

Minutes
Work Session of the Planning Board
Village/Town of Mount Kisco
Tuesday, May 25, 2010

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

Members Present: **Chairman Joseph Cosentino**
 Vice Chairman Sturniolo
 Stanley Bernstein
 Ralph Vigliotti

Members Absent: **Sol Gibbons**
 Doug Hertz
 Joseph Morreale

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

There were no minutes to be approved.

Continuing Review:

Diamond Properties
333 North Bedford Road
Mount Kisco Athletic Club
PB2010-5

Present: **Michael Gallin, Gallin Design Studio, Architects**
 James Diamond, Property Owner
 Of Counsel: David Stolman, Esq.

David Stolman: I think you are familiar with the application. Swapping out space between the Mount Kisco Sports Arena and the Mount Kisco Athletic Club. A number of things were submitted including anticipated daily usage charts had been submitted previously for the MKAC, parking utilization analysis, a memo from John Collins regarding traffic, and a full Environmental Assessment Form. We've gone through these materials and everything checks out. As you recall (regarding the traffic analysis), the cap was increased from 308 to 450 vehicle trips during any hour. John did another analysis showing the trips, showing that with this change from the Mount Kisco Sports Arena for a certain amount of space to the Mount Kisco Athletic Club, the traffic would still be below the 450-trip cap. It would remain below primarily because when the analysis was done originally the stand alone building that is on the site was propose to be used as a physical training studio. That was taken off the table and was left as warehouse space. Even though there is an increase when the space goes from the Mount Kisco Sports Arena to the Athletic Club, it still stays below the cap as a result. We are still within that 450-vehicle trip cap. I requested Michael resubmit the PB02 table with the new application, and he is resubmitting that. Everything else checks out. Regarding the traffic mitigation measures that were required as part of

the original approval for the Mount Kisco Athletic Club last year, there were four specific traffic mitigation measures; the applicant was supposed to get in touch with the New York State DOT and arrange for an indication of those.

James Diamond: We've been working with John Collins to get feedback from the DOT. The feedback that we've gotten so far is that the DOT, due to budgetary reasons is not responding to a lot of requests. We will be following up further within the next four weeks to make whatever progress we are able to make.

David Stolman: That is really important. The increase from 300 to 450 is based upon those mitigation measures. Before we have anything close to the 450, those mitigation measures need to be in place. Also, my understanding was that notice was sent to the Town of Bedford regarding this matter, and a referral was made to the Westchester County Department of Planning on this matter. The public hearing will be June 8. I don't know if that notice has gone out yet.

Michael Gallin: She has sent them out and we've already gotten most of the responses back.

Chairman Cosentino: We are on for June 8.

Michael Gallin: Thank you very much.

Continuing Review:

**Jim Han Bon Am
117 Smith Avenue
PB2010-7**

**Present: Tom Nugent, Architect for the Applicant
Jim Han, Property Owner**

Nanette Bourne: We left off encouraging the applicant to re-submit and identify the length of the five spaces to be put on the site. Six really didn't fit, and he has reoriented the location for the five spaces, which is better than the four.

Chairman Cosentino: How many feet are there behind space number five to back out?

Thomas A. Nugent: It's more than 24. It gets a little wider as you move south.

Nanette Bourne: The way in which the applicant has reoriented the spaces improves the ability to maneuver in and out. It also provides some opportunities for buffering along the side. There is a concrete retaining wall that is left. Has the stockade fence been taken down in this plan?

Thomas A. Nugent: We are showing it right up next to the retaining wall.

Nanette Bourne: There is a retaining wall plus a stockade fence?

Thomas A. Nugent: Yes. We are moving it a couple of feet over.

Chairman Cosentino: How many feet is there for Number 5?

Thomas A. Nugent: At least 24.5 feet.

Chairman Cosentino: Did we come to a conclusion whether this is going to be office, residential or combination?

Nanette Bourne: I believe the minutes reflected that the Board considered both and felt comfortable having all office use was a way of keeping the amount of "in and out."

Austin Cassidy: There is technical point I want to identify

Chairman Cosentino: I have one concern. If it's going to be an office, how many people are going to share this office?

Nanette Bourne: There is no limit.

Chairman Cosentino: If it were an apartment, how many bedrooms would it be?

Thomas A. Nugent: Two bedrooms.

Chairman Cosentino: How do we control the amount of space they are going to have now? The two bedrooms will be two offices; the kitchen will be another office, and a waiting room. Now you're going to have approximately three to four offices.

Nanette Bourne: There are two ways. One, it will be limited by what the Fire Department will permit, which they would not permit an excess of what could be handled on the site. To some extent, the tenants who are going to be affected to this would be less likely to want to lease this building if they have a lot of client visits and don't have the parking.

Austin Cassidy: I think the latter part of that is essentially saying it is going to be market driven. If it is not appealing to the market, no one is going to lease it. Is that what you're saying?

Nanette Bourne: To some extent, yes.

Austin Cassidy: The Fire Department would not be weighing in on the interior of the space. Your goal that was said at the last meeting is that the Zoning Board is already identified their willingness to consider up to two parking spaces for a variance, and the Board asked if they could reconfigure it to make it stretch to five legitimately compliant spaces. In making this, you are expanding the parking lot towards the rear lot, correct?

Thomas A. Nugent: Correct.

Austin Cassidy: And then you are taking out blacktop on the east side?

Thomas A. Nugent: Correct.

Austin Cassidy: From a DEP perspective, do you anticipate this to be a mathematical wash.

Thomas A. Nugent: I spoke to the DEP and was told there is likely not to be any problems as long as we're not adding a hard surface.

Austin Cassidy: From the Board's perspective, you are intruding further into the buffer. This Board has the power to allow that, if they deem it appropriate under the circumstances. That would not necessarily require a variance if this Board permits that to occur. This Board does have that buffer power. You can see the shadow line of the existing curb on the drawing, and then the newly proposed curb further north.

Chairman Cosentino: Are we all in agreement here that it should be office and not residential?

Ralph Vigliotti: With the amount of square footage on the first and second floor, do five parking spaces comply?

Nanette Bourne: No. It will never comply.

Ralph Vigliotti: I thought we had a conversation that the second floor should be used as storage for whatever business on the first floor would need storage on the second floor. Parking on Smith Avenue is at a great need as it is, never mind adding to an already serious parking issue. I think we are really trying to tip the scale here. How many would be needed for the amount of square footage for both first and second floors to comply?

Austin Cassidy: Seven.

Whitney Singleton: That is seven without the additional five that is required under code. So it's really 12.

Thomas A. Nugent: The second floor is 700 square feet, and the first floor is 1,000.

Ralph Vigliotti: We don't even have half. I think the second floor comes into issue as far as the use, if any use at all.

Nanette Bourne: Certainly, if you were to create and limit the second floor for storage, that addresses some of the parking issues. I do think that the mixture of residential and office would put you back in a situation of not being able to control how many cars are located at the site.

Ralph Vigliotti: When folks purchase properties like this, they have to take into consideration before the purchase what potential parking issues they will be facing. We are not even half way. I don't think we've ever had a situation where we've allowed 40% compliance.

Thomas A. Nugent: The ZBA said they would consider two parking spaces.

Chairman Cosentino: We are hearing here, really 12.

Whitney Singleton: The ZBA was amenable to considering the waiver of the five parking space kicker that is applicable to conversions to office space in certain size buildings. Let me refer to this as an anomaly in the zoning that requires, in certain instances, a higher

parking requirement for office than those required for retail. It had to do originally with medical uses, specifically on Smith Avenue. It is now applicable to all general office uses. The five-space kicker is something the Zoning Board felt comfortable in waiving. On top of that, they felt comfortable in waiving a certain amount of additional spaces to the extent that your board thought it was appropriate. They did not want your board to be handcuffed in laying out what the appropriate uses and design is for this site.

Chairman Cosentino: If 12 parking spaces are the total needed, why are we considering anything on the second floor?

Thomas A. Nugent: It is not inconsistent with the neighborhood.

Whitney Singleton: Because it is an existing second floor. The question is whether it should be appropriately used as residential, commercial, office or storage. That is your board's purview.

Chairman Cosentino: There is only one other house with the same problem, as the property gets deeper in the back going towards Main Street. This happens to be one of the properties that are shallow. As you go further there is sufficient parking. You have a problem, and I believe this compounds the problem.

Stanley Bernstein: I would be very much against residential. I think it's a bad mix, especially its location. There is no way to control the number of occupants within that particular apartment. We have not been able to control any of the apartments as far as occupancy. Due to its location, I think it's susceptible to that problem. In addition to that, even if they weren't overcrowded, I don't think it's meaningful to have an office and residential in that particular location. As far as the parking it is a problem on Smith Avenue. In order not to preclude the use of this property at all, I think we should go out of our way to work as much as we can with the applicant in order to make the situation work.

Ralph Vigliotti: I am looking at the required buffer. Interestingly, 10 feet is required in the rear yard. Now we're looking at 2 feet. At the side yard, 10 feet is required and 7 feet is provided. Front yard, 10 feet required and you're showing 17. No waiver is required there. In order to make this work and give you the parking that you need, you need a waiver to get the five that you're asking for. I don't have a problem trying to help that along, but you are still short. We go from what is supposed to be a rear yard, protecting whatever property is behind that.

Thomas A. Nugent: It's a back yard. It is down about eight feet below. There is a terraced wall. They would just see a fence being moved two feet closer.

Ralph Vigliotti: I don't know if it's two feet. It says, "rear required ten feet" and provided in here is two feet.

Thomas A. Nugent: Presently the fence is about three or four feet.

Ralph Vigliotti: Which is probably not in compliance. Over the years, they probably just kept pushing the fence back. It doesn't make it legal even though the fence could have been there for 50 years.

You're looking for a waiver on that, and that is something the ZBA will grant. They certainly want to make this work. That gives you the five parking spaces. Without that waiver, you would have a problem. You wouldn't have the 24-foot aisle space to turn around, and you will lose one parking space.

Anthony Oliveri: The buffer requirement can be waived by the Planning Board.

Thomas A. Nugent: Many of these businesses have a buffer up and down the street, like 10 feet.

Ralph Vigliotti: I guess the best-case scenario is a business that requires storage.

Chairman Cosentino: Are you saying to limit the second floor?

Ralph Vigliotti: To some degree, yes.

Thomas A. Nugent: There was a point before being made about being market driven.

Chairman Cosentino: There were other places in the village that wanted to open up businesses, Apple Bagel for example. Because we were not sure what would go in there, we asked Austin what was going in there so we would not impact the parking. Could this be done here also? I think that would solve a lot.

Whitney Singleton: They are asking you for an approval now for a particular use.

Chairman Cosentino: And we are saying we want to limit what goes in the second floor to a point where it satisfied somewhat of the parking.

Whitney Singleton: We regulate the uses here.

Chairman Cosentino: You answered my question.

Vice Chairman Sturniolo: I am not convinced at all that turning this into a residential use is the wisest thing in the world. I appreciate the Zoning Board of Appeals' candor in trying to work with you, hearing it somewhat, in all politeness to our attorney, but to me it really is hearsay to what they're saying. I have not read any memo of the ZBA expressing their opinion on it, and that is one thing I would like to see. My overall concern is that we are pushing the envelope too much by thinking in terms of supporting any type of ZBA variance that would give you what you would like to see as far as parking spaces. I don't see this thing working out to the benefit of the village. You said economics driven – understood. Best interest of the village – I don't see this supporting. Have the applicant scale back his plans and totally rethink the usage for the property. There is too much being crammed in. Trying to massage the ZBA, I don't think is productive. The second floor is what is driving the whole issue.

Chairman Cosentino: I have to echo Mr. Sturniolo and Mr. Vigliotti.

Vice Chairman Sturniolo: If I could suggest that we ask the Planning Board attorney to draft a memo on our behalf to the ZBA stating our position so at least they have some direction and guidance from us as far as what we'd like to see take place at this particular site. I am making a suggestion that we ask you to draft a statement on behalf of the Planning Board to the ZBA regarding what we just discussed – Ralph's position, Joe's position, mine and Stan's, so it's on record as a paper trail, and it's not just a telephone call and hearsay. We have to have something on paper.

Austin Cassidy: To encapsulate, the general consensus is that the Board would not be in support of any second floor use other than storage.

Whitney Singleton: While I understand your position, that still leaves the issue of what would be appropriate on the site as far as the layout of the parking, as far as the configuration of ingress/egress.

Austin Cassidy: What I've heard the board say is that they would be in support of the buffer waiver and probably consider this a stable plan otherwise for a first floor general office and storage above on any levels.

Whitney Singleton: And, is it the intent of the Planning Board to send this back to the ZBA, or is it the intent of the Planning Board to see this application through to conclusion subject to a variance from the ZBA? I think Vice Chairman Sturniolo is asking me to convey back to the Zoning Board what your Board's view is and put that on the record and have the Zoning Board convene another meeting and have the applicant go before the Zoning Board. Then the applicant is going to come back to your board? Is that your position?

Chairman Cosentino: We have made up our mind in what we want here. If he changes what he wants to do, he may want to come back here and talk to us again.

Whitney Singleton: You're going to have a variance irrespective.

Anthony Oliveri: He needs a variance on the extra five spaces anyway.

Whitney Singleton: The only permitted use that can go on this site without the variance is a single-family home.

Vice Chairman Sturniolo: That is an option that the applicant has.

Whitney Singleton: Yes. But as the applicant has stated to this Board and to the Zoning Board, there is an underlying intent in the OC district to encourage the conversion of residences to offices. That was identified both here and at the Zoning Board level. Office use has been the use of this property. The question then becomes if that is a use, and I think I heard all of you say that you prefer, the question becomes to what extent may that office use exist at the site? To the extent that there is going to be an office use there, it must have a site plan. You can either continue with this application or say we are ready willing and able to approve a site plan for the first floor and second floor storage. That would be subject to any variances granted by the ZBA that may be needed, or you can bring it back to the ZBA, let it sit

with them and convey to them your thoughts. The site plan approval expressly stated that it was a site plan for this tenant and this tenant only and if it ever changed hands, the site plan expired.

Thomas A. Nugent: It was a single doctor that was up there before. I don't think you can get two doctors. It is too small.

Chairman Cosentino: Would the Board consider a single tenant on the second floor? That would limit the parking.

Austin Cassidy: The second floor is 708 square feet, and the first floor is about 1,000. The first floor, under general offices is four spaces; the second floor is rounded off to three spaces.

Nanette Bourne: Is there a basement?

Thomas A. Nugent: Yes, unfinished.

Whitney Singleton: So you could restrict the basement to no use at all, since it's unfinished. You could limit the total square footage between the two floors to office to a permissible amount.

Chairman Cosentino: I'm saying one office on the second floor. That would limit the parking of one tenant.

Whitney Singleton: Do you mean a business tenant, or the physical number of people?

Ralph Vigliotti: One tenant, one employee.

Chairman Cosentino: That you cannot control?

Whitney Singleton: You can make the entire building a single tenant. Whether there are 10 people outside parked or 2 people, they would have control over their existing employees.

Nanette Bourne: That does not control the number of employees.

Whitney Singleton: That is true but you can control the number of people with cars by limiting the amount of square footage that could be used for offices.

Chairman Cosentino: You are going to get something downstairs that is going to take all the parking and leave nothing for upstairs. You can get something that is downstairs that is going to take five parking spaces or more. This is what the board is concerned with. Once you do the upstairs, where do they park? We were told everyone is parking on the street on Smith Avenue. The town is always getting letters regarding that. The Board has to be very careful as to where these cars are going to be parking. As far as I can see, they are going to be parking on Smith Avenue.

Ralph Vigliotti: I agree.

Chairman Cosentino: I want to help you, but it's a parking problem, as usual.

Ralph Vigliotti: It would seem if you had a lease for both spaces, you would have to include in the lease on the second floor that parking. You are putting us in a very difficult position knowing that you're pushing that second floor office onto the street.

Chairman Cosentino: There are no signs that say "no parking," and they are not going to police it.

Ralph Vigliotti: If I'm coming to an office that is on the second floor, I may pull my car down the driveway to try to take a space, to find out there may not be a space and have difficulty in maneuvering the car in order to get out. If I took a space, I could be in trouble.

Vice Chairman Sturniolo: Either way you turn, it's convoluted. You are literally backing into walls no matter what you do.

Thomas A. Nugent: With the easement there, you can back into the neighbor's property and that will help you somewhat.

Anthony Oliveri: If you limit the office to the first floor with storage on the second floor, you are still going to need to waive the five spaces. Maybe waiving the five spaces as opposed to waiving seven spaces you could limit the square footage on the first floor based on the 1/250 square feet.

Chairman Cosentino: Our hands are tied, and that is the problem.

Ralph Vigliotti: In all fairness, we understand the difficulty you are having. You have to understand the difficulty we are having as planners and Board members. The site just does not accommodate more than five spaces. We are only 40% there. We've had issues where we are 20% short and tried to help the developer, but this is not 20%. This is almost 60% short. There are options for you and we've considered several options that will make this work – even accepting the five and waiving five and still being short.

Vice Chairman Sturniolo: The request of the question is far greater than anything we would normally engage. If there are 5 or 10%, there is room to re-look at it. When you're looking at 60%, it's another story.

Chairman Cosentino: You've done a beautiful job in preparing this, but our hands are tied with the parking situation.

Anthony Oliveri: We should see how the parking on the adjacent lot is configured because that is going to restrict the movement as well. These last two spots may be very difficult. You have to show the movement on the plan. It will be tight.

Chairman Cosentino: Let's make another site visit there and see what we have.

Stanley Bernstein: Whitney mentioned that the intent of the Master Plan and the intent of this Board are to change the entire street, to cottage office, which is an admirable idea. Suppose you come to a situation where you just can't. There is really nothing wrong with a one-family residence there. It will work. If it's viable economically, this possibly should be pursued. Right now, the market is not that

great, but we all know the market is going to change for single-family houses in Mount Kisco. It is something we should consider.

Chairman Cosentino: I don't think he can get the rent from a single-family home that he could from office use.

Stanley Bernstein: He probably could not, but that may be his way out. Don't forget, this is a self-inflicted hardship. He knew what he way buying into.

Chairman Cosentino: Also, the Zoning Board weighs the five points, which is better.

Stanley Bernstein: I think the numbers should be crunched, and it may be a viable solution.

Thomas A. Nugent: Isn't it illegal to have a two family residential there? Then, we have enough parking already.

Austin Cassidy: One family only.

Ralph Vigliotti: The idea of getting a larger rent going from residential to business is to be able to offer the business something that brings them there. A big part of any business is parking. You want to go from residential where you have enough parking to a business where you don't have enough parking to support that. You're back to what this property supports. In my mind, it either stays residential, becomes a business on the first floor and the second floor is storage associated with the business. Then I think this could move.

Vice Chairman Sturniolo: The overall feeling of this Board should be communicated to the ZBA; that we are opposed to the granting of such a broad variance in parking spaces, and the Planning Board is open to listening to a modification by the applicant for a different approach to this entire site plan. How do we move this along? Doing a site visit is fine, but it prolongs it.

Chairman Cosentino: I wanted to see how the other cars are parked next door. Why don't we do individual site visits?

Whitney Singleton: I understand everything that Tony is saying. The question is do you need this to go back to the Zoning Board in a form of a memo and then put before the Zoning Board? Then what?

Vice Chairman Sturniolo: I think it needs to go back to the Zoning Board in terms of a memo crafted by you on behalf of the Planning Board to have a paper trail so we don't hear what the ZBA says round robin. I am a strong believer in putting on paper what you believe in. Going from that point on, I don't want to delay the applicant, but the Zoning Board needs to know what our feelings are.

Whitney Singleton: If the applicant simply changed their application to have five spaces that are shown on this plan and downstairs use of office and upstairs use of storage, you're saying that it still needs to go back to you?

Chairman Cosentino: No, because we don't know when this is going to go before the ZBA.

Whitney Singleton: The intent of the Zoning Board – and I could put this in memo form or tell you this right here on the record – is that the Zoning Board wanted your board's input. They did not wish to handcuff your board by saying that they granted a variance of "X" many spaces, some arbitrary number that had no bearing or relationship to the site itself. They have said we would very much like to go to the Planning Board with a site plan, since you need a site plan anyway, and review the nuts and bolts of this application with them and see what you can work out with them before any relief is sought from the Zoning Board of Appeals. They seem to be inclined to the concept of granting a degree of relief. They wish to grant the minimum amount necessary for this site to be viable without laying out the parking, without figuring out what degree of a buffer could be waived. It is not feasible for them to act on the application. If I write a memo back to the Zoning Board, it will put things to some extent in never-never land. I understand and appreciate Tony's desire to have things on the record, and that is perfect okay. The applicant can go into a single-family home without any variances.

Chairman Cosentino: The bottom line is that the applicant has to come back with something else?

Whitney Singleton: The applicant needs to do a couple of things here. The question is does he need to go back to the Zoning Board or does he need to go back to your board with a revised plan showing restrictions on the second floor use. He could clearly show that the first floor would be dedicated to an office and the second floor and basement would be dedicated to storage.

Chairman Cosentino: (to applicant) you need to revise that, look it over with your client and come back to us. We will review it again.

Whitney Singleton: In that case, the only aspect of the application which would be non-compliant would be the five-space kicker, which the Zoning Board had already indicated their willingness to waive. There might be some buffers that require waivers – that is from your board not from them.

Stanley Bernstein: What Whitney says is correct. I believe we should go for a full site plan review pending Zoning Board changes, simply because if they go back to the Zoning Board and they get their variances and then they come back here, suppose we don't like the site plan. That puts them in an untenable position.

Anthony Oliveri: In reference to the full site plan review, you need to demonstrate the turning radius on the cars with the other parking considered, lighting in compliance with the illumination guidelines, screening to the east side buffer possibly.

Thomas A. Nugent: We have some lighting on the building now.

Anthony Oliveri: We need to see photo metrics with the light levels to comply with the proposed lighting regulations. You're removing the oil tank and bollard. You should show where it's being located, and if you're doing something different with that you should indicate that on the plan.

Nanette Bourne: The most important relationship to protect is the residential rear of the property. Because you only have two feet to work with, all the more reason to make sure that the fencing has been replaced and is attractive. That is the buffer you want to protect. More so than the office to the other side.

Anthony Oliveri: Also include detail on the fencing on the plans. Please go through 110-45. The vicinity map needs to be on there. Please make sure you have everything on that checklist.

Jim Han: Originally I purchased this property for a learning center. I know the Board members did not like the idea. My idea is the whole property use for a single tenant. We have the service here in this shopping center. We are only open now on Monday, Wednesday and Thursday evening 4 to 7 P.M., Saturday 9 to 1. My usage will be perfect with the next-door neighbors. The parking issue will be much less and most of the parents just drop them off.

Whitney Singleton: Mr. Han, you represented to the Zoning Board of Appeals that you were no longer pursuing that application and that this would be an office use, not an educational use.

Chairman Cosentino: In all fairness and respect to you, we cannot hear another application.

Whitney Singleton: We are trying to get something that is viable and workable for this site.

Chairman Cosentino: It's up to you to come back to us with something on a lesser scale than what you have. Keep in mind there is only one meeting in July and one meeting in August.

Austin Cassidy: On the site plan perspective, you want the drawing to show the technical ends we just reviewed so there is not too much in the line of revisions necessary to the plan. It's his operational format to the building.

Anthony Oliveri: If you get the plan beforehand, you can get me a copy directly so we have time before the next meeting to review it.

Continuing Review

**KH Realty
132 Main Street
PB2010-6**

**Present: Paul Krause, Paul Krause Architects, Architect for
the Applicant
Michael Tierney, Paul Krause Architects, Architect for
the Applicant
Jim Attwood, Property Owner**

Chairman Cosentino: We have a revised site plan here. There are 48 total seats here. Your last application had 42. You upped it.

Michael Tierney: Yes, in regards to the numbers we worked out with Mr. Cassidy.

Chairman Cosentino: On the ingress/egress, where is that going?

Michael Tierney: This is a lift area out to the outside. This is the rear of the building.

Chairman Cosentino: There will be two doors here?

Michael Tierney: We are actually changing that to one door.

Chairman Cosentino: You have to bring me what you're going to put here. You keep changing it every time you come here.

Michael Tierney: Understood.

Chairman Cosentino: So that means you're going to bring in another change.

Michael Tierney: I prefer not to. I'll keep them double doors.

Chairman Cosentino: I have to know what is going to go there. You're still under a conceptual, which can only be for so long. You will have to apply for a formal application.

Vice Chairman Sturniolo: It is so difficult to read this with the fine, fine print. We need a complete set of plans that you can read.

Michael Tierney: We were referring to working out the numbers with Mr. Cassidy on your direction.

Chairman Cosentino: I said there is no problem here with the numbers on the seating. These doors are not going to be here?

Michael Tierney: There will be doors there, yes. Those are the main access to the kitchen area. These doors are at the rear of the building entering from the parking lot side of the property into the rear of the kitchen.

Chairman Cosentino: Why do you have two doors there?

Michael Tierney: We can remove the interior ones, but honestly, I would think because we have a vertical shaft there we would want to keep it rodent-proof.

Chairman Cosentino: Where does your garbage go?

Michael Tierney: All garbage is brought from the interior outside into an enclosed cool room.

Chairman Cosentino: So now you have three doors?

Michael Tierney: There are three doors, yes. No cooler. That outline is the existing cooler that we are asking to reconfigure.

Chairman Cosentino: You're taking one part of the box away, as you told me on the site visit, and you're leaving one part.

Michael Tierney: Yes, we are leaving this portion (pointing).

Chairman Cosentino: This portion is becoming a garbage receptacle. To me, where you are putting the garbage is an overgrown shed. Should that not be part of the building, concrete with a foundation?

Michael Tierney: It is. This is all part of the building.

Chairman Cosentino: So what we saw there at the site visit will be taken down?

Michael Tierney: Yes.

Chairman Cosentino: This is an extension of part of the building?

Paul Krause: We're keeping the same footprint area.

Chairman Cosentino: This extension is coming out?

Michael Tierney: Yes.

Paul Krause: That is coming out and we're using that area over here.

Chairman Cosentino: When I spoke to you at the site visit you are saving part of this.

Michael Tierney: We are. Just the footprint.

Chairman Cosentino: So the line on the building is going to be straight with three doors?

Michael Tierney: Correct.

Chairman Cosentino: So, you're going to come outside to another door, and this will be the door to go inside to the garbage – and it will be cooled?

Michael Tierney: Correct.

Chairman Cosentino: What is this (pointing)?

Michael Tierney: That is a mechanical shaft for the hood that is going all the way to the roof.

Ralph Vigliotti: This plan needs to be made larger.

Paul Krause: We made a mistake with Austin. He said and we agreed that this size would be sufficient.

Austin Cassidy: For conceptual purposes, it is.

Chairman Cosentino: Getting down to the basement, you have another garbage area and you say that is going to be cooled also.

Michael Tierney: Correct.

Chairman Cosentino: Austin, there are no problems with the garbage area down in the basement?

Austin Cassidy: Correct.

Chairman Cosentino: So the garbage gets brought onto the lift and raised upstairs?

Michael Tierney: Yes.

Chairman Cosentino: You are still going to keep the bathrooms downstairs?

Paul Krause: Our client would prefer that.

Michael Tierney: We have the unisex handicapped bathroom upstairs.

Chairman Cosentino: And you are going to dig into the floor to make it deeper?

Michael Tierney: We are dropping the floor twelve inches. You will have eight foot clear when done. Presently it varies between 7' 3 and 7' 5.

Chairman Cosentino: Austin, you will require an engineers report on that?

Austin Cassidy: Yes.

Chairman Cosentino: From the outside you're having one entrance. You are not having any entrance in the rear to go into the building?

Michael Tierney: No. Not to go into the restaurant part.

Chairman Cosentino: You realize you cannot have more than 50 people there then?

Paul Krause: Yes.

Chairman Cosentino: If you have 48 now, where are you going to put your staff? How many people are you going to have working there? Be honest with me.

Austin Cassidy: The kitchen staff has their own exit. There is an exit for the public out; you can have one exit on grade as long as you do not exceed 50 people occupancy. For exit purposes, everyone is accounted for. The dining area maximum occupancy is 50 people, whether it is a patron or wait staff. The kitchen has its own exit. The downstairs kitchen has its own exit. Now all staff is now accounted for, correct?

Michael Tierney: Correct.

Austin Cassidy: Fine. You meet the code.

Vice Chairman Sturniolo: So you're saying you are only going to have two people to accommodate all those seats as far as the wait staff?

Paul Krause: It seems to me we are only going to have what we can have according to the code. It seems to me in the restaurant area in the front that can be 49 people, less the support staff.

Austin Cassidy: That is not 50 patrons. It's 50 for everybody.

Paul Krause: Right. So this will have no more than 49 maximum.

Chairman Cosentino: This is confusing me. What about the people working in the front part of the restaurant? You have to reduce the tables by four people.

Paul Krause: Fine.

Nanette Bourne: So the number of seats per diners is what?

Austin Cassidy: We have to balance that with the people working, because the total does not talk about people eating.

Nanette Bourne: That affects how many tables and chairs can be set up.

Austin Cassidy: In conjunction with the staff. If there is a wait staff of six, the maximum diners cannot exceed 44.

Chairman Cosentino: You just said there is going to be only two people working behind the counter?

Paul Krause: We can't determine that.

Chairman Cosentino: But you just said it.

Paul Krause: I know. We'd like to say is that there will only be the legal number of people in the front that we are allowed. As I understand that, that is 49 people.

Chairman Cosentino: You are saying the same thing as you did before.

Paul Krause: I know. Its 49 people, including staff and diners.

Chairman Cosentino: I'm trying to get a table seat. You are going to have just two people behind that counter? Is that what you're saying? Is that the statement you just made?

Paul Krause: I'm sorry. I have to ask my client.

Jim Attwood: It's a good question. I think Paul was trying to answer it broadly speaking, but of course we will be compliant. The concept is, and I'm still talking to the potential lessee, we are going to try and get a comfortable number of tables up here, and a couple of number of staff. More likely than not, we'd have four people up front and therefore we would reduce the number of seats and tables to 46. If we have more people up front, then we will reduce it commensurately.

Chairman Cosentino: So you will have two waitresses, maybe.

Jim Attwood: Probably. There will be people manning the counters. In other establishments like this, we had two. Behind the counter, we will have two; if it gets busy, we will have to make it three.

Chairman Cosentino: We will make it three. That is five people in the front, reduce it to 45.

Jim Attwood: Just out of curiosity, if it turns out that the volume of people is such that we really don't need neither table service nor – two versus three.

Chairman Cosentino: You have to come back to the Building Inspector.

Jim Attwood: I understand.

Vice Chairman Sturniolo: We are trying to establish concrete numbers. Where do you anticipate most of the patrons parking their cars when they go to this restaurant?

Jim Attwood: I do not know. Where did people park when they went to The Brass Horn?

Ralph Vigliotti: They parked in the rear.

Jim Attwood: I would have thought in the rear or on Main Street.

Vice Chairman Sturniolo: So now, you are going to ask the people who park in the rear to walk around the entrance into the Blakeby lot and come in the front door.

Jim Attwood: We thought about that. There are two accesses; one right next to the movie theatre on the other side of this building and one on the other side of this building. We debated that. When we first came with an idea, we actually had a door out the back, but then we pushed this back out, and I understand that is a non-starter. We are trying to maximize the effectiveness. In our opinion, the kitchen was undersized for the previous restaurant, so we are trying to size the kitchen. If we put a path through there, and we have debated some plans to do that, then we would cut off a big hunk of the corner here. We debated if someone would just come in the front. We obviously have emergency escapes in the back and we obviously want to be compliant, so we debated it. We are all ears, too. The pathway up here for people parking there with the pathway next to Cranes.

Vice Chairman Sturniolo: The pathway by the movie theatre focuses in on street parking. You would use that pathway if you were parking on Main Street. The parking in the back forces you to walk around the entrance parallel to Cranes. This is your business decision, but you are really limiting yourself by not having a rear entrance to this restaurant.

Chairman Cosentino: In conjunction with that, if you went facing the back of the building with someone parked back there, there is no sidewalk near Cranes. The sidewalk is on the other side. They would have to cross the road, walk down on the sidewalk and cross the other road to get into the building.

Vice Chairman Sturniolo: To me, that sounds like a deterrent to enjoying a meal.

Chairman Cosentino: If you went the other way, you would need lighting.

Jim Attwood: The movie theatre side?

Chairman Cosentino: No. The other side of the building.

Jim Attwood: It is a good point. I am thinking for example of the deli on the other side of the street where it is just a single front/back entrance. There are some seats there. There will be a mix of sit down and people buying food.

Vice Chairman Sturniolo: What is the cuisine of the restaurant?

Jim Attwood: The person I am talking to right now, who happens to be my wife, runs The Perennial Chef in Bedford Hills. It is a variation on that concept. The cuisine is Californian, French. High quality prepared foods, a lot of fish, chickens, vegetable dishes.

Ralph Vigliotti: Piggybacking off Vice Chairman Sturniolo, you are not taking advantage at all of the parking lot that is behind you. Most businesses want to enjoy it, and you are blocking yourself off from that parking lot. You are forcing people to park on Main Street, which has limited parking to begin with. If choices are made, and it is raining, and they cannot find a spot, they may make a decision not to frequent your restaurant that evening because the parking is just too far away. They may choose one or the other 15-20 restaurants. You are relying in Main Street parking and you have the potential of the rear entrance. You are not taking advantage of that. Since this is a conceptual, I think it is something you really ought to consider.

Jim Attwood: We are trying to create more green space for the plantings here. If we put a back door, we have to at least have a pathway through there. Would that be acceptable?

Austin Cassidy: It would be on-grade, but you have to have a corridor, a fire-rated passageway.

Paul Krause: You would have to have a hallway coming to that.

Jim Attwood: So you couldn't just cut the corner here?

Paul Krause: No, because our property starts here.

Jim Attwood: That is where we got hung up. The previous kitchen was only half this size, and that is why they were able to cut it in the corner.

Vice Chairman Sturniolo: How is the food from the lower level brought upstairs?

Jim Attwood: We have an elevator here for anything heavy. There will be stairs here.

Vice Chairman Sturniolo: And that is the same elevator a moment ago that you said is going to bring garbage from downstairs to upstairs?

Paul Krause: Yes.

Jim Attwood: It's a mechanical lift. It is not necessarily a full-fledged elevator.

Vice Chairman Sturniolo: The same lift that handles cooked food and garbage?

Jim Attwood: Most of the food is going to be done in the kitchen upstairs. The downstairs is really the prep area.

Vice Chairman Sturniolo: So the same lift is going to handle prepared food and garbage?

Jim Attwood: Partially prepared food. I'm not the chef. I understand what you are saying.

Vice Chairman Sturniolo: However, you want to define the word prepared, it's your choice of words. But the same lift is going to handle both items.

Jim Attwood: Yes. We debated having a separate dumbwaiter for food coming from the prep area downstairs, and as I understand, those are more trouble than they're worth.

Michael Tierney: They are problematic for cleaning issues.

Ralph Vigliotti: You will need Board of Health approval.

Jim Attwood: We recently proposed all of that and certainly, that would be a threshold issue for the Board of Health. Our thinking was that there is going to be some chopping downstairs. You need a place for garbage downstairs. It will be cool, so it won't rot, and on a periodic basis some sort of container will be brought up and this will be where the garbage is. Right now, the way it was set up was a tiny staircase. We don't want to use the staircase as much for up and down, but it will be a fully compliant staircase so it will not be dangerous for people to use. I am wide open to suggestions.

Vice Chairman Sturniolo: To me it sounds like a very expensive endeavor on your part. With due candor and respect to the three of you, I get the feeling that this expensive project has not really been thought out well, knowing the market, meaning what you're competing with in Mount Kisco, where your parking is and how people are going to enter the restaurant. One of the things we would hate to see is you not being successful from your point of view, and then back to this Board to modify because you can't make a go of it. We are trying to look at this clearly and intelligently at the first pass to make all this work. As one person, I am not 100 percent convince that you really have all the ducks lined up in a proper row to open up a restaurant. Again, that is your call and your business decision.

Chairman Cosentino: With a back door, you are not limited to the 50.

Jim Attwood: As it is, this is crowded.

Austin Cassidy: In typical economic times, the movie house grabs up Main Street well before the restaurants do.

Jim Attwood: That's a very good point. I presume there would still be a portion of clientele that would be parking in the back. That is an attraction to the location of the building. I just always assumed it

would not be too much for somebody to walk around. That is something to think about.

Vice Chairman Sturniolo: That is purely your choice and surely not on our part to direct you how to want to get patrons in the restaurant.

Chairman Cosentino: You have to think of ice and snow also.

Ralph Vigliotti: There will be people that will not want to make that hike. Children taking parents to the restaurant and perhaps choosing another restaurant that has easier access as opposed to walking all the way around to the front door in snow from the back lot, not knowing whether it is going to be plowed out in the winter months. I think you need to think that through.

Jim Attwood: We will. The balance we were trying to get is sufficient floor space for a nice, open, light restaurant. You've seen restaurants where there are windows in the back and you can see the cooking going on. That was the atmosphere we wanted to create.

Chairman Cosentino: I'd like to see another rendering of the rear of the building.

Jim Attwood: I have elevation drawings.

Chairman Cosentino: There are no changes here? This corresponds with the other?

Michael Tierney: Yes. It corresponds. That is the egress door. This is the rear of the building. At this portion here, you are seeing the double door going in; you're seeing the garbage door. This door is the egress stair from the second floor down and out. That goes upstairs. The aesthetic nature of this is to work with the block of stores next to us. The A T & T building, a stucco-type material with similar colorings.

Chairman Cosentino: How far does this come out?

Michael Tierney: Nine feet from this plain.

Chairman Cosentino: Which is the same size as what is there now?

Michael Tierney: Exactly.

Paul Krause: The footprint area is the same.

Jim Attwood: We are taking that out and using the same square footage.

Chairman Cosentino: That is part of the building foundation?

Michael Tierney: It is going to have a new foundation.

Chairman Cosentino: This foundation is not good?

Michael Tierney: The whole portion in the back is essentially bad. Actually the floor in the existing cooler now, which we are removing, and underneath is elevated on piers that essentially need to be brought up by code.

Chairman Cosentino: I don't think it has an original foundation. I know construction, and that nine foot does not have the original foundation of that building. It was put there when it was Jimmy Matts (sic).

Michael Tierney: I will agree with you about the portion that was the cooler that is the farthest.

Chairman Cosentino: I'm talking about the nine-foot that is there.

Paul Krause: We are making a new foundation. Those buildings will be demo-ed, reconfigured into this shape.

Chairman Cosentino: That nine-foot that came out was originally put there for mechanical equipment. What is it going to be used as now? They are making that foundation part of that building.

Austin Cassidy: And this the cooler to store garbage?

Michael Tierney: In the little hallway on the lower level. It becomes part of the lift.

Chairman Cosentino: Now they are taking something that was meant for a mechanical room, putting a foundation on it and making it part of the building. Not a portable part of the building – part of the building.

Vice Chairman Sturniolo: Thus increasing the square footage.

Austin Cassidy: That was a walk-in from the interior, was it not?

Michael Tierney: Yes.

Austin Cassidy: That is part of the building.

Chairman Cosentino: But it is portable. It is not part of the building.

Michael Tierney: It is part of the building.

Chairman Cosentino: That was a portable unit. He did not physically make a foundation for it. There are no footings, no concrete inside. Now, by them putting footings on it you are introducing the whole thing as part of the space of the building. It is no longer used for what it was given permission.

Michael Tierney: Just the cooler portions.

Chairman Cosentino: This has become part of the structure of the building.

Vice Chairman Sturniolo: Again, thus increasing the square footage of the building.

Chairman Cosentino: This is your call, but it is not what it's meant to be.

Austin Cassidy: I don't know yet. I will do a comparative of the facts.

Chairman Cosentino: That may be okay, but it is our job to bring these facts out.

Jim Attwood: In our mind, we just conceptually said we would pivot it so it is the same footprint.

Chairman Cosentino: It was originally meant for mechanical equipment, which the Building Inspector then allowed.

Austin Cassidy: It was still an addition.

Chairman Cosentino: It could not have been approved addition without a foundation, footing or concrete floor. I call it a portable unit. The extension that they put was not the unit itself. They slipped a refrigerator into that.

Austin Cassidy: We had the same thing at The Flying Pig.

Chairman Cosentino: The Flying Pig does not have a footing and foundation.

Austin Cassidy: I do not know that for certain.

Chairman Cosentino: Look at it and it is your call. I am not complaining about it; just bringing up the facts. I have no other questions. You can now file for a formal application.

Vice Chairman Sturniolo: We will look at that square footage next time you're back.

Paul Krause: Is there any comment on the site plan that we put down here also?

Austin Cassidy: To share with the Board, there was some discussion in our office as to the materials you might use for the surface in the rear of the building.

Michael Tierney: The portion we are turning into impervious surface.

Austin Cassidy: There was open discussion that you would look at pervious versus impervious.

Michael Tierney: We have not settled on a specific material for the pervious surface, but we will make it pervious.

Austin Cassidy: So the blacktop that is there will go away?

Michael Tierney: Yes. I will have to put some sort of apron, because I will roll out a shelf when a truck comes to load material. There will probably be a small pad of concrete of some kind at the door access.

Chairman Cosentino: You need to come back with a complete set of plans.

Austin Cassidy: Is the Board open to any creative thoughts about bringing a walkway through the planting area?

Chairman Cosentino: We would rather see a rear entrance.

Ralph Vigliotti: I would like to see it proposed.

Paul Krause: The idea of the bathrooms in the basement, you were upset about that last time.

Chairman Cosentino: We were not upset. We suggested that instead of having a pumping system and a vent going to the roof.

Paul Krause: Actually, if we were on the first floor, we would have to create another door in the restaurant to go out. It will be more expensive to put it in the basement, but not that much.

Chairman Cosentino: It's up to you. If the Building Inspector says its okay, it's okay.

Vice Chairman Sturniolo: We should talk about the fuel leaks regarding the neighbor next door.

Chairman Cosentino: There was contamination of fuel next door.

Jim Attwood: Did they fully remediate that?

Nanette Bourne: Yes, on that site.

R. Barry Goewey
16 Dakin Avenue
PB2010-9

At this time, Chairman Cosentino instructed the Board to remove this item from the agenda and have it not appear again as two apartments are not allowed on that piece of land.

Special Discussion:

Gail and Ed Smilkstein
340 Spring Street
PB2010-4

Chairman Cosentino: Mr. and Mrs. Smilkstein want 17 feet on the side of their property. They need a certain amount of feet on each side. I want to make sure that a lot is not created on the right side of their house.

Austin Cassidy: We talked about that when they came in to your board and that was part of the issue. It was identified and discussed that evening.

Chairman Cosentino: If he were creating a lot to the right, I would be against this application.

Austin Cassidy: There is no proposal, and they said they were not.

Chairman Cosentino: What is to stop him from selling part of his lot on the right to the next-door neighbor, and the next-door neighbor has the land to create the lot.

Austin Cassidy: So you are requesting an analysis of what is physically possible.

Chairman Cosentino: That is right - if it is physically possible to build a lot to the right of his house. By giving him footage to the left of his house, is he going to have enough room to the right of his house so the neighbor can buy part of the property.

Whitney Singleton: Let's first start with the issue. The property to the right that we are referring to is the homeowner's association of the condominium, which would now be in a different zone. If you were talking about the property owner to the right that fronts on Spring Street, then it would not create joint pieces of property because there is an intermeeting roadbed between the two properties.

Chairman Cosentino: Is that road bed a dead piece of land right now?

Whitney Singleton: It is not owned by either of these parties.

Chairman Cosentino: Is it de-mapped so it could never be bought?

Whitney Singleton: It has not been de-mapped. If it were it could be, but it has not. Part of the reason for that is that no one can locate any of the principals of the corporation that developed that land.

Chairman Cosentino: Are we saying that it could never be bought by anyone?

Whitney Singleton: It could be acquired by the village in a tax lien.

Chairman Cosentino: So if you took that paper road per se and some of Mr. Smilkstein's land would that create a lot?

Austin Cassidy: If there were such a potential, it would exist now, irrespective, because the land that constitutes the roadbed is sufficient to add to the parcel of land you are talking about to make it subdividable. There would be no need for land from Mr. Smilkstein.

Chairman Cosentino: Thank you.

Vice Chairman Sturniolo: I would like to suggest in the fourth bullet point that we eliminate the word "unanimously."

There being no further business by the Planning Board, on a motion by Mr. Vigliotti seconded by Mr. Bernstein, the meeting was adjourned at 9:30 P.M.

Respectfully submitted,

Stanley Bernstein
Recording Secretary

dm