not think the client had to be reprimanded in the way you did this. I think he should have been told in a nicer way.

Stanley Bernstein: I agree with Mr. Vigliotti, except one word. He said "absurd." I would change that to "obscene." What they propose to do is destroy a piece of environment, and that is the trouble with what has been going on throughout the entire country. All the applicant is interested in is the bottom line. For their bottom line, we have to destroy a piece of the environment. I think their bottom line is meaningless to the overall look of Mount Kisco. I am so much against this that I cannot even speak lucidly. This is very similar to what they wanted to do next door. Completely destroy a mountain in order to put down a multi-million dollar road. This is just as obscene, and any kind of a garden person who says to me that a garden planted by people looks better than what was there before, natural environment, is wrong.

Chairman Cosentino: I disagree with Mr. Bernstein and Mr. Vigliotti. With the economic times of today, it is not that he's putting up a concrete wall and looking commercial. I think he's dressing up the area. I think down the road we let one display and have had

compliments on that design. I think if you go around town, you will note that The Beautification Committee has awarded different businesses for dressing up their property.

Rich Stavridis: We have received that award eight times.

Chairman Cosentino: I do not believe that we are destroying the mountain. I think the mountain is up further, this is on the downside.

John Slaker: There is ledge outcropping right about here. The area from here north towards the Saw Mill River Parkway is naturally wooded. There are natural trees and shrubbery undergrowth. From here down, this has been planted with Juniper on that hillside from when this building was first built. It has gotten all overgrown and entangled with vines. As far as this being a natural forest and this 1400 square foot area, I would say it would be more natural from this boulder back towards the Saw Mill River Parkway.

Ralph Vigliotti: But the slopes were not touched.

John Slaker: I think this slope was created as the overfill when this driveway was cut into the mountainside. The trees that are in this area, even before BMW got involved in this, are all ornamental trees. They have been planted previously.

Ralph Vigliotti: Correct me if I am wrong, all of that planting was done purposely to conceal whatever disturbance that took place.

John Slaker: To stabilize the slope.

Ralph Vigliotti: It was the hope that 10, 20, 30 years down the road it would be a fully developed landscape, having a natural touch to it. That makes the purpose of that. Here we are, 20, 30 years later and we did achieve that - now we're going back to something completely different which includes terracing, cutting into the natural slopes that are there, and other pieces that our planners had mentioned.

Doug Hertz: When you were here last time, the proposal was large, and we asked you to cut it back, which you did. My view is that it is still rather large. You have solved a number of issues that we have raised, in particular, changing the access, making it grass. My concern is the size of the length of this whole development, which really has not changed, even though you are only using a smaller area for display. With Volvo, we granted them room to display one car. Lexus was different, because you can see into the entire lot, but we did not allow them any real display area, although a lot of it is display because it is visible. I appreciate your desire to draw attention to the building to help market yourselves more and present it. It feels to me like the display area is still large. I would like to see something smaller than this, but I do not necessarily share the feeling that this all has to be forested and these buildings hidden. We have seemed too gone into this approach where the base of Kisco is going to be developed. The zoning of this area is commercial, so it would be somewhat disingenuous to zone it that way and then require it deeply forested. On the other hand, I do not think opening up the entire length of this really does preserve what Ralph and Stan are alluding to, which is the continuity between here and the beginning of the real forest above the building. I would, as one member, opt for something that will be

somewhat smaller and somewhat more attenuated, especially as you remove. We are concerned that, as you go to north on Kisco, we are going to lose the rest of that forest at some point to whatever the next development is. There is an area here that approximates that continuity of the hill, and I would like to see this shrunk in some degree. Also, one of the things the steep slopes ordinance gets to is to not have long continuous retaining walls. If there was a way to look at it into smaller sections, or to break that up so it doesn't have this massive long length to it, I think we would be honoring both the local code and what it is meant to do, which is to keep the area feeling a little bit more undeveloped.

Chairman Cosentino: Thank you. I have a question on steep slopes. They are 60 feet in length. How long is this wall?

John Slaker: This one is probably about 200 feet long.

Ralph Vigliotti: It says 240 here.

Rich Stavridis: If we do hit anything, and we're probably going to have that happen, we would be able to break the wall up and let the ledge prevail.

John Slaker: One of the reasons this front wall in this portion here is as long as it is, is because this is probably the only place that I can get from this driveway to some reasonable grade in here. I need this strip in here to get to these points. As we said before, we tried to break the lower wall up by doing the planting in the front and the middle.

Chairman Cosentino: We talked about the length of the wall. What would you like to see it cut down to approximately?

Doug Hertz: Certainly individual walls somewhere within the scale of what the law imagines. We need to decide for those who are at least at all in favor of this project - it seems to me that you are trying to center the building visually. While I think that works in the plan, in reality, as I was at the site and spent a little time there, it looks good in an aerial view, but I am not convinced that is what needs to happen to the effect, as your entrance is down here. Ultimately, the fact that people identify where the building is here, really doesn't get them to the building. I am wondering how much of this northern section is really required. I understand the engineering issue of getting onto the site, but if you were to take the southern half of the proposal with some slight retrieval to make it more symmetrical - get your signage, etc., - I wonder if that doesn't really suite your purpose and leave a much larger area that would be undisturbed. This is an area that is really going to be seen as you round a turn. I think it looks good by the plan view and walking by it, but I am not convinced that this has as much punch as this side. I don't want to be your architect, but I am suggesting - this gives us an ability to save a lot more building, as it were.

Rich Stavridis: The one thing we tried to accomplish and obviously we can take a small section and do a small section, but that is not really what the objective was. The objective was definitely to display cars, but when we sat down to do this; we wanted to beautify the area. Obviously a lot of you guys don't agree that that is happening, but it is going to make it look fantastic here. To do a small section really

doesn't do it justice. We are trying to showcase the cars, of course, showcase the building. But doing it in this magnitude, I think, it will look a whole lot better than what it is right now. As John had said earlier, all that is down there now is just junk. It's overgrown, and you can see how terrible it is when you drive by. To leave that alone makes no sense. If we're going to do something here, we need to do something that has some good size to it. It's important to us to do it so that it is tasteful and looks right and also display cars.

Chairman Cosentino: This Board tonight is sending you a message that it is too big.

Rich Stavridis: We had that last time and we reduced it. Now we are to the point where I don't know how much smaller we can go to make it so it works for all of us. What is smaller?

Chairman Cosentino: I would not want you to come back again with the same plan. To those of us who are still interested, we need to let him know how much they have to cut out and maybe he will want to come back with a smaller scale and see what John can do with it.

Ralph Vigliotti: They also have to read what our consultants and planners have said and make sure they meet the requirements, such as *"the lower retaining wall is proposed within the required ten foot buffer area."* The steep slopes, the 310-foot upper and 240-foot lower retaining wall have to be addressed. I think before we go any further, the issues that our engineer, Building Inspector and Planner came up with need to be addressed before we move forward to make sure you are within the guidelines and legislation of the village. Then we can move forward. We cannot discount what was said by our consultants. It says *"the landscape proposal proposes removal of five large trees, (three oak, and two maples) that are indicated as being outside the property line and within the ROW. A tree removal permit will be required."* There are a lot of pieces here that need to be addressed, and that may dictate what kind of movement there is on this. Earlier I shared with you a philosophical piece more than anything else, which is based around a lot of what I read from our planners.

Chairman Cosentino: I would suggest you work with Nanette on this.

John Slaker: As far as the engineering concerns, I understand what is required. We didn't want to go that far yet with the details of the retaining wall until we got a sense from you that this was even going to be possible to get approved. Once we do that, we will do all the engineering details.

Chairman Cosentino: What I am hearing tonight, the scale is too large. If you want to come back with a much smaller scale, you are welcomed.

John Slaker: Do we stand a chance for getting a variance for the wall being within that ten foot?

Nanette Bourne: The wall is possibly a variance issue. With regard to the length and the height of the wall, those are limits that are included in the code as desirable. But going from 60 to 250 is asking the Planning Board a lot.

John Slaker: But if it went from 60 to 90, is that something that is favorable to the Planning Board?

Chairman Cosentino: This is what happens, and I have to be up front with this. If the Zoning Board allowed you to more than double it, the next person that comes in that wants that, they will say, "BMW got it, now I want it."

Rich Stavridis: There is no question that there is obviously longer walls in town than 60 feet.

Nanette Bourne: That is what I'm saying - it's not impermissible, it says anything longer than 60 feet should be avoided.

Rich Stavridis: I hope it comes across the right way. We are not looking to put up a cement wall that looks terrible. We are looking to put up a rock wall that is going to look beautiful that is just matching the building with lighting, everything. I am not sure if everyone understands what we're going for and what we're trying to do. Obviously we don't want to disturb the grounds. We want to leave as much as we can. But on the other side, we are going to make it that much nicer here. I am surprised that it is not looked at as an improvement.

Doug Hertz: I agree that right now the area in front is not a forest but an overgrown planted area. But you can still improve it without turning it into a display area. I think there are two different things. As one member's view, I would hope that as this display goes forward, that it serves a purpose, that perhaps much of the rest of the area can be refurbished, if that would work. It would not necessarily all have to go towards a display, in my opinion.

Rich Stavridis: When you use the word "display," unfortunately I guess we have to - is that we want to put cars up there. But we're not looking to be like some of the other car dealers where 40 or 50 cars are lined up front. We are looking to do the display with cars, absolutely, but also beautify the area. Unfortunately, I think we have to have some size to it, because if we do something much smaller, it is defeated there. That is where we have to define what "much smaller" is. With the actual size of this, eight cars is not much at all. If you look at Lexus, they have 30+ cars in a smaller area. Again, we are not looking to do that. We want to try to do something that is nice.

Chairman Cosentino: If you could address the points that just came in, we can put you on another agenda.

Rich Stavridis: That doesn't make me feel so good. Obviously, you want this project to go forward.

Chairman Cosentino: I have voiced my opinion. I would like to see this project go forward, but I am just one member of the Board. I understand what all you car dealers are going through.

John Slaker: If we put our heads together and decide on some a little bit different, rather than go through all this detail, would the board prefer if we came back with a plan that basically showed what we would be disturbing and how long the walls would be?

Chairman Cosentino: If the Board accepts a smaller scale, you can always go through this later.

John Slaker: In changing this, we will pay attention to some of Nanette's planning comments and try to satisfy those comments. We definitely will provide all of the engineering comments, but that will come after. We need to focus on a plan before we can design it all.

Chairman Cosentino: As long as all the questions that Mr. Vigliotti and Mr. Hertz brought up are completed at the end of the day, and the Board accepts whatever is going to be there, fine.

Rich Stavridis: We will come back with basically a rough draft of what we want to do.

Ralph Vigliotti: Also, you need to follow the guidelines by our consultant.

Chairman Cosentino: So there is no misunderstanding, they are going to bring in a rough draft we can review. If we approve the rough draft, we will carry on.

John Slaker: In doing that, I will try to address the wall issues, which seem to be the biggest issue. Removing the trees will require a permit, three of the trees are basically dead already.

Ralph Vigliotti: I think the steep slopes will require a permit.

Nanette Bourne: Not only a permit, but also a public hearing. That needs to be factored into your planning.

John Slaker: If we're doing anything in this front, we have steep slopes. There is absolutely no way to avoid it, as you can see from the shading, the entire hill is steep slopes, most of that portion being man-made. We understand we have to go through that steep slopes permit process in order to do any of this.

Continuing Review

**John Bainlardi
681 Main Street
PB2009-09**

**Present: Andrew Fiore, Owner
Scott W. Blakely, R.L.A., Sr. Vice President, Principal
Landscape Architect, Insite Engineering**

Scott Blakely: We were last before the Board in December and received comment letters from town consultants. We've addressed the comments in those letters. We have re-submitted our documentation, our plans and I will briefly run you through the changes that were made to the drawing. One of the issues that was raised in Austin's memo had to do with the pedestrian access from the rear of the building to the rear doors. We have reconfigured this pedestrian pass-through by creating a sidewalk area between the loading area and the building with textured pavement that matches the terrace and the rear. We are also proposing two steel bollards for safety in this location to protect pedestrians walking from the rear

parking lot through this area. We have also added a set of steps here, and we've reduced the slope on that little area where you go from the parking lot to loading docks. From a safety standpoint, the stairs with the handrail have made a big improvement. Based on discussions with the Planning Board, we have also designed a proposed sidewalk connection from the existing concrete sidewalk here. It shows up better on the black and white prints. We looked at the utility poles. There is a utility pole here that is vertical, and then there is a support pole at an angle. We situated that sidewalk in a location that was comfortable for a pedestrian to walk through. We pulled the sidewalk over to protect the roots of the street. This sidewalk gets them from here over to the access way. That was one of the requests from the Planning Board. This sidewalk is connected to this. There is no way we connect our sidewalk across private property.

Chairman Cosentino: So there is something going from the parking lot to the back?

Scott Blakely: There is a sidewalk here. This is 666. There is a sidewalk here and we have made that connection from here to this access aisle to get them through. We have also provided a lighting plan in accordance with the illumination guidelines of the village. We also re-designed the dumpster enclosure to conform to size requirements, and pulled it out of the proposed access aisle. Based on discussions, those are the major plans that we have made to the plan.

Chairman Cosentino: Dunkin Donuts is still going in there?

Scott Blakely: Correct. Dunkin Donuts is proposed to take 1,500 square feet.

Vice Chairman Sturniolo: One of the points raised about the photometric plan is that it must be provided in conformance with the proposed illumination guidelines. I do not think you've done that.

Scott Blakely: Are there specific issues?

Vice Chairman Sturniolo: Minimum/maximum illumination, average ratios, pole heights, lighting fixture details, trespass lighting, etc.

Anthony Oliveri: AKRF identified a few things. The other information was provided.

Scott Blakely: Is the "architectural building mounted light" the decorative architectural light?

Nanette Bourne: Yes.

Scott Blakely: These architectural building mounted lights are located on the front of the building as accent lighting.

Nanette Bourne: They are still supposed to have full cut offs.

Scott Blakely: We'll have to speak to our architect. He basically picked up that light fixture. I think we could probably adjust that light fixture and look for something similar.

Doug Hertz: By my recollection, I think you are allowed to have a non-shielded light like that as long as its wattage is below a certain amount.

Vice Chairman Sturniolo: Do you have all the memos? There are several.

Scott Blakely: We have the older ones.

At this point, Mr. Blakely was given all current memos, and Mr. Sturniolo read lighting standards from one of the memos received by ARKF.

Scott Blakely: That is the lighting fixture that we were just discussing.

Vice Chairman Sturniolo: Two things - the lighting fixture, meaning full cut-off and then an overall illumination level.

Scott Blakely: I think the illumination level that is referred to be in this area right here, where it looks like we have a 5.6 and 6.0. That is probably the combination of the building mounted light and the two bollard lights that we have on the outside.

Vice Chairman Sturniolo: Hopefully, and the correction will address it.

Scott Blakely: Is there any flexibility in that five-foot candle maximum?

Nanette Bourne: Applicants have been able to meet that. We had wondered if there should be some flexibility, as we've been dealing with this for several years and it frequently come up. Each time it comes up the applicant goes back and fixes it.

Scott Blakely: I think we can do that.

Nanette Bourne: The architectural features say, "Upward directed architectural landscaping decorative lighting shall not be visible above the building roof line."

Doug Hertz: I think that is different. I think the design of that is when you have a spotlight that is designed as an architectural up light. This isn't. There is a (residential) section. We allow unshielded light below 100 watts or its equivalent.

Scott Blakely: I don't think we'll have any problems making those adjustments towards building opted lights.

Doug Hertz: You're very close.

Scott Blakely: I think the lighting issues were the only outstanding comment in the AKRF memo besides the picking of the café tables.

Vice Chairman Sturniolo: They were highlighted in a January 5, 2010 memo from AKRF and highlighted in a November 18, 2009 memo from Anthony Oliveri, and highlighted again in a memo from Nanette Bourne on November 18, 2009 as well.

Scott Blakely: This is the first submission of our lighting plan, and I think it was included in all of the recent memos. If we can address this minor lighting issue along with building frontage and within that terrace, we should successfully address AKRF memos. John Bainlardi apologizes for not being here tonight, but he and his wife had a baby about three hours ago.

Chairman Cosentino: Congratulations. Give him our best.

Scott Blakely: I will when I speak with him tomorrow. He was going to bring along cuts of café tables and chairs to present to the Board, and we will get them to you at a later date.

Ralph Vigliotti: My question deserves an honest answer with regard to the aisle width at the back corner of the building. As you know, it is not 24 feet, its 20 feet 9 inches, 3 feet 3 inches short of code, which is 24. More than code, do you honestly believe by leaving that alone - or not having this Board push you on this issue, and I think the Board should push you on doing the right thing that will service your customers. I know that it is shy 3 feet 3 inches, and that a pick-up truck and a large SUV are not getting by at the same time. You know that. This will cause someone to back up in order to let someone else through. You need to take a very, very close look. This is the time if you are trying to create a safe ingress and egress around that blind corner. It is a blind corner. It is not as though it is 24 going into 23 or 20 and it is a straight cut. You have a blind corner there, the way it is set up. You have a one-way in, and at the opposite end, a two-way in and out. You need to address this. You can put blinders over your eyes as a planner, and I find that hard to believe that you would do that. You do need to talk to the owner of the property about what is going to work for that site. You know on that site, with the proposed use, that it is not just going to be small cars going around that corner. There will be at any given time, two pick up trucks, never mind two pick up trucks with mirrors extending. You are not going to get by there. If you do not address this, it is going to come back to haunt you ten times to Sunday, as the expression goes. With a vacant building, you have an opportunity now to do something to that corner to make it work once and for all. Whether it's non-conforming, according to Austin's memo and you can get away with it. I say that loosely. You need to look at that.

Scott Blakely: And we have looked at it, as we said we would last time. We have investigated passenger cars, normal size and extended size SUV's, Escalades, Hummers, which are anywhere from 17 to 18 feet long; we looked at the width of the vehicles, light duty trucks, and pick-up trucks. We've measured Verizon vehicles, the bucket trucks for Verizon, electric companies, Con Ed and NYSEG larger trucks about 25 feet.

Ralph Vigliotti: And you're saying those trucks will get by one another in both directions?

Scott Blakely: I'm saying that passing two larger SUV's is no problem, passing two light duty pick-up trucks with mirrors is no problem. The ability to pass two large trucks - a 30-foot single unit vehicle can pass that area. The neck down point is actually just the ability of truck to make that turn, as in any parking lot. They cannot necessarily stay fully in their lane. What we have proposed here is a 20.9-foot area

here. We have almost 28 feet in access aisle over here. Just because of the angle of the building versus the parking lot. That has helped us out with the width of this for this turn. If we have one single-unit vehicle coming this way and an SUV or a pick-up, they can make it. If there is two single-unit vehicles, which are larger trucks, one will have to wait for the other one. We have proposed in this location a stop sign for the ability of the vehicle coming this way to have to stop at a certain point here and allow this vehicle to come through.

Ralph Vigliotti: That is basically what I was saying; that they both cannot pass through at the same time because of the lack of space.

Scott Blakely: That would be true in any parking lot, where that type of vehicle would be maneuvering through. It is pre-existing, non-confirming, and I know you understand that.

Ralph Vigliotti: I do understand that, but now you have to put a stop sign. People are coming through and whether they are going to stop to allow another truck or car to come through is yet to be seen. You're doing that because of visibility and lack of aisle space. Your answer is put a stop sign there inside of a parking lot. Certainly, that is not legally binding for that person.

Andrew Fiore: There are stop signs in all parking lots. In Vernon Hills, we have 24 stop signs.

Vice Chairman Sturniolo: As one truck waits for the other to pass, then that affects the queuing of cars behind that truck and affects the traffic out on both streets. The backing up, or stacking, is also a concern.

Chairman Cosentino: If two Con Edison trucks came in, one could not come out while the other was going in. Someone would have to let one truck in before the other comes out.

Scott Blakely: It depends on the size of the Con Ed truck.

Ralph Vigliotti: What we know is that it becomes a site that attracts larger vehicles. We need to address that as a Planning Board. We need to make it safe. The most important thing we are doing is addressing the backing up which Mr. Sturniolo mentioned. If four or five cars are trying to get in, and this truck is stopping at that stop sign, and trying to decide who is going to go first, that could back up into 117. It isn't a problem on 128. There is no smooth flow of traffic because of that aisle width. It's not that it goes from 24 down to 20 and it's a straightaway, it's a blind spot there. That is my concern. After they stop and there is a truck in front of them, somebody has to make a decision either to back up or pull over.

Scott Blakely: They don't need to back up. There is a point where he can stop at the stop sign and the other vehicle can make his way through. There is no backing up or pulling over. It's a matter of stopping at that sign. The time it would take for this vehicle to stop and this one to pull through I don't think is an issue with viewing.

Ralph Vigliotti: I don't know where these trucks are parking. Obviously, they are parking in your lot, and they may be longer than the designed length of the parking stripes. If they are parking within

that 24 foot aisle, and that aisle that you're talking about that they can get past, if they are parking there, there is no way you are going to regulate this. They are not getting by.

Scott Blakely: But you can have those Con Ed trucks in any parking area. If you have a 25-foot Con Ed truck parked, he's going to be blocking 7 feet of that access. Someone is going to have to wait, and someone is going to have to go around. I don't think it's any different here than it would be in any other parking lot.

Doug Hertz: I also think, in defense, truck drivers know where to get coffee based on where they can leave their truck. If they can't leave their truck, they don't stop.

Chairman Cosentino: I think these trucks are going to be parked across the street.

Scott Blakely: I do too.

Ralph Vigliotti: They are going to be parked all over the south end of Mount Kisco or wherever they need to and other parking lots and it's going to become another attractive nuisance. We are looking at ingress/egress. This property does not have two-way out on both ends. There is one way in and two ways in coming off of Route 128.

Stanley Bernstein: There is going to be a problem when the other retail space is occupied. You only allow 17 spots, which you seem to think is enough. When these trucks come in they will be taking two spots, if they can get in. In many cases they will have to park across the street in the bank before the bank opens. The thing that puzzles me is that in AKRF's memo, there were examples of about six Dunkin Donuts all over the map. What was not address was the Dunkin Donuts in Mount Kisco on North Bedford Road. If any of you have gone up there between six and nine in the morning, not only are there Con Ed trucks, there are all kinds of vehicles and they are parking on the property next door. Very few of them will pull into Dunkin Donuts parking lot because they have a tough time getting around and coming out again. It is a tough situation at between six and eight in the morning at that Dunkin Donuts. What makes you think this Dunkin Donuts is going to be any different? When I went over to look, I thought these were the type of people who are going to go in and leave quickly. They don't. Unfortunately, they stay; sometimes taking two spaces, parking parallel when the spaces are perpendicular and they stay. I think it would be very instructive if you go there and take a look yourselves. I think your hands are tied on the land, and there is not much you can do about the land. You've done a very good job of landscaping. Generally speaking, ingress and egress for cars looks pretty good - the way you've changed the driveways. It's an area that would work if only cars came there. But when you consider the number of trucks and the large trucks that go in there in the morning, you'll find there is going to be a problem.

Andrew Fiore: I think what you are going to find in the area is that Dunkin Donuts attracts a lot of customers early in the morning before the retail stores are open. Since we're limiting the building to future retail stores, the rush is over by 9 or 10 when they open. Even across the street.

Stanley Bernstein: It still behooves you to go over there and look for a day or two just to get a feeling of what can happen.

Andrew Fiore: I know what goes on. I'm simply saying that the rush is early in the morning and let's start looking at it a 9 or 10 A.M. As long as this is retail, which we indicated we would limit to retail use, there is no problem at that hour. I do think that with all the parking across the street and up above; these truckers will find a way and find a place to park that is convenient. I have a Dunkin Donuts right across the street from me in Pleasantville and they have no parking. They park in the village, as there is village parking. I feel that because of the hours of operation we are not going to have a problem.

Nanette Bourne: There are a few things that the applicant needs to respond to, and if you are satisfied with how they respond to those things and you want to put a resolution on the agenda for the next meeting, I can draft a resolution.

Chairman Cosentino: Those items that have to be responded to are?
Nanette Bourne: Illumination and furniture. The furniture is important for you to look at.

Scott Blakely: We can bring those furniture cuts to the next meeting or submit them in advance.

Chairman Cosentino: Then we will set up for a resolution.

Whitney Singleton: They are proposing an amendment to their site plan. Your board is going to entertain the application to amend the existing site plan of record.

Andrew Fiore: Don't we also have an application for Dunkin Donuts or is that a separate application?

Scott Blakely: It's all on one site plan application.

Nanette Bourne: This is not an approval for Dunkin Donuts. This will be an approval that reflects 1,500 square feet food retail with an allocation of 17 parking spaces. It's not a Dunkin Donuts approval.

Whitney Singleton: You will have a potential situation where a sandwich shop could go in there, and if it's going to be food retail, to food retail, you can't say that you're only going to have peak traffic in the morning.

Chairman Cosentino: You cannot tell them what to have there.

Whitney Singleton: It is approved food retail use. Let's also be clear that based upon the interpretation of the Building Inspector this is food retail and not a fast food restaurant.

Chairman Cosentino: Please make a draft resolution and we will go over the draft before setting up for approval.

Scott Blakely: We will bring the furniture cuts and the illumination plan revised.

Continuing Review

Peter Smith
211 Kisco Avenue
PB2009-01

Present: Peter Smith, Architect
Scott W. Blakely, R.L.A., Sr. Vice President, Principal
Landscape Architect, Insite Engineering

Peter Smith: We are here because the construction has been going on since spring. Since you saw the project at the inception, a few changes have happened, as they often do, mainly because the owner decided that rather than having a tenant alongside his own function in the building, he is taking the entire building. It is a single use building. That altered the calculation for the parking. It necessitated from his point of view the need for a security gate and remove the sign that you had approved. We discovered when we dug that we would kill a tree, which we did not want to do. We relocated that. With the single tenant, it turns out we indicated that we had 32 parking spaces. We only need 22. The parking lot that was built was actually smaller by a couple of feet than what we thought we had. We have flexibility with the parking.

Scott Blakely: Basically, the original survey that Peter was working on had some inconsistencies with the curb lines. The overall length of this parking lot was not as long as Peter had anticipated. Once they reconstructed portions of the parking lot, removed some of the asphalt, added some landscape in this area, and installed the sidewalk and this landscaped island in here, they were a couple of feet short overall. They've resurfaced the parking lot, so the parking lot is ready to be striped. When we went out and did an interim "as built" on it just to make sure we had the right dimensions, there were some discrepancies. Because of this, we have submitted to your Board a modification to the parking. We still have 32 parking spaces but we've reduced the width on some of those and designated those as employee spaces. We are proposing three, two and four spaces in these locations striped at nine foot and a sign that says "employee parking only." This helps us maintain our 32 spaces. The other change was a reduction in the number of handicapped stalls. The state code requires for parking lots between 26 spaces and 50 spaces to have two handicapped stalls. So, we've reduced this down from the four that were previously proposed to two stalls in this location. This works very well for a single user where the main entrance is in this location. The modifications that we have made have to do with the width on nine of those stalls to nine feet versus nine foot six, the access gates they are proposing here. Most of the time there will be minimal activity within the building, maybe not even having cars on site. They want to maintain their security on the lot based on the use of the building. These gates are proposed to operate in an upward manner so they won't swing out where they would block parking spaces. There are precautions built into these for safety per the Fire Department.

Peter Smith: It's all tied into the fire system and security, and that has all been coordinated. If there were no changes in the width of the spaces as you would determine, we can fit 29 spaces. We only need 22 and we're completely flexible.

Scott Blakely: I've looked at this to have nine foot six conforming spaces. As Peter mentioned, we can fit 29. We would reduce this from 18 to 17, this from 7 to 6, this from 5 to 4, have a striped island here and here. These islands would help to provide a little more maneuverability into the loading dock, which makes sense to put those there. This is not going to be used as a loading dock. Our loading is here, so we can stripe this with 29 spaces, which is a change from the approved plan that showed 32.

Vice Chairman Sturniolo: Why was the front entrance chosen at the location that you show?

Peter Smith: We moved it there so that you could get into the building without having to climb stairs and without having to create a ramp. The land is inclined there and you can just walk on a path and get into the building.

Vice Chairman Sturniolo: Currently, what is the plan? What is going to be stored in the building?

Peter Smith: It's an art collection - paintings and sculpture.

Vice Chairman Sturniolo: Will they be on display?

Peter Smith: No.

Vice Chairman Sturniolo: Strictly warehouse?

Peter Smith: Yes.

Vice Chairman Sturniolo: And the loading dock is to transport them in and out?

Peter Smith: Yes. Parts of the collection are at times lent out to museums and galleries, so work occasionally comes in and out of the building. Packages are repaired, stored, taken off the wall and sent out again. It's a very light use function.

Anthony Oliveri: There is one other thing which was not on the plan. There is a low wall that was constructed on the east side of the rain garden, which is reflected on the "as built."

Scott Blakely: We can add that. They planted an ornamental Japanese maple here, and it is not a wall, but a tree well. Its maximum height is 18 feet.

Anthony Oliveri: It looks like it's right on the property line, so make sure it's on the other property. The property line is not at the retaining wall - it's a few feet in.

Scott Blakely: We will verify that.

Anthony Oliveri: Make sure it is reflected, as the grading is different there than around the rain garden.

Nanette Bourne: What is the status of the sculpture? Do you have a sculpture that you're putting outside?

Peter Smith: There is a sculpture that is going to be placed in the edge of this rain garden.

Scott Blakely: The base for that has actually been installed. We have increased the capacity of the rain garden from the original design because that 4 by 4 - that 16 square foot statue base is within the rain garden, so we have increased the size of the rain garden in excess of the 16 square feet. That was one of the concerns that was talked about at the pre-construction meeting. I think the picture of that sculpture is on file with the Building Department.

Nanette Bourne: I don't know if the Planning Board is interested in seeing that.

Scott Blakely: I'm sure you've driven by it, but they have made landscape improvements by installing additional plant material beyond. I think this helped along the frontage of Kisco Avenue to break up that concrete block building. They have also done additional plantings on this end to help give some privacy to this main entrance. They also cleaned up this slope of some of the overgrown shrubs and they are going to put some evergreen buffer in between the roadway.

Doug Hertz: Assuming that we accept the nine-foot proposal on these four spaces, if this reverts back to another use, my concern putting four-foot spaces is should they decide they don't want them at a certain point and this gets re-demised, what control do we have at that point?

Whitney Singleton: It should be identified on the plan as what they are, and they should be very prominently displayed as long-term parking or employee parking and the dimensions set forth as far as shaping.

Scott Blakely: We've specifically called them out on the plan.

Whitney Singleton: The next person goes in there; they will see them as pre-existing, non-conforming, when the reality is they are not pre-existing, non-conforming. They are substandard size stalls for the purpose of retail or any other use for the general public.

Scott Blakely: We have nine signs indicated on the drawing designating employee parking, like a handicapped sign.

Whitney Singleton: If it's going to be a single tenant building, what other parking is there going to be?

Scott Blakely: Visitors.

Vice Chairman Sturniolo: People who come in and visit the art collection?

Peter Smith: There is a curator who might not be there all the time, maybe once a week, and there will be artists who will occasionally come to show their work or talk to the owner. I can imagine the owner inviting friends over.

Chairman Cosentino: Would it ever be open to the public?

Peter Smith: I don't think so.

Chairman Cosentino: What about 25 or 30 artists?

Peter Smith: That can happen.

Whitney Singleton: For clarity for the resolution purposes, this is not an art gallery where pieces of art will be shown and available for sale.

Peter Smith: No, not at all.

Vice Chairman Sturniolo: Does the rain garden serve any other function other than to beautify that particular area?

Scott Blakely: The rain garden was designed as an infiltration basin to pick up the increase and impervious surface from the sidewalk. The run-off goes across the sidewalk into a grass swale into the rain garden, and then filters that rainwater into the ground. We have actually provided an additional capacity over the design storms required.

Stanley Bernstein: When you first came before us, we were talking about the HVAC and the different types of systems. What did you finally use?

Peter Smith: They used a conventional system. They didn't use the Mitsubishi.

Stanley Bernstein: A conventional, ducted system, a split unit inside evaporator condenser outside?

Peter Smith: Yes.

Stanley Bernstein: The present condenser will sit on this concrete slab?

Peter Smith: Yes, one will. Everything else is on the roof. This portion of the building has a lower roof by about four feet and everything is on that roof and concealed with a shielded barrier, like a parapet. Did not get to use that Mitsubishi system.

Stanley Bernstein: A lot of new innovations have been made since your original proposal, which are very highly energy efficient. Mitsubishi is a very good system, but some are even more innovating and more energy efficient. Its unfortunate the owner picked this.

Question - If another owner in the future were to purchase the building, wouldn't they have to come for Planning Board approval?

Whitney Singleton: It would depend upon what the use is. There are limited provisions for people to go in with new uses that are not deemed impactful to the community. The parking spaces that you've designed for employees are farthest away from the building.

Scott Blakely: Yes. Would the Board want to have a sign there in the field for parking?

Chairman Cosentino: I don't think signs look good.

Scott Blakely: I agree with you. If the Board agrees, we will make sure that they are heavily designated on the amended plan and we will remove the signs.

Chairman Cosentino: Agreed. We will put this on the agenda for a resolution at the next meeting.

Whitney Singleton: You will get Nanette and Anthony the amended plans.

Chairman Cosentino: That will be the February 9 meeting. Thank you.

Special Discussion:

Chairman Cosentino: We were going to draft a letter to the Village Board requesting the attendance of the Building Inspector at Planning Board meetings.

Doug Hertz: Is it our intent to have the Building Inspector attend or have some permanent staff person from the Building Department attend?

Chairman Cosentino: There is no one except the Building Inspector, and I think it should be the Building Inspector as he is the one who makes the decisions.

Doug Hertz: I don't disagree. I think it's a double issue. One, we have no permanent staff person, so there is a continuity gap. Secondly, there are issues of the Building Inspector's job that we cannot get answered here, so we get delayed and things get lost in the shuffle.

Chairman Cosentino: When Austin was here previously, the Planning Board meetings ran quite smoothly. He is the one who makes the decisions and he should be here. Also, his input was good here. The letter should go to the village board (because they were the ones who removed him) asking if they would reconsider having him attend the Planning Board meetings.

Whitney Singleton: This would be a letter offered by the chairman on behalf of the Board?

Chairman Cosentino: With a copy to Jim Palmer, and every Planning Board member should get cc'd on this.

Vice Chairman Sturniolo: Do we also want to include the resumption of the staff meetings?

Chairman Cosentino: I think we should request the Building Inspector, and I will meet with the Mayor to discuss the staff meetings.

Nanette Bourne: I am not an advocate of the staff meetings, but I am an advocate of a session sometimes where we all just make sure all the pieces are put together, like a conference call.

Special Discussion:

A. Planning Board Rules of Procedure

Vice Chairman Sturniolo: I wrote a memo dated November 9, 2009 highlighting the mistakes in the memo that we have that in our packet dated December 24, 2009. I suggested the following, as per Nancy's request for comments. The draft that we had in the packet should have been thrown out and we should have taken 2009 revised rules and regulations, which had all the corrections in it. Nothing ever became of my memo.

Page 1 - #1 C Delete "Building Inspector" and substitute Planning Board Secretary.

Page 1 - #2 Delete Building Inspector in the first line and substitute secretary for Building Inspector in the fourth line and delete Building Inspector in the fifth line.

Page 2 - #2 Delete the reference to Building Inspector in the first and third paragraph

Page 3 There are typos in Paragraph Three (yays and nays is an example). There is also another typo in the fifth paragraph.

Page 4 There is a typo in #10.

All this can be summarized if we had last year's Rules of Procedure.

Stanley Bernstein: There is also another typo exactly like the one on Page 4, #10 in Paragraph 3, Page 2.

Chairman Cosentino: We will vote on these tonight with the provisions that the Vice Chairman just added into this and we will look at it at the next meeting. We will need copies at the next meeting.

Motion to Modify the Rules and Procedure as Outlined with the Appropriate Changes Indicated in this Evening's Meeting.

Question: Chairman Cosentino: Does anything that the village board just passed should be entered into this?

Whitney Singleton: No.

Motion: Vice Chairman Sturniolo

Second: Doug Hertz

Aye: Ralph Vigliotti

Aye: Stanley Bernstein

Aye: Doug Hertz

Aye: Vice Chairman Sturniolo

Aye: Chairman Cosentino

Chairman Cosentino: The Secretary has agreed to resume the responsibility of that position as well, so the Secretary will remain Mr. Bernstein. Thank you, Mr. Secretary; you did a great job last year.

Vice Chairman Sturniolo: Are we all perfectly clear on the fact that we need to have the Building Inspector review the Finkelstein

application and send the memo back to us, as was previously discussed? On our last meeting in January 8, 2010, one of the things we said we were going to do was get a memo to Austin. The second item is that we had directed the applicant for the Getty Station to see Austin Cassidy and get Mr. Cassidy to issue a revised memo based on the current submission plan of the Getty Gas Station. That memo was never written from the Planning Board to Austin giving him the heads up that the applicant is going to see him, and what we expected. We need to do that again. Lastly, at the last meeting we said we were going to direct a memo to Austin Cassidy stating and detailing our position regarding the recyclable machine issue, as it is coming to light in New York State. That should have been written from us to Austin Cassidy after our last Planning Board meeting, and I don't see that in the packet.

Chairman Cosentino: We will talk about that tonight.

Whitney Singleton: I sent Austin the request for the memo. I apologize. It went to Austin, then Anthony and the chairman. I did not cc it to Nancy for inclusion in your package. It was "requesting a determination as to the permissibility of 156 North Bedford Road - Finklestein, utilizing undersized parking stalls allegedly for employees. I know that 110 A permits nine-foot stalls at 90 degrees for certain long-term uses. These are consistent with your understanding of the proper application of this standard. You may want to examine the aisle width as well. While the Planning Board seems to want to make things work for this applicant, I am concerned as to the fall-out of the potential interpretation throughout the village; additionally, a need for a subsequent agenda, a review of the most current Getty Station obligation." Austin replied indicating that it was perfectly fine. I will forward this to Nancy for inclusion in your next package, and it reads as follows: "oh, by the way, as a follow-up to my previous email to you a nine-foot wide long term space is for employees. The existing site plan has six. Spaces are nine feet wide, parking spaces dedicated for employees. The current proposal is essentially converting five of them to standard retail spaces, and leaving only one per employee long term. Coincidentally, this site confirms that this determination and distinguishment has been made by the Planning Board in the past, and there is no precedent being set." Austin is saying that it's okay and it's been done in the past.

Anthony Oliveri: He didn't address the aisle width in the front?

Whitney Singleton: No. It was not reflected in the minutes.

Chairman Cosentino: Anthony, why don't you check with Austin?

Anthony Oliveri: Yes.

Vice Chairman Sturniolo: It's all these little things that fall through the cracks and kills us every time. I believe the Planning Board needs to stay on top of what we request, what we expect and anticipate and what we see in the packet. There has to be follow-up. This kind of goes back to the idea of the staff meeting. There is too much slipping away and we as a Board are paying the price.

Chairman Cosentino: The problem is that we email a lot to the Building Department. For example, I had to take something off the

agenda because we did not receive something back from Austin on it. We send it, we don't get answers back and we'll send it again. He's overloaded with work and this is what it is.

Vice Chairman Sturniolo: It's a shame the applicant pays that price. Someone needs to prioritize for Austin what his workload should be if he can't prioritize it.

Chairman Cosentino: The problem is he is doing what he can do and that's it. You can't tell him what to do, you can only ask him. You are right. I think if he's here at meetings it will make a big difference, because you can ask him questions while he's here. I think that would answer all your questions. I want to talk about the reverse vending machines. Under New York State code, it is mandatory to put reverse machines in all stores over 40,000 square feet. Target has to put eight of these machines in their store. I asked for the email to be here tonight, but I don't see it in my packet. Something must have happened. You will get it. Target sent a letter stating they want to comply by March 1. They are telling us they would rather put them somewhere in the parking lot because of the stickiness, odor and clean up of it, and I would rather not put them in the parking lot. We have to think about this and make a decision. I think they should be in their own store. A & P has their own and there is no problem there. I would like to make a policy that these get installed inside their own stores and the storeowner will have to maintain the upkeep of them. It will be on the next agenda. I do not want Target to come along and have them tell us we didn't tell them anything. They have to have it all set up by March 1. This is only for stores that sell the products. Unfortunately, Target sells the products and they will have to deal with it on the inside.

Whitney Singleton: There are places that are less than 40,000 square feet. No matter whom you are if you sell something for which you take a deposit you must also issue refunds. Prices being what they are for real estate, people are not going to want to put these things in their stores. They are going to want to put them outside.

Chairman Cosentino: We don't want to start a precedent to allow them outside.

Nanette Bourne: I am working with several communities on this, and all want them inside and they are requiring that they be inside.

Whitney Singleton: Just expect a fight though, because the memo from Target says they want them outside.

Vice Chairman Sturniolo: Here is my point. You just said Target wrote a memo that they want them outside. I am beating a dead horse into the ground. If we had sent that memo two or three weeks ago to Austin stating what our beliefs were regarding the recycling of these items, then Austin would have had that in front of him when he got the letter from Target, and it could have been nipped in the bud, hopefully. But now, Austin doesn't know what our feelings are, because we never sent him the memo.

Chairman Cosentino: I will put this on the agenda to get it done as soon as possible. What is the procedure?

Nanette Bourne: One is the memo that outlines what your policy will be for dealing with it. Target has already submitted plans for you to review.

Chairman Cosentino: If it's done inside, it's not a site plan modification, it's just procedure. Do they have to come before us if it's going inside? No. Outside? Yes. Do we go through local legislation to not allow them outside?

Doug Hertz: Why don't we just say no?

Nanette Bourne: You have a right to go through site plan modification, so Target has submitted plans that show their recycling to be outside and they show the façade, the structure. Right now, the way the law stands, they have a right to bring that to the Board. Whether or not they do it as a conceptual or formal application, you give them feedback that says we don't like this, put it inside. They push you on it and say no, we want it outside; you are in a position to deny it. There is no requirement in the state law that gives them the right to have it outside.

Chairman Cosentino: Can they go to the ZBA for any reason?

Whitney Singleton: They would have to appeal your decision in Article 78.

Nanette Bourne: Your procedure is that a new application comes in as a conceptual.

Chairman Cosentino: If they come as a conceptual we can give our views on it.

Nanette Bourne: If your view is that you don't like it, they then have the choice to either listen to you and put it inside or come back with a formal application and begin the process.

Chairman Cosentino: They would have to pay for the conceptual, because this might go on for a little while.

Vice Chairman Sturniolo: Has the village communicated back to Target yet?

Nanette Bourne: Not to my knowledge. The sequence is that Austin had asked me if I knew about this and I provided him and the Board in my memo to the Board what the law is and what the requirements are. Then there was an email from Whitney and then I saw the plans for Target.

Vice Chairman Sturniolo: My initial question was have we communicated back to Target in any way?

Nanette Bourne: No. There was an internal communication.

Whitney Singleton: Friday, January 8, Austin forwarded an email to Nanette, Anthony the Chairman and myself.

At this point, Mr. Singleton read Mr. Austin's memo.

Whitney Singleton: This memo was in response to the email that he received that very same day from Amerizone, which is a permanent expediting service saying, "as you requested during our phone conversation this morning." So Austin talked to her on Friday, she communicated to Austin on Friday providing several attachments, Austin sent it to staff and the Planning Board Chairman Friday afternoon, and I responded to Nanette, the Chairman, Austin and Anthony in a confidential memorandum. I will be happy to forward it to the Board.

Nanette Bourne: In answer to your question, we don't know if Austin relayed the village's concern about putting the machines outside of Target.

Vice Chairman Sturniolo: He probably never did, because he never got out initial memo stating our position from two weeks ago. It all goes back to that.

Ralph Vigliotti: Now we're playing defense instead of offense, and now we have to fight.

Whitney Singleton: I think you've already established a precedent in this village. You have not only established a precedent in this village, you established a precedent on this very site plan.

Nanette Bourne: I think part of this is to maintain the "greenness" of the village. You support this - it's a good thing; recycling is something that you are advocates for, and you want this good thing to be inside the building.

Vice Chairman Sturniolo: Can we get all this packaged so we can follow it for the next meeting?

Whitney Singleton: I will send my comments and copies of the documents that Austin received electronically right now.

Special Discussion:

B. Letter from David Steinmetz to Mayor Cindrich and Members of the Zoning Board of Trustees dated December 17, 2009 re Discussion of the Zoning Text Amendment.

Stanley Bernstein: We have received a letter from Mr. Steinmetz to the Village Board. The Village Board asked him to copy us, although he was not in the beginning. The reason I am saying this is that I saw this meeting on TV. I am very annoyed. We were very compliant with Mr. Diamond. There was some resistance, but he got what he wanted. Now he is asking for a text change amendment, which does not properly come before us. I think for all we've done we should have gotten the courtesy of Mr. Steinmetz coming here and asking us to make a recommendation to the Village Board to do this thing.

Chairman Cosentino: He was asked to come here and he refused. He went directly to the Village Board.

Stanley Bernstein: I am not in favor of giving him a carte blanche. He wants to have a text change that absolves him of everything. He wants to be able to build whatever he wants, do whatever he wants

without any interference from the Planning Board. After all we've done for him; this is a slap in the face.

Whitney Singleton: One of the reasons that the application was made was because there was a sense that a lot of the things that are being put before you were very attenuated or stressed interpretations of what was in the code. A whole concept of there being a membership buffer, GPNY was viewed as being a farce. Since there is only one ML property left in the entire Mount Kisco, and since there is an opportunity to deal with a property owner who seems to be fairly committed, and I'm using some terminology others have used, to improving things in Mount Kisco, there was some discussion about why you keep abusing the interpretations of what is permitted in what zone. Why don't you simply come in and work with the Village to come up with something that works. When I say that it was partially their idea and partially advocated by the village and that is what is done. As far as carte blanche, that is far from the reception that was given by the Village Board. They talked about making a number of these uses principally permitted uses, and the Village Board was very clear that they wanted to have some mode of control over the applications and that the special use permit process was very helpful towards that end. The Village Board indicated that some of the uses that they had put on a hand out sheet that night were perhaps much too far afield from what they were thinking. I don't know that it was per se carte blanche and that he was trying to stab you in the back. I did have some discussions with David Steinmetz, and he asked how to approach it, and I did encourage him to perhaps pursue the joint meeting between the Planning Board and the Village Board and in that discussion, one of the reasons for suggesting that was to make sure that everyone was starting off on the same page and not having this kind of adverse reaction. He indicated that whether there would be scheduling delays in accommodating them or just simply at this point did not want to do that for whatever reason. That was not the pursuit, but it was certainly thrown out there as an option.

Vice Chairman Sturniolo: Prior to his appearance before the Village Board?

Whitney Singleton: Yes. It was actually thrown out there as a recommendation, not an option.

Stanley Bernstein: He still should have come here first. He will have to come here first, only because the Mayor and the Village Board says that he won't do anything unless the Planning Board looks at this and makes a recommendation.

Whitney Singleton: It's mandated by the code.

Stanley Bernstein: It's a text change. Why does he have to come before the Planning Board?

Whitney Singleton: 110-53 requires any zoning changes reported to your Board.

Stanley Bernstein: I am incensed over this. We've worked very well with him all this time, and he should not have turned his back on us.

Chairman Cosentino: I don't think Mr. Diamond did. I think it was his attorney.

Stanley Bernstein: Mr. Steinmetz of all people. We've worked with him on almost everything, and everything he asks for he gets. We very rarely push back against him.

As there was no further business, on a motion by Mr. Vigliotti seconded by Mr. Hertz, the meeting was adjourned at 10:15 P.M.

Respectfully submitted,

Stanley Bernstein
Recording Secretary

dm