

Minutes
Meeting of the Planning Board
Regular Work Session
Village/Town of Mount Kisco
Tuesday, March 9, 2010

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

Members Present: Chairman Joseph Cosentino
Joseph Morreale
Sol Gibbons
Stanley Bernstein
Ralph Vigliotti

Members Absent: Vice Chairman Anthony Sturniolo
Doug Hertz

Staff Present: Ashley Ley, on behalf of AKRF
Austin Cassidy
Whitney Singleton
Anthony Oliveri

Final Action

Joe Mangi
222 Main Street (FAB)
PB2009-13

Present: Joe Mangi
Salvatore J. Triano, P.E., Principal, Crossland
Engineering

Anthony Oliveri: The last thing we received was a survey that we asked for. I tried to get in touch with you, because the offset that is shown on the survey needs to be verified that that is the same dimension you have on your site plan.

Salvatore Triano: It is interesting to know that the building façade changed over the years. That will be part of the work that actually gets done.

Anthony Oliveri: There is a bump out in that corner, and you are showing dimensions of the face of the building that do not agree with the survey. You will have to make sure that is verified.

Salvatore Triano: We will.

Anthony Oliveri: I have no other issues.

Ashley Ley: I have no problems or comments.

Chairman Cosentino: You have entertainment at your facility at night, right?

Joseph Mangi: Yes.

Chairman Cosentino: Is there a problem on the code?

Austin Cassidy: I will cut right to the chase to help you. It came to our office's attention today that there is advertising for the entertainment. There is a limited cabaret license that has been issued there. That is a fact. However, the advertising for the business states that the entertainment continues until 12:30 A.M. The limits in the code for a limited cabaret license are 11 P.M. We have sent a notice out to the business owner who probably has not received it yet. You will have to adjust and stay with the 11:00 limit.

Joseph Mangi: Okay.

Chairman Cosentino: The rest is okay, then?

Austin Cassidy: There has been a duly issued license.

Chairman Cosentino: It is to be noted on the minutes that the Building Inspector has instructed that per the code entertainment can be offered only open until 11:00 P.M.

Austin Cassidy: Notice has gone out, and for the record right now, the proprietor has acknowledged that he will comply.

Whitney Singleton: To be clear, any other requirements applicable to a limited cabaret, namely, there is no amplification and there are not more than two performers.

Joseph Mangi: Right.

Motion of Resolution of Approval for Outdoor Dining and a Handicapped Ramp, PB2009-13, Date of Action to be Updated to this date, March 9, 2010. Map Identification 80.33-1-13

Question:

Chairman Cosentino: Whitney, do you want to add that language into the resolution?

Whitney Singleton: No. It is already imposed upon by operation of law.

Motion: Ralph Vigliotti
Second: Joseph Morreale
Aye: Sol Gibbons
Aye: Stanley Bernstein
Aye: Joseph Morreale
Aye: Ralph Vigliotti
Aye: Chairman Cosentino

Conceptual Application:

Paul Krause, Architect
130-132 Main Street
PB2010-2

Present: Paul Krause, Krause Architect
Michael G. Tierney, Krause Architect

Michael Tierney: I quickly went out and took some photos so everyone would be reminded of what the building is. The building is right around the corner, 130-132 East Main. It used to be the old Piero's or The Brass Horn. KH Realty has purchased the building, and they want to aesthetically bring it up to date and beautify it. As you can see, the backside of the building is essentially a back alley. There is nothing too great about it. It is not in the greatest of shape. In the interest of beautifying the building, they also want to modernize the existing kitchen. They want to keep the existing usage, both first floors, which are a restaurant and commercial kitchen, as well as the second floor as non-medical office space. The building is presently empty. To attract tenants, they would like to renovate and bring the kitchen up to the more occupational and safety standards of today, which essentially requires expanding. The existing lot is approximately 3,000 square feet. There are some calculations on the drawings that essentially tell you that the present building is under by a hair by approximately 15 square feet. The development coverage is 100 percent, because it is all asphalt. It has been that way ever since. We are pre-existing to the CB2 Zoning and are asking for your opinions on doing this addition.

Chairman Cosentino: I do not believe you could provide for parking here. You cannot change a non-conforming use. You can have what you have there. You are going to need a variance.

Paul Krause: We are asking for that.

Chairman Cosentino: You will have to go for a variance and then come back before this Board.

Paul Krause: It was recommended to us that we come to you.

Chairman Cosentino: You are doing the right thing, we will tell you what we like and what we do not like about it. But you will have to go for a variance before you come back before this Board to file application. This is just a conceptual. To make application, you are going to have to go before the ZBA and come back before us.

Austin Cassidy: To be more specific, you are before the Planning Board conceptually, as previously discussed. The Board has a standing policy, which not only wants to see applications in a conceptual format first, particularly if something is going to go to the Zoning Board, so it is in an informed position should the Board wish to comment on it in the Zoning Board of Appeals quorum. A conceptual application is not an application in which we act upon. Therefore, I cannot issue a denial until you formally apply for something. Then I will be obliged to review it. We would be denying it on the parking issues and you would have to go to the Zoning Board of Appeals. In this district, which is CB-2, the burden is that you have to provide at least 50 percent of your parking requirement on the site, and the other 50 percent could be discharged by means of payment in lieu of the codified formula in the code for payment for future parking provisions in the public parking system. Here you cannot even put 50 percent of the parking on the property, so you have no ability to put parking on the property for the square footage. Therefore, you must go to the Zoning Board of Appeals.

Paul Krause: Yes. I understand the process.

Chairman Cosentino: I am sure the Building Inspector explained this to you.

Paul Krause: Yes.

Austin Cassidy: You have the opportunity for the exchange of understanding what you are proposing so the Board is informed. If the Board feels comfortable, then you are done here tonight.

Chairman Cosentino: Keep in mind that nothing can be done without the approval of the Zoning Board of Appeals issuing them relief from the parking issue.

Paul Krause: We are also going for an area variance as well as parking.

Austin Cassidy: A parking variance is an area variance.

Paul Krause: I see.

Austin Cassidy: On that point, should variances be successfully achieved, then you would have to come to this Board and finish the planning process relative to the site plan. Also, the Architectural Review Board relative to the visual aesthetic.

Paul Krause: Our client would like to know what the disposition of this parking issue would result in possibly as a solution.

Austin Cassidy: Maybe a more pointive question is would the Board be supportive of any application where the parking that is required is not being provided.

Paul Krause: Yes.

Chairman Cosentino: As far as I am concerned, he has to provide for parking. That is the code. That is the law.

Paul Krause: This has nothing to do with the fact that this lot existed before?

Chairman Cosentino: No. If you leave it the way it is, you can do what you want with it. The fact that you are changing it is the problem.

Paul Krause: How about if we added to the area requirement?

Austin Cassidy: Just so you are fully informed, whether you add or not, the additional parking is precipated either by physical addition of square footage or a change to a use that has a higher parking requirement. If you were to propose a dentist to be on the second floor, that has a higher parking requirement. You cannot provide that parking either.

Paul Krause: What if we kept the existing usage and didn't add to the building?

Austin Cassidy: There would be no issue. It would be a straightforward building permit and ARB for any exterior alterations you will be making for the site.

Chairman Cosentino: How many offices are presently upstairs?

Michael Tierney: There are three spaces. The whole building is vacant. I'll say four and then a couple of bathrooms.

Anthony Oliveri: This is three spaces. Five rooms, two connecting.

Chairman Cosentino: We have three spaces upstairs, so that will stay three spaces.

Paul Krause: I was just wondering if there was any desire on the part of the Board to make this building into something that is comparable to the A T & T building.

Chairman Cosentino: You can still glorify the back of that building without adding on.

Paul Krause: Not too easily.

Chairman Cosentino: Your architect can add something on to the back of that building to beautify it, if that's what you're looking for. Under the code, this Board is bound to comply with the code. As far as the code, you do not have the parking.

Paul Krause: It does not take into consideration that this building never had the chance of having parking.

Chairman Cosentino: So it stayed the way it was. That is why no one ever built on the back of it.

Paul Krause: And no one ever improved it, maybe.

Chairman Cosentino: That is why we are looking for you to improve it.

Paul Krause: We are trying to have our client improve it, but we are asking a question, and you are saying you cannot agree with it.

Chairman Cosentino: I am not saying I cannot agree with it. It is the code. I speak for the code.

Paul Krause: I am aware we are in violation of the code, but we are going to be asking for a variance to that code.

Chairman Cosentino: You are entitled to ask for relief.

Paul Krause: We are asking what is the likelihood that this might be achieved?

Chairman Cosentino: I don't know. We are not the Zoning Board of Appeals.

Paul Krause: Is there a conceptual review for the ZBA?

Chairman Cosentino: No. You go with application. They will review it and let you know their findings.

Whitney Singleton: It is a different standard entirely.

Paul Krause: In Bedford, you speak to the Planning Advisor, and he gives you some kind of feel of what can happen. To go through the application process is a very long and tedious thing without having any idea of what might happen.

Chairman Cosentino: We just gave you the feel. I am saying that you cannot provide for parking unless you get relief from the Zoning Board. The Zoning Board does not have a conceptual. If you go before the Zoning Board you will get your answer. You may or may not like what that answer is.

Paul Krause: It seems to me that in this town there probably were similar buildings with similar problems. Were any of them ever given a variance for this kind of a situation?

Chairman Cosentino: I could not tell you that.

Joseph Morreale: Hypothetically, if you were to change the building footage, as you are getting a high percentage on the whole lot the way you are proposing this, and you just change the aesthetics of the building, then you also do your internal renovations of the restaurant, as that sounded to me like you might be increasing the number of patrons.

Michael Tierney: Actually we are decreasing.

Joseph Morreale: How so?

Chairman Cosentino: They are eliminating the bar and that will be the kitchen where you can see people cooking through glass.

Michael Tierney: There is also a preparation area running down the side.

Chairman Cosentino: The back where the kitchen is now is expanded.

Michael Tierney: Yes. That is where the potential tenants don't feel that it is capable of supporting their restaurant in the way they want it to. That is why we are proposing the addition of square footage.

Joseph Morreale: If you are proposing to remove the bar and make more square footage for patrons, does it increase or decrease the volume for patrons?

Michael Tierney: Not for patrons, just for kitchen.

Joseph Morreale: You are not going to run the whole kitchen across the bar, are you?

Paul Krause: No. This is going to be two display areas; this is going to be eating area. We have the stats to show this is less than what is there now. This kitchen is obviously much greater than the kitchen that is there right now.

Joseph Morreale: So, my point is if you don't change the building footprint, you are actually going to decrease the flow of traffic here. There will be less people coming into this restaurant than has been the case before. I am assuming full capacity.

Paul Krause: There will be fewer seats.

Joseph Morreale: What about upstairs?

Michael Tierney: Upstairs remains the same.

Joseph Morreale: Will that increase the number of people back and forth?

Michael Tierney: There is no second floor. We are not adding to the second floor whatsoever, other than extending an egress stair.

Chairman Cosentino: You are putting a deck up there.

Michael Tierney: Yes, but that is off on one office.

Paul Krause: The use for it now is offices.

Joseph Morreale: You will hold to the size there as well.

Michael Tierney: Yes.

Chairman Cosentino: The code does not read that you can add onto the back if you eliminate seats. What if they sell within six months to a year and someone else comes there and puts the bar back? Now you have the same problem.

Joseph Morreale: With all due respect, Mr. Chairman, I said from the beginning that they would not change the footprint. So you're not expanding the back. That would be my point. If they don't do that, they are effectively going to reduce the number of people who come and go. If that were the case, would they need a variance?

Chairman Cosentino: No. If they stay the way they are, they need no variance. They can talk to the Building Inspector and get a permit.

Austin Cassidy: Correct.

Chairman Cosentino: The fact that he is adding onto the back and he cannot provide for parking, the Building Inspector will deny the application and he will then have to seek relief before the ZBA. This Board is saying he is going to have to get relief because we cannot approve something that is not within the code. The code is the law.

Joseph Morreale: The reason why I raised this as I listened to this is that you do have another option. My position, if I were you, would be to not change the footprint. You have options here.

Paul Krause: We are aware of that option. The client wanted to do this major kitchen because it is part of his philosophy of his restaurant.

Joseph Morreale: Then it's your call.

Paul Krause: In order to go to the Zoning Board, do you have to complete all architectural details and drawings?

Austin Cassidy: The Board would have to look at potential visual impact, negative or positive, as they review an area variance. I would think they should see elevations?

Paul Krause: What about complete details like electrical, plumbing?

Austin Cassidy: They do not see it. They will see site plans, elevations, things that are relevant to the issue. You are getting a little bit of a forecast here. The code says this: the Board is not in support of any potential applicant that cannot support their business with parking, and the Zoning Board is a quasi judicial body that is pretty black and white in terms of what they need to analyze. The village has been officially postured for a number of years that there is more parking demand than there is parking inventory in the village. That should be a great hint to how that should play out in the Zoning Board of Appeals.

Whitney Singleton: There are about 10 other properties in the immediate vicinity that would love to convert uses. It has been an adamant position of the village that you must supply the parking. There is an insufficiency right now. You are coming in with a self-created hardship. Your client purchased the property knowing its limitations. Because of your client's business plan, as to how they would like to operate, you would like a zoning change in your favor. One of the five factors that they would balance for this area variance would be whether it is a self-created hardship. In your case, I do not see how you can argue that would not be. It is certainly a factor to be considered.

Paul Krause: This idea of purchasing parking spaces that does not exist?

Whitney Singleton: It does exist, but you are so far out of whack on the parking, you cannot even do it. There is a limitation. What exists for this property, in its pre-existing, non-compliant building - to the extent that you increase that degree of non-compliance, you must seek relief from the Zoning Board of Appeals. After having purchased the building, your client is proposing to change the complexion of how they would like to operate within the zoning context. I can tell you, immediately next door, across the street, down the street, this is not the first time this issue has come up. There is simply insufficiency of parking. To a certain extent, it is opening up Pandora's Box. I do not say that to discourage you, I feel as though you are fishing out for a temperature of what your chances are.

Paul Krause: That is most definitely what we are doing.

Whitney Singleton: I do not want to discourage you, but I also do not want to mislead you into thinking that this is something that is likely.

Paul Krause: So as long as we stay within the footprint, and maybe change aesthetically the front and the back, that is okay?

Chairman Cosentino: You have to go before the Architectural Review Board.

Paul Krause: That is not a zoning issue?

Chairman Cosentino: No.

Austin Cassidy: Correct. If there is no height impacts or anything like that - that would be something that would not require a variance, based on what has been discussed this evening. The parking issue is a real heart stop in this community, because this community is very needy of parking. Allowing expansions of buildings without appropriate parking on the site to support it, is just a "no go." You have the right to appeal that, but you can sense where the wind is blowing.

Whitney Singleton: The building immediately next door to you that is now the A T & T building - they wished to build a bigger building and not provide as much parking, and they were required to provide every single parking space required under the code. They could not put into that building the use that they wanted to put because it had a higher parking requirement. As far as keeping true to prior statements, that will obviously be something that the Zoning Board would weigh.

Paul Krause: I think we have done our job. Thank you.

Chairman Cosentino: Thank you for coming.

Conceptual Application:

**MetroPCS New York LLC
304 Lexington Avenue
PB2010-3**

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

Neil Alexander: Good evening. I know you know this cell tower very well. At this point, Verizon, Sprint, Nextel, Omnipoint and A T & T have all obtained approvals to co-locate. MetroPCS is a competitor of those five carriers and is looking to go on that pole at the 108-foot level. It is 146-foot tall pole. There is an existing fence compound in order to accommodate MetroPCS's equipment. There needs to be a small bump out, 10 feet by 21 feet, approximately. As you know, there are no neighbors where this facility is, and really the only people going by is the cut-through from the Saw Mill back to Lexington Avenue for the Highway Department that occurs to the south of this area of the property. You have been provided a full structural that takes into consideration the fact that we are putting additional loading on this tower. It shows that even with our additional equipment, the wind loading is sufficient. You have been provided a cumulative health and safety report as to emissions, and we are still at less than one percent, partially because of the height of the tower. You have been provided with copies of your prior approvals, and as per the other carriers who have come before you, we are looking for an amendment to our special permit and site plan approvals. In looking over how you have handled other carriers - I am not 100 percent sure with your procedures how you are going to handle MetroPCS. The last two co-location applications you have determined to be Type II exempt from SEQRA. As a result, as far as process, I was wondering if it would be

appropriate to look at your next meeting in March for a public hearing to the extent you need or require one.

Chairman Cosentino: When do we stop feeding this area with antennas and bumping out?

Austin Cassidy: Co-location is encouraged. You stop when you start to run into engineering difficulties or some non-compliance with our ordinance. If you are representing to the record that all of the parameters of the technology being used are within the constraints of our ordinance in terms of there is no unusual operating powers and transmission powers that exceed our ordinance or have any new impacts on the community. These are the things the Board needs to identify.

Neil Alexander: Essentially, no. You are talking about the functional equivalent of an A T & T or Verizon. You have a health and safety report, a narrative all in a book.

Anthony Oliveri: We look at this for site planning, not the health and safety aspect. I am not sure if this Board looks at that aspect.

Neil Alexander: To the extent of the telecommunications that is allowed. It is incumbent upon us to provide you with a report that shows that we are less than one percent.

Anthony Oliveri: If this is something that is not within our expertise, we have to farm it out to an RF engineer to review.

Neil Alexander: I think it is important to note that you have an existing vertical structure. We are going only two-thirds of the way up, essentially. We are going at 108 feet on a 146 foot height. Basically, it is a small kick-out upgrade; 200 square feet. Our fence will match it and essentially, we are the functional equivalent. These are our competitors and the telecommunications act provides that we are not discriminated against between our competitors. I think if I understood where the Chairman was going, is essentially that the FCC has said that everyone has to provide service to the area who is a licensed carrier. You cannot stop when just one or two carriers are provided. It is to create the competition in order to drive the price down, in order to increase the deployment pursuant to the Federal Communications Act and the recent shock-clock ruling.

Austin Cassidy: Let's go back to the physical. Years ago, it used to be that technology typically had to be separated by 10-foot elevations. Is that still the case?

Neil Alexander: It is generally the case.

Austin Cassidy: So you meet that?

Neil Alexander: Yes. Essentially, what you are looking at when you look at this pole is 146, 136, 126, 116, and 106.

Austin Cassidy: You have addressed loading and separation, so the only technical issue remaining would be whether there are any transmission power issues that somehow create a new impact.

Neil Alexander: Right and we have provided a report from our engineer showing how we have a gap in Mount Kisco and how essentially, this is what is happening. This is a service area we are providing. We are providing almost the entire Village of Mount Kisco by co-locating on one tower, not building any new towers. We are on Hunt's Lane to the south in Chappaqua and on Green Lane to the north in Bedford. We are using all existing facilities to the fullest extent possible and covering the village in one shot without requiring any new facility. That was a well-designed tower to handle the loading for essentially what is going to wind up being six carriers. A lot of other communities could have wound up with more than one tower, because the original tower design was not sufficient to handle it, and this one was.

Anthony Oliveri: We have no issues with the site plan. There really is not much to the site plan. To confirm any of the RF material in here, we would have to farm it out.

Chairman Cosentino: It is a shame, because the one person on this Board who has that technology is not here. Two of our members are on vacation.

Stanley Bernstein: He will have to make application at a time when he is back.

Whitney Singleton: The village has, in the past, engaged the services of an RF engineer to do an analysis of this. That aspect of it is not required of your board, nor would it necessarily be appropriate for your board to review that. Austin is correct that there is an encouragement within our code and generally in the village to encourage co-location where it is possible. They are not extending the height of the tower; they are going to a low point on the tower, if I am not mistaken. If there is an opportunity to process this application, the only question is the scheduling of the public hearing. We have not engaged in an RF engineer to review this, and I do not know whether Nanette has had an opportunity to review it. That might be slightly premature, but it is going in near the cemetery. I do not think this requires a lengthy process, but it does require some review on our part. I just do not know when that will be done by.

Anthony Oliveri: We are only in conceptual right now. A formal has to be filed.

Neil Alexander: It is the formal application. We would ask that it be deemed the formal application.

Chairman Cosentino: Did they file a formal application?

Austin Cassidy: I was wondering why it was listed as conceptual myself. Is the fee that you paid tonight for a conceptual or formal?

Neil Alexander: I believe it is the formal fee. We gave over \$5,500 in fees. The application forms that were filled out were not only for conceptual but also for site plan and special permit.

Austin Cassidy: The facility is essentially a template. The facility and all the concepts behind it had been duly approved years ago, and then the co-location is encouraged, so the add-ons, or your pro-forma, but

not quite. You still have to do verification that everything within the proper parameters, and if so, it is processed and you move on.

Chairman Cosentino: So this is a formal application then?

Austin Cassidy: Right. This needs the RF verification and then the proper scheduling for whenever you deem it is appropriate to have your public hearing.

Whitney Singleton: I think the bigger concern here is not our RF engineer's analysis. A greater concern is whether there is going to be a future application, another tower within the village, and whether they have full coverage within the village of Mount Kisco. Their RF engineer's report does not actually say that. It says, "It will meet the primary objectives of MetroPCS's search area. It will provide signal coverage to a significant portion of one or more of their critical gaps." I think we need an analysis to determine whether any gaps in Mount Kisco warrant future applications.

Neil Alexander: I appreciate what you are saying, but I do not know if that is really the standard. Is there a gap and are we filling that gap in coverage? We are looking to provide safe, adequate and reliable service.

Whitney Singleton: We also do not want to necessarily have the need for further unwarranted poles within the village.

Neil Alexander: I understand that. What I am showing you here is connectivity to the site to the north and to the south. Basically, the polarity of the village is covered in one site without having to build a new tower. I think we have more than substantiated that we have a coverage gap, and that we are filling the gap, and that we are providing the least intrusive means available to filling that gap. The standard is are we providing the gap in the least intrusive way? We are using the existing tower where all our competitors have been allowed to co-locate to date.

Whitney Singleton: I would also like to know whether the GPS system falls within a separate analysis.

Chairman Cosentino: I am not going to schedule a public hearing until I get more information on this.

Neil Alexander: With due respect to everybody, I think it is important that we keep moving this forward. We provided you with a book of information. There is no lack of willingness to share information. We have reviewed all the other prior approvals where this was handled. We even gave you a full EAF with visual addendum when you Type II the last to co-locators. We are trying to just deploy our technology where our competitors are doing it.

Anthony Oliveri: When this comes in as a conceptual, staff does not review it.

Neil Alexander: I know that, but the FCC shock clock is 90 days from submission for a co-location. That is the pressure the client is putting on us in expectation.

Anthony Oliveri: You cannot expect a public hearing to be scheduled tonight. No one has reviewed it.

Neil Alexander: I understand that. You have looked at this site five times before. I appreciate what you are saying, and I also appreciate where my client is coming from based upon the FCC ruling that a co-location needs to be acted on by a community presumptively within 90 days total from day of submission.

Chairman Cosentino: We never stopped you or your client from coming in here. If you guys cannot get your act together and come in and get on the agenda, that is not our problem.

Neil Alexander: I understand that. I have a client expectation that is coming at me in a certain direction. If you look at the Maximum Permissible Emissions analysis, you will see an analysis that goes over every single carrier that is out there and all the contributing elements.

Chairman Cosentino: I will not schedule a public hearing until we review it.

Neil Alexander: Will I be able to come back on March 23 for a public hearing?

Chairman Cosentino: You will be notified by our secretary.

Neil Alexander: There are two things on the ARB agenda for March 17. You will ask them for their comments anyway, right?

Whitney Singleton: This Board does not schedule the ARB agenda.

Neil Alexander: Will I need to go to the ARB?

Chairman Cosentino: Mr. Cassidy, will they have to go before the ARB?

Austin Cassidy: That would not be my first choice. I would have to see how the priors were handled in the last few years. This is not a building structure.

Chairman Cosentino: Nancy will let you know when we could put you on the agenda.

Neil Alexander: We prepared a lot of materials. I respect the fact that you have not reviewed it.

Chairman Cosentino: When you throw me 90 days, I take umbrage to that. You are always welcome to come before us if you are on the agenda. If you lack getting on the agenda, it is not this Board's fault.

Neil Alexander: I understand that. The way the FCC ruling just came down is within 90 days of submission of an application for co-location; it is presumptive that the Board shall act.

Joseph Morreale: But you did not submit yet.

Neil Alexander: We did submit. As far as the FCC's shock clock is concerned, we submitted on February 8, when we submitted our

package. I understand the intricacies of your code. No one is trying to jam anything down anyone's throat here. We are the sixth carrier in. We are going lower than anybody else.

Chairman Cosentino: Please understand that my staff needs to study this.

Neil Alexander: I understand that. I would like at the very least to know that I am back at the April 13 meeting.

Chairman Cosentino: I cannot give you that answer right now. I do not know what is on the agenda for then.

Neil Alexander: I appreciate that. Whatever you can do to have us back as soon as possible.

Chairman Cosentino: I need to get input from my staff, and then I will put you right back on. We are not trying to delay it.

Neil Alexander: If Austin can let us know as soon as possible on the ARB issue, I appreciate that.

Chairman Cosentino: We will be more than glad to set the public hearing.

Continuing Review:

**Filippo Simone
127 Barker Street
PB2006-05**

Present: Daniel Simone, for the Applicant

Daniel Simone: Good evening. The last time I was before the Board, we had issued a Negative Declaration so that I could complete review with the DEP on the stormwater pollution prevention plan, which finally they have issued their letter of approval. I am now back in front of you to hopefully move to a resolution.

Chairman Cosentino: What did you decide to do with the driveway?

Daniel Simone: We originally showed the one, because there was concern under the application many years ago for the other. We studied in front of this Board again the possibility of a dual driveway, and while this Board thought it might be a viable alternative, the Board felt that it might bring up too many issues with respect to the original approvals that were granted, so this Board decided to revert back to the single driveway location, as far from the corner as possible.

Anthony Oliveri: You might want to point out if there are any changes from the former from the DEP.

Daniel Simone: There is nothing from a layout perspective. Most of their comments were notes, pollutant-loading verifications, erosion, and sediment control notes; nothing that physically changed the site plan.

Chairman Cosentino: We decided to go with the one driveway. We did the landscape plan.

Anthony Oliveri: There were no issues referencing the engineering of the project.

Ashley Ley: We saw no problems on the planning side.

Whitney Singleton: I have no issues.

Chairman Cosentino: Myself, I have no issues. We will set up a draft resolution, which means we will go over the draft resolution at the next meeting and then produce a final resolution with a set of plans for approval. The next meeting will only be a draft resolution in which this Board will go over. The following meeting will be a vote on it.

Daniel Simone: Is that the very next meeting?

Chairman Cosentino: Yes, a draft at the next meeting. We will then add or delete anything and then we will vote the following meeting.

Daniel Simone: I am glad we are finally here on this one. Thank you for all your help.

Special Discussions:

38-40 Oak Ridge Road Nikolas and Stuart Pinnetti

At this point, upon the request of the Zoning Board of Appeals for the Planning Board's review and opinion relative to the adequacy of Oak Ridge Road to serve the construction of a new residence. A site visit was scheduled for March 20, 2010 at 9:30 A.M. Reminders will be sent via U.S. Postal Service and email. Chairman Cosentino will not attend at that time, however, all members of the Board were requested to attend at that time or visit on their own.

Ralph Vigliotti: Can we ask the applicant to put the flag up on the site so we know exactly where it is?

Austin Cassidy: I will ask the applicant to do so. The critical point here is not the property, it is the road.

Whitney Singleton: It should be reflected in the record what your individual findings are at the next Planning Board meeting following the site visit.

Planning Board Rules and Procedures

At this point, the Board reviewed the rules and regulations of the Planning Board.

Stanley Bernstein: I do not see any changes or differences since our last discussion at the previous meeting. The typographical errors were corrected. I found no discrepancies or problems.

The following was corrected:

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#3: "On the call of the Chairman or the presiding officer, the Board may meet privately with counsel. The rules of procedure shall be an attendance in a private meeting shall be limited to members of the Planning Board."

Chairman Cosentino: There are times I meet with different staff. Is this saying that I need the complete Planning Board there?

Whitney Singleton: No. This is to meet as a Board, not individually.

Joseph Morreale: This says that it is only the Planning Board in executive session will meet with other representatives. You cannot bring anyone else in then?

Chairman Cosentino: No, it is in executive session. Other parties have to be invited.

Joseph Morreale: That is not what it says.

Whitney Singleton: If it is an issue that is relating to the engineer and it is not a legal one.

Stanley Bernstein: This is a separate meeting between you and staff; it is not covered under this paragraph.

Chairman Cosentino: Yes, it is separate.

Anthony Oliveri: We have held executive session with staff present previously.

Joseph Morreale: So we will leave it alone.

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"Roll call. No member shall address..."

"(e) To postpone a certain day..."

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"*Continuing review of applications shall only be scheduled for Work..."

Joseph Morreale: Do we do conceptual reviews at work sessions?

Whitney Singleton: It is supposed to be at regular meetings only.

Motion to Approval Planning Board Rules and Procedures for Meetings of the Mount Kisco Planning Board dated March 9, 2010

Motion: Ralph Vigliotti
Second: Joseph Morreale
Aye: Sol Gibbons
Aye: Stanley Bernstein
Aye: Joseph Morreale

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Aye: Ralph Vigliotti
Aye: Chairman Cosentino

There being no further business to come before the Board, on a motion by Mr. Vigliotti seconded by Dr. Morreale, the meeting was adjourned at 8:55 pm.

Respectfully submitted,

Stanley Bernstein
Recording Secretary

dm