

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

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

Members Present: Vice Chairman Sturniolo
Stanley Bernstein
Sol Gibbons
Joseph Morreale

Members Absent: Chairman Joseph Cosentino
Doug Hertz
Ralph Vigliotti

Staff Present: Nanette Bourne
Whitney Singleton
Anthony Oliveri
Austin Cassidy

Acceptance of Minutes

July 13, 2010

Motion: Stanley Bernstein
Second: Joseph Morreale
Aye: Sol Gibbons
Aye: Joseph Morreale
Aye: Stanley Bernstein
Aye: Vice Chairman Sturniolo

September 14, 2010

Motion: Stanley Bernstein
Second: Joseph Morreale
Aye: Sol Gibbons
Aye: Joseph Morreale
Aye: Stanley Bernstein
Aye: Vice Chairman Sturniolo

Conceptual Application

Jon Wade
Nissan City North
283 North Bedford Road
PB2010-15

Present: Michael Gallin, AIA, Gallin Design Studios
Jon Wade, President, Nissan City North

Michael Gallin: I would like to walk you through the application to make sure everyone is on Board with what we are proposing, and then we will answer any questions. I am going to talk about the existing

conditions. This is an aerial photograph courtesy of our friends at Google Earth showing the existing Nissan dealership, the existing Ford dealership and the sea of parking that exists behind this. Currently, there is a series of parcels that make up this development, and we are sort of impacting all of the parcels in this zone. To give you some background, I have been hired by Nissan City North to do this redevelopment. The owners of these properties are J. R. Martabano through JRM. Obviously, his consent is involved in all of this, but the impetus behind the development is Nissan City North. JRM is doing a variety of things to make this possible, including some modifications to the Ford dealerships that I'll speak about as part and parcel of describing what we're doing. This is the existing site plan. Here we have Nissan City North. Behind the Nissan dealership at a lower level is a service garage which is a different tenant, apparently. This service garage is accessed off Ice House Road from the north via a ramp down into the service garage. There is a large masonry block concrete retaining wall that borders both the northern edge of the property here and the western edge of the property here immediately adjacent to Simone Brothers Auto Repair. That creates a terraced level slightly lower than the main parking level for Nissan here. This lower level terrace is for auto storage. It is used by Nissan. Adjacent to that is part of a continuous parking area that is used by Ford over here, and the Ford dealership here. There are actually three parcels, another parcel back here and I think this is another parcel here. This application is looking at the whole site in general because we need to. There is no clear line where we can say, "That is Nissan. This isn't." We are trying to take the opportunity in terms of redevelopment of this site to solve some of the overall problems in all of the relationships of the sites. There are some significant grade challenges here. As you are all well aware, there is a pretty steep grade change from Bedford, along Ice House Road, down to the 333 property. This whole lot at this level is way down at the level of the 333 North Bedford Road property. There is currently a very precipitous ramp that takes you down here for vehicles to access this lower level lot. A critical piece of this which is driving the whole thing is that currently Nissan is renting space at a building over here to do their service. That results in people coming to here. There are some issues with communication and driving cars back and forth between the two locations. For efficiency, customer service, etc., their strong drive is to try to get it all in one location. That is what is driving the whole development of the site. If they can accomplish that, there is a small amount of money that Nissan National kicks in that also helps make the possible. They have some requirements that we have to meet for that money to be available. In a nutshell, we are taking down this building – that tenant is no longer involved in this property – and proposing an addition to the west of the existing showroom that would be an expansion of the showroom and most importantly, provide for the service bays for the dealership. Underneath that addition, taking advantage of some of the grade changes, we're proposing parking on the lower level. We are then showing reconfiguration of this terracing of the lots to make this site more functional, more customer friendly, accommodate delivery of cars on the site which currently cannot be accommodated and provide better access between this lot and this lot.

Vice Chairman Sturniolo: The accommodation of deliveries on the Nissan site – does that philosophy apply to the Ford dealership?

Michael Gallin: It does. Since they are sort of sister sites, the solution that we have is to create a main central drive which would serve both properties. That main central drive is the drive that would accommodate the tractor-trailers and the unloading of vehicles.

Vice Chairman Sturniolo: One of the things this Board is concerned about is the overall traffic impacts on 117 in general. One of the things we are going to look for is a traffic analysis. Is this beneficial to the overall flow of 117, or is it detrimental? Is it neutral?

Michael Gallin: We will come back to that. In general there are some huge issues that have happened over the years that have impacted traffic that I think this helps alleviate, most importantly the semi's stopping in the middle of 117 at all hours of the day.

Jon Wade: To that point, I am trying to build something that is as customer friendly and easy to get in and out of, given the fact that we have limited access and limited set backs. The point is similar to where you want to get, which is just making it easier, safer and more comfortable for the local car owners to be able to pull in and pull out without problems.

Austin Cassidy: Is there a defined lease line area?

Michael Gallin: I have not reviewed the lease.

Jon Wade: There is a description in the lease because it is all automotive and has been forever. It used to be one owner and operator, but it is not really well-defined.

Austin Cassidy: Its origins were such that it was a single owner/operator with multiple product lines in two different buildings. Now, in the last few years, all of that is separated out to different operators in different buildings, and none of this has been revisited only for the fact that there was no precipitant to be before the Planning Board. These are things that are needed to be looked at – whether or not your parking and/or storage needs are actually overlapping the other operations parking and/or storage needs.

Michael Gallin: We've done a parking analysis. It's complicated, and you're starting to elude, we can walk through the assumptions whoever the right party would be and try to get a consensus that what we are doing is appropriate.

Austin Cassidy: I had three things under this conceptual. There is a long standing historical issue with the village and this Board, which are the deliveries. That is certainly going to be everyone's goal to get that resolved. If I remember correctly, the actual access drive to the left of the Ford dealership is really part of 333.

Michael Gallin: 333 owns that property, correct?

Austin Cassidy: So there is fencing in the back presently?

Michael Gallin: There is a fence right down the middle, and we are proposing taking that down.

Austin Cassidy: That is not on the operator's property?

Michael Gallin: Correct. Technically that is on 333's property. We will have to figure out what sort of agreement we need from 333 in terms of doing some of the proposed improvements that are across the property line.

Austin Cassidy: The thing that is more germane to this particular applicant is the monolithic blocks that are used for retention and had a failure about 10 years ago alongside the Simone Auto Body building. I have been watching them in recent times and it appears to be in several locations some degree of motion. During the review of this, I for one will want the engineering visit as to whether or not there are any motion and stability questions on that system.

Michael Gallin: We are proposing the entire replacement of that system. That may alleviate that. There are challenges in terms of the construction of that because the Simone property is basically built within a foot of the existing retaining wall – but not insurmountable.

Austin Cassidy: One of the things I was looking at as to perhaps potential cause was on the western side of that retention system. There are actually very large orifices for drainage to come through in which none come through. Drainage is getting to the ground and not relieving itself behind that and coming out through the retention system. That is probably moving those blocks around.

Michael Gallin: I would imagine if those were operational that Simone Brothers would have some water issues.

Austin Cassidy: Or 333, as it gets a little fountainous for some of those when they are operating.

Michael Gallin: Assuming we're moving forward with the plan as presented, that wall will be rebuilt and the drainage will be revised to a functional drainage system.

Austin Cassidy: Those are so far my areas of concern other than just routing zoning calculations.

Michael Gallin: Here is the existing footprint for the showroom. We are actually proposing to lower the floor of the existing showroom so that the floor is closer to the existing grade at this location. Currently there is a significant ramp to allow vehicles to drive up into the showroom. The ramp takes up a lot of space. It is unsightly. The goal is to alleviate that by lowering the floor of the showroom so that is within a foot and a half or so of existing grade to allow us to have more aesthetically appropriate doors that would allow vehicles to drive in and out from this location and not have any issues in terms of a challenging handicap accessible ramp.

Vice Chairman Sturniolo: The ramp you are referring to is the color photo in our packet?

Michael Gallin: Yes, behind the red car. It is too steep a ramp to actually serve as a handicap access, so it is purely there now to get cars in and out. We are keeping a terraced level, although slightly modified, up at the level showroom which would become the main customer/sales parking area along with some exterior display parking. The customer showroom area gets expanded, and there is a slightly

lower level which becomes a service level back here. This main drive that we are creating comes down a hill by about five feet or so, and we have a service parking area here at the lower level that accesses this building. To walk you through the interior of that, this is the existing showroom here. The office portion of the showroom, this is the Parts Department. There is a staircase here that deals with that level change that I was speaking about, and the service bays are actually at a lower level than the showroom. Underneath all of this addition is parking both for employees and automobile storage. We are trying to maximize parking and take advantage of the grade difference. To get into that lower parking, as you're coming down this hill about five or so feet to get to this level, you continue to go down this hill and there is an entrance at this lower level that gets into the parking that is under the service bays. We have some additional parking along the hill and you're driving down here, and then there is an exit out onto Ice House Road that currently doesn't exist on the northwest corner of the property.

Vice Chairman Sturniolo: That additional parking would be potential sales customers?

Michael Gallin: The indoor parking is for employees and storage of vehicles. We do not want to deal with customers coming in and out. From a customer's service standpoint, we want them up here at the main level.

Austin Cassidy: To my memory there is an infrastructure easement alongside of Simone's property – a sewer line or some type of easement running through it.

Michael Gallin: There is. It actually runs right through Simone's. There is a narrow sanitary easement that runs through the property. I do not think we are doing anything that prohibits the future use of that easement. I am not sure how Simone's building got built on top of that easement.

Austin Cassidy: I remember it being an extended topic of discussion.

Joseph Morreale: When you have a service area doing oil changes and using a lot of liquid, you're putting a parking garage underneath that. Where is the liquid going?

Michael Gallin: There will be floor drains.

Joseph Morreale: Where do they go?

Jon Wade: The oil is stored on site and we have an inside tank. We hydraulically, pneumatically pump it out of the oil dollies into these storage tanks. I then use that oil to heat the building.

Joseph Morreale: Where would the tanks be?

Jon Wade: We have not got into that detail yet, but there is space inside. 500 gallon tanks about the size of a desk.

Michael Gallin: We have a room downstairs in the parking area zone where we would imagine those tanks would be kept.

Joseph Morreale: Does the amount of parking your creating make up for the parking you're destroying?

Michael Gallin: It depends how you want to count the parking that we're destroying. Currently, as seen here, they are stacking them up as densely as they can. We are stacking parking densely from this lower level lot, but for the customers we are creating co-compliant parking spaces. I guess I could count cars here and give you a rough estimate, but I have not gotten that done that yet.

Jon Wade: The answer is pretty simple. This will be all parking under here, and right now this is all building. Right now, this could be considered a lot, and when this is all done, the second story will be replaced by the same.

Michael Gallin: In terms of functional parking, we are going to have more than is currently there. Currently if you are a customer the only place to park is here.

Joseph Morreale: You can stack these very close to each other. You are not going to be able to do that there.

Michael Gallin: You will only be able to do that down on this lower lot and inside the lower level.

Joseph Morreale: I'm interested in the numbers, though, because you are also expanding the square footage of the building to require more parking.

Michael Gallin: The one thing I have not touched up yet, which is part and parcel of this whole thing, is to get the central drive aisle, to get functional parking lots here, we are actually taking down a piece of the Ford dealer building. The Ford building has this wing that project here to the north. There is a dotted line which you can see on your drawings that represents the outline of the existing Ford building. That last structural bed is being demolished as part of this concept to allow this central drive aisle to come through to serve both dealerships. Some of the square footage that we are proposing here is being offset by the reduction here. In addition, we are eliminating the one-story garage on the lower level here. If you take this square footage plus that square footage, it is going to offset to a certain degree the increased square footage that we are proposing.

Joseph Morreale: You made a statement in your summary that because of this consolidation, it would reduce the amount of traffic that would take place. You are concentrating things here, so now it seems to me that you're going to greatly increase traffic here and at the other location there won't be any because you're not doing service at the other building.

Michael Gallin: Currently the other location is right over here. There is a certain amount of traffic driving from here to here throughout the day. The reality is that this ramp here is really non-functional for anything but an SUV. Anytime they need to get a car from here to here, they are driving up Bedford Road. We are alleviating all the need from getting this parking lot and from the service bay via 117 by creating the site circulation to accommodate that movement. In addition, we are allowing the semi's to come into the site to load and

unload. That was the premise behind that statement. I think we have touched on a lot of the major site improvements that we are proposing. Again, the main drive aisle here, the loop that can be created both here and here to help alleviate some circulation issues here allowing cars to drive directly from this lot up into the facility, the ability for a semi to pull in here, stack here, load and unload – part of this is that there is an existing retaining wall on this lower level that gets rebuilt and relocated to allow this drive to go straight through from north to south. We know we need to get into clearly the need of an analysis of impervious surfaces. The disturbance is such that we are going to have to accommodate the storm water flows. The initial concept is that we will be doing some sort of retention under this lot and that the water will be brought to that location and engineered in such a way that it will be absorbed.

Austin Cassidy: Presently some of that vehicle storage area to the rear of the building is gravel, so it's pervious. Is that correct?

Michael Gallin: Maybe. Our survey has a very thin swath here claiming to be gravel. I don't think you can get any absorption through there.

Vice Chairman Sturniolo: As you head north on 117 from Brookside, which is where the triangle of the Indian is, on the right hand side heading up is the green space property that is right in front of Guard Hill Manor. Then, as you cross the street there is a gas station. As you continue along, there is a new Sherwin Williams and floor covering building. They have recently upgraded and included a lot of plantings in the front of their property. As you go further on, you are going to hit Burger King which has a reasonable amount of plantings as well. You then come into the shopping center where CVS is, and there are a lot of greenery plantings there. Then, you are almost at the border of Bedford Hills. Going back towards 117 on the left hand side heading up toward the traffic light you've got all the village green space. You have all greenery in front and along the side of the Mount Kisco Cadillac Chevrolet dealership. You have a lot of plantings alongside of Appleby's, continuing on, and then you're almost at this property. One of the things I believe that we would want to see is how you are going to enhance the greenery in the front to soften that hard edge of a concrete curb with multiple curb cuts and pathways, etc. Similar to what your competitor did with hedges and trees planting and similar to what the 353 restaurant has also done, how do we make it look green and friendly and nice? This is something your landscape architect needs to address and something this Board will enjoy seeing.

Michael Gallin: We will certainly provide more information on that. We are showing a pretty significant planting bed at the location where the new drive aisle will come through, which as a reference, is here, keeping in mind that this part of the building is getting demolished. You are coming through, down the hill, reach a "T" in the road and you go either way down the hill.

Joseph Morreale: You have five cars located at the bottom of 117. Are they display cars?

Michael Gallin: Yes.

Joseph Morreale: So you're going to drive along 117 and see five Nissans.

Michael Gallin: Yes, those cars are there now.

Joseph Morreale: That would suggest to me that you are not going to want to put trees there. You are going to want just grass.

Michael Gallin: Currently, there is not a lot of room there.

Joseph Morreale: It would make sense to you for display purposes. It would not make sense for us if we are trying to build green space.

Michael Gallin: Here are the cars. The picture does not quite show you the three feet of green that you have between the front of those cars and the sidewalk.

Vice Chairman Sturniolo: Some kind of balance is going to have to be accommodated.

Austin Cassidy: Food for thought. There was a raised planting bed with a car display plateau.

Michael Gallin: Every Planning Board I've ever been to have shunned away from raised cars, but if that is something you're willing to entertain, we'll consider it.

Austin Cassidy: Not to point to a particular product line, but there was one there and it was later taken away by the property owner. There is one that has been for a long time, and I think an asset, over at a dealership on Kisco Avenue in which it was a product vehicle they would highlight and it was surrounded by rather nice landscaping that really was a lift to that spot. It might be a middle ground for a display and some softening at the same time.

Michael Gallin: Basically put the cars within the landscape?

Austin Cassidy: In the Volvo there was a model there they wished to highlight and it's on display surrounded by very nice plantings.

Stanley Bernstein: On the face of it, it looks like an improvement. The fact that the semis are going into the property is a big, big plus. The circulation looks like it's improved tremendously. It does not look to me as if there will be additional traffic. I don't know if it will attract more customers, but I think it's significant given what is there now. Generally it's a plus but I have to reserve judgment until I see the actual application. I am curious as to what Ford thinks about losing a piece of space.

Jon Wade: It has been discussed with him and he has no problem. I think he is in favor of having more elbow room. There is more space and comfort, rather than being surrounded by tightness.

Vice Chairman Sturniolo: Also the Ford dealership is limiting its product line.

Stanley Bernstein: There is the parking that can be seen from North Bedford Road. That is not your property. That would be nice green space. Of course it would detract from the parking count, but it is something that has to be worked on and compromised. Also I would be very favorable to this project if you would consider some modern

ecological features, such as a green roof, and water gardens. You've got a lot of impervious space. The roofs of all these buildings and the pavement of all these parking spaces would need an analysis, which you said you would on pervious and impervious surfaces. You should also consider something on the enormous lower parking lot to be pervious. There are methods. If you can add something to this that would make it a greener project, which is one of your specialties, it would lean me very much in favor of this project.

Sol Gibbons: I think it is an improvement. I like the circulation of the cars that you pointed out. I have been on that road when the tractor trailers are unloading. The points that Mr. Bernstein brought out would be good. If you could get some greenery along the road, that would be nice as well.

Joseph Morreale: I agree with my fellow Board members. Is the front facing of the building going to change?

Jon Wade: Yes. It is going to get modernized.

Michael Gallin: This is the existing building. These are images from Nissan's brand standards. To a certain extent, their money comes with their brand standards. We will present the brand – the way they want the building – and then we can have discussions. Nissan has branded buildings. It's a lot better than a McDonalds, but it is a branded building. As far as branded buildings go, I think Nissan has done a good job. The red is part of the brand. You may have seen the new Nissan buildings; they are similar to the aesthetics here. There are ----- fins on the building, some of which we may be able to help utilize in terms of creating some solar shading to help reduce the amount of heat gain. This aluminum portico is one of their brand developments they are going to be looking for on the building.

Joseph Morreale: This lights at night?

Michael Gallin: Yes. We can talk about the lighting. Clearly, they want it to be seen at night.

Joseph Morreale: Are you adding anything to the roof? Air conditioning units?

Michael Gallin: We have the advantage because of the split level. This portion of the building floor is lower here. We will try to hide all that rooftop equipment to the back of the building so it is not right on 117.

Anthony Oliveri: You are going to need a DOT permit for the right-of-way. They may want to look at this in terms of this new central driveway here. You will get input from them. You are in the Main Street area, so you will need a DEP permit. Austin raised a comment about the sewer easement. It looks like you are building a wall and stairs right on the sewer easement of the rear lot. You would not be able to put any permanent structure in the easement.

Michael Gallin: There is an existing building adjacent to the stair that is two stories.

Anthony Oliveri: I understand that. If you build anything new over the sewer easement - a wall, a concrete stair.

Michael Gallin: We will have to see whose easement it is.

Anthony Oliveri: Usually the easement has that stipulation not to build permanent structures. That is something we have to look at.

Michael Gallin: I understand, but considering there is a building there, we may want to re-route the easement to do something else.

Anthony Oliveri: I have no idea what the circumstances are, but we have to look at that. It looks like you'll disturb over an acre, so you will need a DEC permit. This would be like a retrofit project, which goes hand in hand with the DEP. I assume you will return with a full site plan, layout, utilities, drainage, grading, etc.

Michael Gallin: Yes. At a conceptual level, we have grading on here. We thought a little bit about drainage. We believe it is all feasible. We agree it needs to be fully engineered including absorption to the storm water.

Nanette Bourne: It looks like there are some nice opportunities to create the kind of edge that Vice Chairman Sturniolo was talking about. Mr. Oliveri mentioned getting DOT's input, and we can't urge you soon enough to get there input. They are a bureaucracy that takes time, so don't underestimate how much time they will take. I would encourage you to consider landscaping in the public right-of-way and the DOT right-of-way. Low plantings are permitted and that would be one way of creating that green frontage that the Board has been really working towards. Keep in mind that the village has lighting guidelines that must comply with dark sky standards. Also, there is basically a five-foot candle maximum.

Michael Gallin: The five-foot candles are a challenge. To achieve that often you need the lamps to be high, but you don't really want them high. We will come up with a solution.

Nanette Bourne: Many applicants have come in with that same statement but to date, everyone has complied with it. Is the landscaping on 333 properties?

Michael Gallin: Yes, some of it is.

Nanette Bourne: This landscaping is there for what reason?

Michael Gallin: To soften that edge and provide some separation. Currently this is paved straight across at the southwest corner at the easements for 333 and the lower storage parking area.

Austin Cassidy: Essentially the main access drive that takes you down to the side and rear of the Ford operation?

Michael Gallin: Correct.

Nanette Bourne: So you have taken the liberty of planting on someone else's property?

Michael Gallin: Yes. Liberty might not be the right word, but yes, I will work with the other property owners to make sure that everybody is in

agreement. We were involved in the development of the 333 property as well and have some insight in terms of their wishes.

Joseph Morreale: Does the landscaping right there does anything to constrict the flow of traffic? Do you meet the requirements for the width of the driveway even with the greenery?

Michael Gallin: Yes. There are a few challenges with this. There were discussions at one point about creating a drive access to this lower parking lot which serves the soccer field and will now serve Mount Kisco Athletic Club at 333. But these buildings were all built to encroach into this property. As you can see, the property line is here and this building encroaches at this location. In addition, there is parking along here. So it's really parking in the encroachment of the buildings that is limiting the access at this location. What we are doing here will help the lower half, but the fact that the upper eastern half of the road is still restricted by both the building encroachments and the parking, limits the functionality of that road. There is only so much traffic that you can realistically expect to go down that road.

Nanette Bourne: You also have landscaping on Ice House Road?

Michael Gallin: That is existing.

Nanette Bourne: The Board needs to be clear as to what property is within your control and how you deal with your uses and your proposed landscaping, what property do you hope to obtain an agreement to work out some joint landscaping and the vehicle for doing that?

Michael Gallin: We will provide clarification on that. Clearly it is an issue we need to resolve.

Nanette Bourne: You mentioned you've come up with some parking demand calculations, and that was done based on the village code.

Michael Gallin: Yes. The village code has requirements for automobile dealerships regarding service bays, showroom areas, etc. There is a requirement for exterior display parking that result in additional staff parking. For example, these eight spaces is actually creating additional customer parking demand. When you get into this area of the parking lot, it contributes. We have taken a presumption in terms of labeling. We've labeled these as employee parking and these as new car storage. Depending on where you draw that line, the calculations are impacted. That is why I would like to discuss this to make sure we are all on Board with those assumptions. The way it is shown here and they way we did our calculations; we are in compliance with the code for both buildings. The other challenge is the terms of which we allocate each building. Because of the number of layers, all of the parking has to be calculated.

Whitney Singleton: I obviously see that the Board sees this as a potentially positive thing. My intuition is telling me there are going to be a lot of warts and hairs associated with this project. We are talking about multiple site plans that have to be considered as one master site plan. Unless they are going to merge these lots, the lots are going to have to comply with the individual setbacks and development coverage requirements as well as for the entire site. This has nothing

to do with the applicant but I have some familiarity with the wing walls and stoops of this property, everything coming out and built onto other people's property and the artificial changes in terrain. I think there is going to be a lot of issues with this, and it will be hard for the applicant to attain some of the requirements of that shielding all storage of parking by landscaping, which the code requires. The code already requires of this site that deliveries not be done in the street, yet they continue to be done in the street. That has been a requirement since before this went in. I do not know if the magic bullet is going to exist by snipping off this and widening that. I think there are more challenges to this that meets the eye. I think there are going to be a lot of issues here that don't immediately surface.

Jon Wade: I came in here two and a half or three years ago and bought the Nissan store. It is a difficult, little place with bad visibility and bad storage and bad access. It is what it is. I am here to propose to improve it as best I can, given what we have. I think there is an opportunity here to make it work better. We don't have a clean sheet of paper. We have gradation issues and the issues just brought up that I was unaware of. But we are going to do everything we can to fix as many of those things we can. It is an option to stick with the tractor trailers in the middle of the street, or accept something that is better but not perfect. This is the general overview at this conceptual meeting, but the intent is to make it better and make it work for the town and my customers and end up with a better product. We are prepared to address all the issues as they come up.

Whitney Singleton: That is why I prefaced what I said when I said clearly the Board would like to see improvement. I am anticipating some skeletons in the closet, which has nothing to do with you.

Jon Wade: I understand. If we know that in advance, it will make going forward a lot easier.

Michael Gallin: With the Board's permission, we would like to reach out to counsel and get some of the history that he knows about. That may be very valuable to us.

Vice Chairman Sturniolo: Sure. In closing, the building you are going to demolish behind the existing showroom – when 333 upgraded Ice House Road and striped it with no parking and put curbing in, there was a modification to the angle of the curb leading into that current garage facility. I am not 100% sure of the technical reason why that curb was there. It is something to think about as you proceed with the demolition of the building. Having said that both of you have a pretty good picture of the Planning Board's desire to see this property develop in a sensible manner as you are proposing with the extreme concern of some of the issues Whitney highlighted. This is a big piece of property with many property owners who have issues going back and forth for years. It is going to be the tangled knot to make it work. When you are ready for a formal application, we will enjoy listening to you.

Special Discussion:

333 North Bedford Road – Karate Studio

Present: Jim Diamond, Diamond Properties

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October 12, 2010

Jim Diamond: As I think everyone is aware, we have approximately 60,000 feet of property left between Mount Kisco Athletic Club and what is currently the Target warehouse space that is vacant. That space is currently approved for a physical training studio, which had been applied for under the use of Mount Kisco Sports Arena, which ended up not proceeding. We would now like to move forward with an approximately 8,000 square foot tenant within a portion of that space, which is an existing karate business that is located at the ShopRite shopping center up the street. We would like to locate this to 333 North Bedford Road. We have supplied a schematic floor plan at this point, which shows the configuration of the space and a brief summary of the business – operating hours, peak times, number of employees and number of clients. We think this is a good use that fits in with the sports theme of the south side of 333 that we were trying to achieve with Mount Kisco Sports Arena. I believe we are here for a discussion tonight only. It is not actually a submission. My understanding is that the building inspector reviewed this use with the Planning Board Chairman, who just wanted to have the use discussed by the full Board.

Austin Cassidy: For the purpose of record, when this proposal was communicated, I immediately shared with the chairman, and while he was comfortable with the concept, he wanted it to be vetted with the greater body of the Board, with no precipitants for formality of a full structured application relative to its somewhat hand-in-glove relationship to the existing approval of a fitness center there already. However, this would be a mere fraction of that physical utilization.

Vice Chairman Sturniolo: Whitney, there was a conference call today, I was told? We are all flying in the blind at this point.

Whitney Singleton: Yes. We all were. There was a conference call conducted today with the special planner on this, David Stolman. Mr. Stolman, while it is his position that the intensity is so suited with a karate studio, he does nevertheless see it as viable. For purposes of consistency and completeness, he would like to see submission of a floor plan, some idea of the maximum utilization, which I also understand you had supplied something additional to Austin this evening, and he would like to make sure this is done in the form of an actual resolution, which we can do in draft. I understand that probably comes as a little bit of a shock to you.

Jim Diamond: My impression is that from our perspective it does not seem like it's a change of use.

Whitney Singleton: It is leaving a significant amount of space within the approved area unused. It is kind of boxing it in to a certain extent. Because there are so many other uses within a building that has various associated parking requirements, I think he was simply planning on taking the existing resolution and tweaking it to the individual components of what you are proposing now. I do not anticipate this is going to be something that is routine processing just to keep the internal approvals within the space existing.

Jim Diamond: Does that mean we have to make a submission?

Whitney Singleton: Whether you need to make a submission or not, we can address that later. The planner and I have already discussed the beginning of a drafting of a resolution.

Austin Cassidy: I do see and definitely apologize to the Board members straining to read the floor plan. In all fairness to the applicant, a full scale plan was electronically communicated, so there is a very readable plan that exists. However, when it was apparently printed out for distribution tonight, it was printed on 8.5 x 11, so you practically need a magnifying glass to read it. Separately from that, the protocol on the decision process - certainly I will not speak to any legal advice in that regard; only just reiterate that the general review with the chairman was such that he did not see this as problematic in any way. The only thing, our planners, Dave Stolman, was concerned the per square footage utilization for a dojo type operation as opposed to the large batting cage set ups would be a tad more intense. But the big picture didn't seem to be a big deal.

Whitney Singleton: I would say that is a fair summarization. His primary concern emanated just from documenting what's there.

Austin Cassidy: Exactly. The representative of this concept was fully aware, as they had a lot of back and forth email today on this. The thing that was making it awkward for us was the lack of the normal hard drawings and documents that everyone could look at and digest. The consultant's primary issue was while one may represent, "this is the same as what you approved before," it's the proverbial, "well, show us." I do know there is a time element because this is relocation on an existing business. I do not remember what the time element is; I just remember it was tight.

Jim Diamond: We have to relocate the business because CVS is actually moving into their space as well as some additional spaces, the ShopRite Shopping Center. We are under some time pressure to try to get them moved over by the end of this year for the first couple of weeks in January. It's very time sensitive.

Whitney Singleton: I don't perceive the resolution being a problem. We are currently working on some other resolutions that we can simply, if it's the Board's pleasure, direct the planner to begin drafting it. It is going to be a modified resolution.

Austin Cassidy: The document will be acted on the next meeting in two weeks?

Whitney Singleton: Yes.

Vice Chairman Sturniolo: From my point of view, hearing all this for the first time today, and hearing about discussion with the chairman and not getting any feedback from anyone else, I surely don't want to be the fly in the ointment. But I need to ask my fellow Planning Board members if you are comfortable with this idea of asking the planner to craft a modification to this resolution at this point?

Stanley Bernstein: Looking at this and visualizing what is going to happen, I do not see much of a problem. I do have certain concerns. As far as drafting a resolution now that would be voted on in two weeks - we've already changed that rule because of the problems

we've had in the past. We must look at the resolution one meeting before we vote on it. That is the only way I would accept that. Again, I don't see a problem. It's pretty much the same use. My one concern is now we have enormous space that is empty. I am wondering if you're going to demise that space into 20 different tenants. I would not like to see that, and I don't see how you're going to get one tenant to fill up one odd space like that. To me, it is a large concern.

Jim Diamond: My concern about the resolution is that the issue here is, I think, from our perspective we do not think it is a change of use. This falls under the revised change in the village code where now basically every replacement tenant is considered. I think the building inspector and the Planning Board Chair had a discussion and essentially determined there is no significant impact there. I don't know if that was a formal determination or just a discussion. I am a little confused in terms of the revised resolution if the use is staying the same.

Whitney Singleton: I can address Mr. Bernstein's comments. I understand your concern with regard to that. Mr. Diamond would not be requesting of you, per se, a new approved site plan. He is not seeking a new site plan approval. He is going to change nothing at the site as far as ingress and egress. He is only going to change the interior of the space with the same use that he is already approved for. He is only going to be using less of it now.

Stanley Bernstein: Then why do we need a resolution?

Whitney Singleton: Theoretically, we don't. It really comes down to whether it's a change of use, and arguably it is not a change of use. However, for our own internal consistency with a site of this magnitude and keeping track of all the approvals on the site and what is going on in the building, it would be simply from a record keeping perspective beneficial to have a revision to the existing resolution reflecting the downward modification of space that would be committed to this use. I understand that you could go back and use the rest of it, but right now, as you're going through the hundreds of thousands of square feet associated with this building, you have certain commitments, and this will help to keep all current resolutions reflect what the committed space is and what the balance of the space is for different uses.

Jim Diamond: We would not be proposing to change the use on the other 52,000 square feet.

Whitney Singleton: But you're proposing multiple tenants within the space.

Jim Diamond: We'd come back in the future if that use was going to change and the other 52,000 feet would now remain as physical training studio. I understand given the size of the property and the amount of time we've spent at the Planning Board there is some concern about making sure that everything is super documented, but it seems like sometimes the process can be overdone with our property, just given the size. This seems like an example to me, or maybe that would be the case where that extra step would be used on a different property.

Whitney Singleton: Mr. Bernstein, to speak to that point, I do not want there to be an unattended consequence here. In a normal situation, this would be like someone taking an 8,000 square foot building which is approved for a restaurant and then deciding only to make a 4,000 square foot restaurant and not use the rest. That is essentially what he is saying now to us. That would not normally necessitate a review and approval by your Board. We were simply discussing this from a perspective of record keeping. I would hate to see the applicant have any sort of punitive treatment as a result of us trying to keep all of our records straight. It really is not rising to the level of an amendment to a site plan. I think you are going to see almost his existing approval just with a change in the square footage and a change in the interior layout of the space.

Stanley Bernstein: I am concerned if there are other changed resolutions and discussion. I don't want to have to vote on it that same day. There might very well be discussion, unless word for word it remains the same with the change of area and small items. If there is something in that resolution that the planner comes up with and we are going to have a discussion on that, there probably at that time will be almost a full Board, I do not want to vote on the same day we are having the discussion on it.

Jim Diamond: To address the other concern you raised, we are not sure what the balance of the tenants are going to be. We've obviously had some interests from some potential tenants, but nothing firm at this point or else we would have approached the Board. One limiting factor we have in terms of the number of divisions that we can do is that the building is extremely deep. It is 320 feet from east to west. Frontage is our limiting factor in terms of how we divide up the square footage. After karate we will have five column bays. Each column bay is 30 feet, so we'll have approximately 150 feet to work with the frontage and 320 feet of depth. We are working on trying to come up with potential uses. One of the things that we are considering to use up some of the square footage, but we don't know whether it's feasible at this point is auto storage. We are looking at the idea of potentially an expansion of Save Haven to enable for some interior auto storage of higher end cars. We are not sure if we can make the whole business model work, but we like the use in terms of its low impact nature. There is a strong likelihood that square footage would end up being divided between at least two, maybe three more tenants. We don't really know until we have potential users.

Joseph Morreale: Usually when you subdivide like that, it intensifies the use of the facility. If I listen to you, you're saying it does not. Is that right that it won't be more intensely used when you consider how it was going to be used before when divided up?

Jim Diamond: Do you mean specifically with karate or how we use the entire 60,000 square feet?

Joseph Morreale: I'm actually thinking of both, because this is a step in the process that may result in that, as Mr. Bernstein has pointed out. I am worried if it increases the intensity of use, then we would really have to significantly look at that to see what the overall impact is.

Jim Diamond: Generally speaking, I do not think we can say definitively subdividing; creating more tenants will increase the impact. I think it honestly depends upon the types of tenants. One of the great things at 333, as the Board is aware, is the mix of tenants that we have given the size of the property. Having different tenants operating at different hours has been a real advantage to us. Grand Prix is nights and weekends, Mount Kisco Athletic Club is mid-morning. A lot of the office tenants are nine to five. It's that mix of tenants - where not everything is happening at the same time - is helpful. Even within different tenants of similar type uses, different office warehouse tenants - they have different operating conditions, which help so that not everything peaks at the same time. In terms of the 60,000 square feet, something will happen in the other 52,000 square feet. If it is not a physical training studio, we'll be coming back to this Board to evaluate what its impact is and how it fits into the overall cap for the property. At this point, 60,000 feet is currently approved for a physical training studio, and we want to take a portion of that and make it a physical training studio. It has to be less than the previously approved impact for that block of space.

Joseph Morreale: What age group are we talking about using this?

Jim Diamond: It's a mix of adults and children at different hours of the day. The 10-11 hour is adults.

Joseph Morreale: It says 15-25 clients between 10 and 11 is typical. Then it says 4 and 7:00 classes, typically 5 to 15 clients per hour, and then 11 A.M. and 4 P.M. classes are typically 3 to 10. It strikes me that there is a contradiction in that which I don't understand. What is it?

Jim Diamond: Those are start and end periods. In the morning, 10 to 11 are the adults and it's busy. From 11 to 4 it's quieter because they still have adult programs going on primarily but it becomes more individual instructional format vs. group classes. From 4 till 7 after school it gets busier again but not as busy as in the morning.

Joseph Morreale: The parents usually wait for the children?

Jim Diamond: Yes.

Joseph Morreale: You will have an increased number of cars in the lot and then moving back and forth from the lot onto 117. I would like to make the statement that one of the things I've grown concerned about as I look at the whole village and town is the change of businesses that results in no net change in business activity. This is an interesting example because they are moving from one location to another. The net gain to the town is presumably zero in a sense in terms of economic activity. Unless you tell me there is something else going in the ShopRite center to replace them, then that is a vacant facility. We as a Board need to think about that. We are trying to accommodate these things while trying to expand business in the town. This is not doing that.

Jim Diamond: As you described, it's moving businesses around. The CVS and karate are moving from one site to another and to some extent it is simply shifting chairs around the table. The businesses are doing what they feel is in their own best interest.

Joseph Morreale: Is the rent lower in your building than where they're leaving?

Jim Diamond: Of course. Our building is not a retail building.

Joseph Morreale: So that would mean that we are seeing a downgrading of rent.

Jim Diamond: Absolutely.

Michael Gallin: To be fair, one of the primary reasons why CVS is moving is because Diamond Properties made a really significant investment into the ShopRite shopping center. It is not that there is no investing and upgrades. A lot of these moves are precipitated by the improvements in the old properties that suddenly the tenants realize there is an opportunity to move to the old properties. As the old properties that they have vacated become vacant, those owners are going to feel the necessity to then upgrade their properties to beautify them with façade improvements. So, there is sort of betterment to the community that happens in all of this shifting. This shifting happens because the spaces they are in get old, and someone takes an old building and fixes it up.

Jim Diamond: CVS had been looking to move for several years, because they were not happy with their existing location. The ShopRite shopping center had previously been presented to them and they had rejected it as an option because of the façade. When the new façade was built, which Michael designed, they reconsidered their decision and decided to move to the property. I do think it is a positive upgrading for the community, as I think the application before us would represent a significant upgrading to the 117 corridor, in particular Ice House Road and 333. One of the things I like on that is that the new road shown directly to the east of the Simone Brothers building can almost be viewed as an extension of the road coming down the hill along our property.

Vice Chairman Sturniolo: Which is the old concept of trying to do the bypass for 117, which is a crucial issue.

Jim Diamond: It is viewed in the context of yet another piece in this very long term puzzle with gradually interconnecting these properties. It aligns very well. We are also supportive of what that applicant is looking to do along the third easement. As we discussed with your board previously, it is frustrating to us that that easement is currently so impaired with the amount of activity on it, because we would like to make it nicer in the same way that Ice House Road has been made nicer as well as our north entryway. We cannot fix the problems in a vacuum, so if that property owner takes that step to improve that portion of the easement, we think it is a great step in the right direction. We would like to eventually see that opened up to the parking lot for the municipal soccer field.

Vice Chairman Sturniolo: That third easement is the easement that you drive down to get to Patio.com, Nissan and the Ford/Lincoln Mercury dealership down the hill.

Sol Gibbons: I do not have any comment at this time.

Vice Chairman Sturniolo: Is everyone in agreement that we should ask David (Stolman) to prepare a modification to the resolution subject to review?

Stanley Bernstein: It will be subject to review because we probably will have a full Board. We are pretty close in agreement, and the rest of the Board may not be. Because of previous conversations, the chairman sounds pretty much in agreement, but we have a few other members who might not be. If there is a discussion on the resolution, even though the resolution is probably not needed or there will be no change in it except substantive changes in area, etc., I have no problem with that. If there is going to be a lot of discussion and arguments over items in the resolution, we have to spend the time discussing that and voting on it in the future. I will accept another resolution and voting if there is minimal discussion.

Vice Chairman Sturniolo: Whitney, would you convey this to David?

Whitney Singleton: Yes.

Jim Diamond: Thank you and goodnight.

Correspondence:

- ❖ Minutes of the Mount Kisco Beautification Committee dated June 9, 2010,
- ❖ New York Metropolitan Transportation Council dated October 6, 2010 re Notice of Comment Period and Public Review Meetings

Further Discussion:

Nanette Bourne: With regards to the Morgan Subdivision application on Ward and Brook, we did a wetland inspection and concluded that there was a gray area with respect to whether or not wetlands existed. The soil was not hydrophitic, but there was hydrophitic vegetation. It owed from a substantial amount of water coming down and saturating it. Wetland plants started to grow. It is not a high-functioning wetland. It has very few wetland functions other than saturated soils. A significant issue for the Board and the applicant is to create an engineering solution that deals with not only storm water for his particular lot, but also for the adjacent properties. There is a legitimate storm water issue that needs to be address more than there is a wetland issue. That is our opinion. We will have a written memo on this for the next meeting.

As there was no further business by the Planning Board, on a motion by Mr. Bernstein, seconded by Dr. Morreale, the meeting was adjourned at 9:10 P.M.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

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