

Minutes  
Work Session of the Planning Board  
Village/Town of Mount Kisco  
Tuesday, October 26, 2010

The meeting was called to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York by Chairman Cosentino.

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

**Members Absent:**     **Sol Gibbons**

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

**Staff Absent:**        **Nanette Bourne**

There were no minutes to be approved.

Chairman Cosentino: Welcome to the regular session of the Planning Board.

**Continuing Review:**

**333 North Bedford Road**  
**Grand Prix New York (GPNY) Bowling Alley**  
**PB2010-10**

**Present:**   **Jim Diamond, Diamond Properties, Owner**  
                  **David Steinmetz, Esq., Zarin & Steinmetz,**  
                  **Representing Diamond Properties**  
                  **David Stolman, AICP, PP, Frederick P. Clark**  
                  **Associates**

**From the Public:**

**Michael Hardimann, 23 Park Drive**  
**Marion Halberg, 23 Park Drive**

David Steinmetz: We have no presentation for you this evening. It is a public hearing. We made our presentation last meeting. I know you opened the Public Hearing and took comment. I don't know how you want to conduct the meeting this evening. We obviously have received drafts of the resolutions. There have been some discussions with staff.

*At this point, Chairman Cosentino invited anyone from the public to speak.*

Michael Hardimann: It is my understanding that there would not be an opportunity to speak this evening, so I did not prepare to speak. Is it

correct that there will be a follow up meeting before any final decisions are made?

Chairman Cosentino: We will most likely close the Public Hearing tonight, but you will have ten days for written comment.

Austin Cassidy: There have been no calls, contacts or inquires.

Whitney Singleton: I sent things out pursuant to the Board's request, informing them there would be a meeting tonight with no action being taken and that any comments that they had relative to the application or to the resolution would be entertained by your board.

Michael Hardimann: I would prefer to observe the meeting tonight, give it consideration and take the ten days to respond in writing.

Chairman Cosentino: We will consider all inquires in writing. I also authorized counsel to send out a resolution to surrounding residents.

Michael Hardimann: I did receive it.

Chairman Cosentino: That is the proposed resolution that this Board will be voting on. If you want to respond to anything in the resolution, please do so.

Michael Hardimann: I will have a chance to listen to further discussion and another opportunity to speak if that is the case.

Chairman Cosentino: Understand you can respond via written comment.

Whitney Singleton: You will not close the public hearing until the end of the meeting tonight.

Chairman Cosentino: Right. If you would like to speak during tonight before we close the Public Hearing you can. I will leave it open for ten days for written comment.

Michael Hardimann: I understand this particular moment is not my last chance to speak this evening. I can speak this evening after the discussion.

Chairman Cosentino: Yes. After we close the Public Hearing, you can only convey your feeling in writing.

Michael Hardimann: I am concerned Vice Chairman Sturniolo did not seem to want me speak.

Vice Chairman Sturniolo: That is absolutely incorrect. The statement you made is incorrect. I wanted to clarify that if we close the Public Hearing now, you would not be able to speak. You would be able to write within the 10-day written comment period.

Michael Hardimann: Are you closing the Public Hearing now?

Chairman Cosentino: No. You can speak anytime you want until we close the Public Hearing at the end of this discussion.

David Steinmetz: We had a chance to review the resolution with Mr. Singleton and Mr. Stolman. We have in front of us a draft amended site plan resolution specifically regarding the 19 lanes in connection with the bowling alley, an amended special permit for GPNY that addresses a number of different issues, including issues that had come up before your board since you originally adopted the GPNY special permit. Also, I know it is a separate item on the agenda, but we also did receive a proposed resolution regarding the mixed martial arts facility. I am assuming you are taking that separately. Right now we are addressing the bowling alley only.

David Stolman: To clarify the resolution of amended site plan of approval regarding the bowling alley, you may not have it in your packet. You received that in September. We will not go over it tonight. Mr. Steinmetz is speaking of three resolutions.

Chairman Cosentino: We will address the third resolution when it is on the agenda.

Jim Diamond: One additional item we submitted was a letter from John Collins Engineers dated October 20, 2010 addressing the feasibility of making improvements to the north exit of the property to enable left hand turns. The conclusion of John's analysis again was that it would not be feasible.

Ralph Vigliotti: Did John meet with the State Department of Transportation (DOT) to discuss the feasibility?

Jim Diamond: Yes. We met in the field with David Parker of the New York State Department of Transportation a few years back and I reported to the Planning Board that the only way to permit left turns out of the north driveway is to install a new signal in place of the existing signal. He goes on to explain why the DOT would not be supportive of that because it would actually delay traffic on 117.

Chairman Cosentino: You met with him when?

Jim Diamond: His letter says, "a few years back." This issue was extensively covered in 2006.

Chairman Cosentino: I believe Mr. Vigliotti wants an updated letter.

Ralph Vigliotti: 2006 is more than a few years back. Four years back would be more accurate. I would like the record to show the exact date when they met with DOT, and if he is making a statement on what is currently being used there and what might be the proposed current feasibility would be based on any improvements that have been made to North Bedford Road since 2006. In all due respect, I am taken aback that Dr. Collins did not do his homework.

Jim Diamond: There have been no changes to that intersection whatsoever in the past four years.

Ralph Vigliotti: There have been changes to the site. Whether we are for or against what is going on, and I'm for a lot of what is going on – the bottom line is – this is four years later. There have been improvements to the site and more traffic to North Bedford Road. It has to be current. If both say the same thing, that's fine.

David Stolman: My impression is that it is a recent letter and conversation with the State. You need to find out when you spoke with a representative from the State.

David Steinmetz: We will. Mr. Vigliotti's questions are fair. The letter indicates the meeting out at the field a few years back. We are not certain whether Dr. Collins, because he is not here tonight, actually followed up with Mr. Parker subsequently. We will find that out and provide that information to you. Dr. Collins was endeavoring to respond to the question we received last time about should we be looking at signaling the north entrance. We went directly to Dr. Collins after your last meeting. You made it very clear to us that we should at least re-open the question and make sure that we were not ignoring an issue that required some further study, the neighbors raised the question about the traffic on 117 and exiting Brookside, we went back to Dr. Collins and he explained to me on the phone before we saw this letter precisely his argument about the problems with queuing based upon signalization there that he had learned several years earlier from DOT. We will get him to clarify the date.

Ralph Vigliotti: This is not the first time I've asked this. With all due respect to John, he did not do his due diligence and his homework as the village Planning Board had asked him to do. He is not even here tonight to discuss it. This is a large issue that I have presented before this Board and before this proposal. You are not taking us serious here. We are almost into 2011. That is not "a few years back." Short of us hiring our own consultants, which we don't need to spend the money to do, then your consultant needs to do the right thing.

David Steinmetz: I do not want to argue with you and no one wants to anger you, but in fairness, because we are all here for fairness and I know you are, you have your own consultant. We've paid for your consultant. Your consultant has studied traffic, has reported on traffic, has reported on this application, and has a representative sitting here this evening. With all fairness and due respect, at no time am I aware that the village's hired professional engineer, Michael Galante, who is a well-known and established traffic engineer in Westchester County and sits with a representative here every night my client comes here, I am not aware of Mr. Galante ever addressing it.

Chairman Cosentino: In all fairness, I don't believe we've ever studied the area on the north road as we did Ice House Road.

David Stolman: We brought this up as well and John was supposed to find out about that. It has come up beyond four years ago.

David Steinmetz: It was brought up at the last meeting.

David Stolman: We are still waiting for it. I am not sure where you were going with what you were saying, but I don't think I agree with it.

Chairman Cosentino: You may be right on Ice House Road, but on this one, a study was never conducted as much as Ralph wanted it brought up to date. I was here when he brought it up three or four times that he needed an answer for the north road. I do not think it was addressed yet.

Jim Diamond: We can ask John to take yet another look at it. We did address it in some level of detail, I believe, in 2005/2006. The issue as I am sure everyone recalls, the Brookside entrance is to the north of us, so the offset light works there. At our north entrance (the Foxwood entrance) is to the south of us. There is a left hand turn lane going into Foxwood that is directly in front of our egress point. Therefore, the only way to have an offset light so that the left and right turns are not conflicting and the cars are not hitting each other would be to have dramatic offsets, which Dr. Collins had looked at previously, add another phase to the light so there would be more time when Route 117 was not flowing. His determination in 2006, working with the DOT, was that the DOT would not approve that situation. Nothing has changed on 117 at that spot to change the facts on the ground. As Dr. Collins explains in his letter, the DOT would rather that 117 flow well. If there is a back of traffic anywhere they would rather it on our side, queuing on our property where people are waiting to leave Ice House Road. In practice, we know that has not been an issue. We do not have a problem with people exiting our property. The traffic flow is fine, even though only two or three cars exit at a time.

Chairman Cosentino: I was not here at the last meeting, but I hear talk about the possibility of something else compounding the problem on Ice House Road. This is why Mr. Vigliotti is more concerned with getting traffic out on the north side.

David Steinmetz: If I understand where we are, Jim is right. He has just summarized what Dr. Collins wrote in his letter and told me over the telephone. The question is, has he re-validated that with the DOT, and does Mr. Galante want us to re-validate that with the DOT. If that is the issue, then Jim and I will go back to Dr. Collins and prior to asking your board to approve the resolution, we will have a report for you. If you're telling us that you want Dr. Collins to come in and speak to the issue we can do that, but I believe he is going to tell you the exact same thing.

Ralph Vigliotti: After he meets with DOT and looks at the conditions. It may not change at all, but we cannot base a study on something that happened five years ago. It provides us a benchmark as a village, and even for your site, of something that is current.

David Steinmetz: That is fine. The question before you is, assuming his position remains that based upon the geometry of the intersection and the separation distance between the north and south intersection, that his opinion will not change, and if he validates that with the DOT are we able to come back in and report that to you, or do you need Dr. Collins to come back in and present?

Ralph Vigliotti: A letter also from the DOT expressing their recommendation one way or the other is something we should have on record.

David Steinmetz: We can certainly ask. You know we cannot guarantee that we are going to get a letter. I believe you Noticed the DOT in connection with this.

Ralph Vigliotti: This is too big of a project to be playing this kind of five-year game. This is a gigantic site. We have been working

diligently with you over the years to make it work. This is the last piece.

Austin Cassidy: From my memory, isn't that curb cut in the Town of Bedford?

David Steinmetz: Yes.

Austin Cassidy: Would they be a participant if you want to carry that discussion forward?

David Steinmetz: They have been Noticed and are aware of this application.

Austin Cassidy: I know of the application, but I am speaking of this particular that we are having right now.

David Steinmetz: I think that is within the jurisdiction of the DOT, not within the jurisdiction of the Town of Bedford or the village. The village is inquiring, for relief of SEQRA purposes. I don't know whether Bedford could mandate anything there.

Austin Cassidy: I would think since the property is in their jurisdiction you may want to ask as a protocol. If it is a concern this Board has, they may want to communicate it.

Joseph Morreale: The way it was put was like, "nothing has changed, so when we go to the DOT nothing is changed." I don't think that was the thrust of what Mr. Vigliotti was saying. He was saying the traffic conditions and the kind of activity in that area has changed in four years. He is asking you to go beyond the actual angular relationship of the roads to talk about what the traffic flow would be like up there. That is not the way you answered. You said that as long as we go back to the DOT, and if their position is the same because the roads are the same, etc., it is going to be the same answer. That is not what we're looking for. We're looking for what it is like in 2011 if we start to talk about that intersection, putting a light there, etc. I am not happy with the answer. I would like an updated study of what is going to happen if we open up that exit and entrance so that we will divert some of the traffic flow north.

David Steinmetz: Understood. I am not a traffic engineer, so I do not want to argue the point. I simply want to clarify so you understand why I said it. Honestly, let Dr. Collins come here and defend his position. All Mr. Diamond and I are doing is trying to carry a message from Dr. Collins back to the Board as to why he does not feel there is a difference in the issue. When he explains it, it is not based upon traffic flow, which is your point to me – that traffic flow has changed on 117 and there is a lot more traffic over the last four years. My response to you is, according to Dr. Collins, signalization there would not address the traffic flow. In fact, it would end up causing some kind of queuing in and around that northerly entrance because of the space between the lights and where cars would stack up. I cannot defend that because I am not a traffic engineer. But the reason you heard my answer the way it was is because the geometry of the intersection has not changed. Dr. Collins told me he explained this to the board five years ago – that putting a light there, according to DOT, would create more problems. My summary is that is actually worsens

the traffic condition on 117. We will bring Dr. Collins in here, as it is in our interest to see traffic move better on 117, as it is yours. Quite frankly, the only thing you have before you is that we are taking a small piece of an existing developed site and putting 19 bowling lanes there rather than a half of a racetrack. We do not believe from an environmental standpoint that we are creating any additional traffic.

Ralph Vigliotti: Everything we are talking about today was not discussed four years ago. We have a new plan and things have changed. The queuing may not work, but we need to have something that is contemporary.

David Steinmetz: Fair enough. We will respond to your questions.

Joseph Morreale: If you remember last time, I did raise a question about the traffic, because I cannot believe it is not going to increase the amount of cars coming in and out if you're adding 19 bowling lanes to the facility. He said it wouldn't and I said I'd rather see proof of that. I am waiting to see that as well.

David Stolman: In the resolution of special permit approval of this year for Mount Kisco Athletic Club (MKAC), there were traffic mitigation measures carried out. One of the measures has to do with that access point. This is something I pulled out of the file from June. It says "the applicant shall seek an approval from the DOT for the following mitigation measures proposed by the applicant." These were mitigation measures that Dr. Collins had laid out and with respect to that location it said, "no left turn sign shall be installed at the north access drive on Route 117, and road markings shall be installed at the north access drive to channelize right turn in and right turn out movements." Has that been done?

Jim Diamond: I need to confirm. I believe there were four traffic mitigations there and we submitted a letter back to the village several months ago. I know he submitted a request to DOT for approval on the signs. We had a sign on our property saying no left turns out. I know he submitted a request to DOT for a sign, but I do not know whether or not the sign was actually installed.

David Stolman: Did you get an update with respect to these traffic mitigation measures?

Jim Diamond: Yes.

Ralph Vigliotti: Who is reviewing these resolutions to ensure that what is in the resolution is actually taking place? Here we have something in a resolution from June 23, and it is now the end of October, and this has not been followed through.

David Steinmetz: I was not involved in the MKAC approval. My understanding is that although it is under construction, no one has applied for a Certificate of Occupancy on that space yet. According to your resolution they have not done anything wrong, they are still building out the approvals. I do not want the question to carry the invitation that they are somehow violating something. They seem to be in the process of fulfilling that which was mandated.

Austin Cassidy: All resolutions are examined by the engineer, the environmental firm that is overseeing a particular project and the Building Department to make sure all of the conditions of the resolution have been completed.

Chairman Cosentino: I think they are talking about six or eight months down the road.

Jim Diamond: To be clear on that left hand turn item, we do actually have signs up now saying no left hand turn out of that north entry. There are additional signs to be installed by DOT on the east side of Bedford Road, supplementing the existing signs.

David Steinmetz: The question was specifically about the channelization stripe.

Marion Halberg: Thank you for this discussion this evening. I also feel there should be a formal study. Obviously I am not a traffic engineer, but there is a left turn that comes out of the Subway/Verizon area. There is a light and it does delay the other lights, so why can't the north end have something like that as well. There is a left hand turn lane into Park Drive and there is traffic coming east and making a left out of the Verizon lot. There must be other things to do. "It can't be done" seems sort of casual. I don't understand why it all has to be turning out of the Brookside/Ice House Road area. What concerns me is not just the flow on 117, but also the impact on the Mount Kisco citizens, voters and people who live there. Saying that, I am also concerned, Planning Board, that respectfully there needs to be follow up. There needs to be a system. If there is a resolution that looks great and I'm happy about it, and I'm happy for Mr. Diamond and he should have his bowling alley, that's wonderful. But if it does not follow the resolutions and the plans that you put in place, what is the next step and who is going to force that? Those are my concerns.

Chairman Cosentino: Thank you.

Whitney Singleton: There were a few housekeeping issues with regard to this resolution. As Mr. Stolman pointed out, the drafting of this did not give an opportunity for either the building inspector or me to comment. We have comments, the applicant has some comments. We would like to conduct a staff meeting sometime next week to go through further modifications and updates to this resolution. Primarily the reason would be that a lot of these things don't jive as well as they used to when it was solely Grand Prix New York at the facility. I think that needs to be tied in a little more. I have other concerns that I have voiced to Mr. Stolman and Mr. Diamond. If a meeting next week is acceptable to you, we can then provide a further updated copy of this resolution to share with your Board, the applicant and the members of the public.

Chairman Cosentino: If we close the Public Hearing tonight, how does this affect the reviewing process and studying the resolution because the resolution would not be passed? Am I correct?

Whitney Singleton: You are always entitled to take comment from the public.

Chairman Cosentino: I think the public is concerned that if we close the Public Hearing it is not a "done deal" because we have not passed the resolution yet. Whether we close the Public Hearing or not, the resolution needs to be passed by this Board.

Whitney Singleton: It has been your board's practice, while you may not actually conduct a formal Public Hearing on review of approval, it has been your board's practice to take input from affected members of the public whether they are written or oral comment. You may not want to have 200 people in the room each spending five minutes to speak, but at the same time, I do not think that is going to be presented.

Jim Diamond: If the Board wants to keep the Public Hearing open until after any revised red line draft comments on the proposed Special Use Permit go out, we would not have a problem with that.

**Motion for Public Hearing to Remain Open:**

**Motion: Joseph Morreale**  
**Second: Ralph Vigliotti**  
**Aye: Stanley Bernstein**  
**Aye: Vice Chairman Sturniolo**  
**Aye: Ralph Vigliotti**  
**Aye: Joseph Morreale**  
**Aye: Chairman Cosentino**

Discussion was held regarding the date and time of the staff meeting.

David Steinmetz: We will see you on the ninth of November, there may be a staff meeting in the intervening period, and we will endeavor to have Dr. Collins obtain further information from DOT and report back to you at that point.

Chairman Cosentino: To the public, you are allowed to comment at the next meeting.

Michael Hardimann: I would like to reiterate what was said earlier. We are not against the bowling alley per se with this project continuing once again, we would love it if Mr. Diamond's business is successful and thrives. It could be a good thing for Mount Kisco. My main concern would be to make sure that our Planning Board is staying true to keeping any resolution honest and enforced with what you agree to. I appreciate your keeping the Public Hearing open.

Chairman Cosentino: We have worked with Mr. Diamond for a few years now. He is a developer who comes before us who we have a lot of respect for. He delivers what he says and he really works with the village.

Michael Hardimann: That is my impression as well. Thank you.

**Continuing Review**

**333 North Bedford Road**

**PB2010-16**

**Mixed Martial Arts-Training Studio – Amended Site Plan**

**Present: James Diamond, Owner, Diamond Properties  
David Steinmetz, Esq., Zarin & Steinmetz,  
Representing Diamond Properties  
David Stolman, AICP, PP, Frederick P. Clark  
Associates**

Chairman Cosentino: Keep in mind this is only a part of the Mount Kisco Sports Arena (MKSA), so the area is just being split up.

Jim Diamond: This is the existing business that is located at the Shop Rite Shopping Center next to the pet food store. They do physical fitness.

Chairman Cosentino: We have all read the resolution.

Whitney Singleton: The "Whereas" on page two should read "for a *second* tenant to utilize." I want to make sure, part and parcel of this approval that there is only two tenants within that space. The other change is on page two, the third "Whereas: from the top, "Whereas the applicant subsequently received a variance." These are repeating "whereas" clauses to these resolutions. On a going forward basis I would like to modify to include reference the application number he gave and date of granting so there is no confusion.

Joseph Morreale: What is the increase in volume of activity; how many people are we talking about?

Jim Diamond: I did not bring the submission materials from the previous meeting. This was 8,000 feet out of the 60,000 feet. It is approximately an 8,500 square foot space, typically 3-4 employees at a time during the peak 10 am to 11 am class, 15-25 clients is typical. 4 P.M. to 7 P.M. class are typically 5-15 clients per hour, and the 11 A.M. to 4 P.M. classes are typically 3-10 clients per hour.

Joseph Morreale: Thank you.

**Motion to Approve the Resolution of Amended Site Plan  
Approval for Mount Kisco Sports Arena Mixed Martial Arts  
Training Studio, Diamond Properties, LCC, 333 North Bedford  
Road**

**Motion: Ralph Vigliotti  
Second: Vice Chairman Sturniolo  
Aye: Joseph Morreale  
Aye: Stanley Bernstein  
Aye: Vice Chairman Sturniolo  
Aye: Ralph Vigliotti  
Aye: Chairman Cosentino**

**Special Discussion:**

**Nikolas & Stuart Pinnetti**

**38-40 Oakridge Road  
PB2008-04 (ZBA Case ZBA09-05)  
Request from Zoning Board of Appeals to Analyze Oakridge  
Road Ability to Accommodate Further Traffic**

**Present: Nikola Pinnetti, Father of Property Owner  
Nicholas Pinnetti, Property Owner  
Barbara Martensson, Attorney at Law, representing  
Mr. Pinnetti**

Joseph Morreale recused himself from this discussion.

Barbara Martensson: By way of brief introduction, as I am sure you are aware, we are before the Zoning Board of Appeals on the property.

Chairman Cosentino: Your appeal is regarding the road; not the property.

Barbara Martensson: It affects our property.

Chairman Cosentino: We are only speaking of Oak Ridge Road tonight.

Barbara Martensson: That is correct, but it affects their use of the property.

Chairman Cosentino: We are not going to talk about the property. Only Oak Ridge Road.

Barbara Martensson: That's fine. We are here tonight to discuss the Board's comments and concerns, as I know some of you have visited the site. I think we all want to reach a positive resolution. I leave it to you to take it from here.

Chairman Cosentino: To begin, we've known Nick and his children for a long time. We are not strangers. We know what Nick is trying to do, but there seems to be some problem with the road itself. The width going in is difficult for different apparatus trying to get in. There is difficulty turning, etc. I believe this road is too narrow, in reviewing the information that we received already, vehicles to pass one another, sharp turns, etc., there is no cul-de-sac. This Board relies on the safety and welfare of its residents. We cannot go by anything else. The road itself is one of our biggest concerns.

Barbara Martensson: We are very cognizant of that. I do not think anyone sitting on either side of this table would say that the road does not have its difficulties. However, the road as you well know and listening to your earlier discussion I understand that you do not necessarily want to hear about five or ten years ago, but the road has been problematic probably from day one when house number one was erected on it. Thereby, whatever my clients want to do, they are not taking a perfect road and destroying the character of it. They are trying to work within a framework that admittedly is somewhat difficult. They have presented you with a plan by which they are trying to address the issue of making it a safer and better road by creating a bigger turn-around on the road, and they also would like to hear from you directly suggestions you can make that they can explore if this alone does not meet your satisfaction. I do not think we

need to perhaps belabor the fact whether the road is narrow or not. We are all aware of that. We are the last lot to be built on the road. We are certainly willing to cooperate and we're asking to be cooperated with so they can build their house and you, as protectors of the town, are satisfied that you are protecting the general welfare. We understand that is your concern. I have gone over this numerous times with my client. They live in Mount Kisco, they've built in Mount Kisco; I don't think they have any interest in doing anything that is adverse to your interest. I would like to see this go on to constructive footing.

Doug Hertz: This Board addressed what we thought were these issues awhile back, immortalized our opinion, sought opinions from the fire department, ambulance corp., and any other public service that might need to use the roads. We put all that data which we put into a letter addressed to the Zoning Board. We thought we had done a careful and well-thought out job at that point. I stand behind everything that was said to that. There was reference being made to a plan that we had not seen about road improvements on the road, so somehow or other this has ended up back on our plate for another opinion referenced back to the Zoning Board. The reference that had been made were improvements to the road that would make the road more serviceable. When we were given this, I frankly feel a little bit insulted, because none of the improvements to the road have been before the property. There are no improvements being suggested to the road at all. As far as I am concerned, this is a parking lot for this house. The reason I feel even more insulted by looking at this – if this were a road, it would continue through here. It would not stop. If this were a usable piece of road, it would continue the length of the property. It doesn't even continue the length of the property. It stops here because clearly there is no suggestion that this can be used as a road. So, the idea that this is a road improvement is insulting to anyone who looks at this. This is not a road improvement. This is an ancillary parking lot for this piece of property. It may accidentally be used for a turn around if it is not filled up, which it will be. But, if it were a road, it would continue the length of the property. Quite frankly, the only people who this road will help are one property down at the end. Again, this property will create additional traffic, it's a two-family home; it is probably going to have four parking spaces, so this property will create additional traffic on a road that is so sub-par that the members of the Board who went up there could not even figure out how to put our cars somewhere and turn around for a 15-minute visit. The idea that you are going to put a two-family home with four additional cars with absolutely no road mitigation from this point going forth to Grove is ludicrous and I find the fact that we're even discussing this to be a waste of time. Road mitigation suggests you're going to do something to improve the road. There is no road improvement suggested from this property going to the public right of way.

Barbara Martensson: Am I hearing you correctly that you think it is my client's responsibility to take on the improvement of the entire road?

Doug Hertz: Absolutely.

Barbara Martensson: Under what authority do you come to obligate him to take care of the entire Oak Ridge, beyond his property line?

Vice Chairman Sturniolo: This should not get into a debate. One of my colleagues stated his opinion and his feelings.

Barbara Martensson: With all due respect, to say that he is insulted - to put an emotional level on saying that he is insulted.

Vice Chairman Sturniolo: He is not the only one insulted.

Doug Hertz: When someone suggests there is a plan to mitigate some of the road issues because the road is significantly undersized and we see not a single improvement from the property back to the public road so that no access to the property that has been improved is even being suggested. There is no change whatsoever.

Barbara Martensson: I opened my remarks by saying this is a proposal, and we came to this Board and this was discussed before the Zoning Board to have specific references and suggestions from this Board. If you are going to obligate the client to take on the responsibility of improving an entire road, then I think it behooves you to come up with some suggestions. I've read the comments from the fire department. That is not a suggestion of what he can or cannot do.

Doug Hertz: I don't disagree with that. Aside from a taking of property all the way down the road and road improvements, we cannot figure out what to do either. That is what we've stated previously. You have walls, telephone poles, and people's front porches - impediment after impediment. The road is impassable and unsafe as it stands today. We don't have to do anything. We have to make sure that things that get built in the village don't create a public nuisance for other residents. Our job - what we've been asked to do - is make sure that on a planning basis, if you were to plan something going forward, what would be safe? What would be effective? What would be useful? It is for the health and safety of the people on the street. There are people who currently live on the street exacerbating an already bad situation by creating a denser use of this, I cannot see how it is in the public good in any way shape or form.

Barbara Martensson: With all due respect, you have a road that was probably from its inception, not particularly good for the public good. You are now burdening the last people who own property on it and basically saying there is no way you can remedy a situation which you did not create.

Doug Hertz: I am saying we do not have any solutions to offer.

Barbara Martensson: I don't understand that. You have nothing. You're very pointed in how bad the road is, but you have nothing to steer or help steer. I also can't see how you can say that you're simply insulted by the fact that one option they have come up with is to create a better turn-around.

Doug Hertz: It's not a turn around. It's not wide enough to turn around in. That is not true. Quite honestly, if it were intended to be a road it would continue to the length of the property and it's not.

Barbara Martensson: You are asking them to improve a road where you own the road bed all the way out to Grove Street?

Vice Chairman Sturniolo: Mr. Pinnetti, what are you going to provide an improvement to this narrow road? How many telephone poles are you going to relocate? How much property are you going to attempt to buy from various residents along the road so that this road can be widened? What are your mitigation measures?

Nikolas Pinnetti: I can only mitigate within my property.

Vice Chairman Sturniolo: You have no intent, as my colleague Mr. Hertz said, of doing anything further.

Nikolas Pinnetti: We are open to suggestions. That is why we are here, to discuss. What do you think?

Vice Chairman Sturniolo: There are eight telephone poles, numerous trees, stone walls, private property; are you attempting to mitigate that by purchasing property and relocating?

Nikolas Pinnetti: No. That is unrealistic.

Barbara Martensson: I think you are asking him to take on an incredible burden.

Vice Chairman Sturniolo: Are you planning to do anything like I suggested?

Nikolas Pinnetti: I believe it is unrealistic to purchase property along the road and this whole entire burden to be put on me. I believe it is absolutely unrealistic and unfair. I think if it is unsafe for one more home it is unsafe for anyone on the street. Period.

Vice Chairman Sturniolo: We are not going back and pay a price for past sins.

Barbara Martensson: But you're asking him to pay a price for your past sins.

Vice Chairman Sturniolo: Not at all.

Barbara Martensson: You are absolutely doing that.

Vice Chairman Sturniolo: Not at all. This Planning Board is charged with the health, safety and welfare of the residents of Mount Kisco.

Nikolas Pinnetti: I am aware of that.

Vice Chairman Sturniolo: In our opinion, this proposal does not come close to addressing health, safety and welfare of the residents of Mount Kisco.

Nikolas Pinnetti: We are open to suggestions. What would you suggest?

Vice Chairman Sturniolo: You need to come up with an idea .

Austin Cassidy: For a point of clarity for all parties, the issue before the Zoning Board is under a specific state law where state taxes to the property in question must be provided prior to the issuance of a

permit. The determining body of what would be deemed as safe access under state law is identified to be the Planning Board. In that vein, the Zoning Board is asking what would be the punch list. What would be the wish list of the Planning Board to provide minimum safe access even if it were an improvement (for the purpose of the exercise) that went beyond the bounds of the right-of way. What would it physically take so they can identify the parameters of the degree of variance that is being asked of them? I think for one of the better phrases that is their goal. Also, something was interjected into the record earlier that I would like to speak to. The village has not acknowledged ownership to that property.

Barbara Martensson: Mr. Cassidy, with all due respect, that is a legal point that I will leave open to the record.

Austin Cassidy: Be that as it may, in speaking to the record, this Board is obligated to determine a safe access is being provided to the lot in question.

Barbara Martensson: I understand what your statute represents.

Austin Cassidy: I'm moving past that. Going back to the point is, would it be - extending the blacktop to an additional dimension - what would it be? What would be that minimum safe access parameter? That sets the limits that the Zoning Board would be looking at as they deliberate the matter before them. It is not re-visit, or what's wrong with that, it's what would need to be done to it to make it.

Barbara Martensson: I would have to say that Mr. Cassidy's characterization is entirely correct. We have seen the reports from the fire department, etc., as to what is wrong. A punch list is what we need. For you to see, does he contemplate ripping out eight telephone poles - you're not talking to a large developer. You're not talking to someone creating a big subdivision. Of course, he does not contemplate at first blush the expense of taking out eight telephone poles, and is that realistic to even ask of him? I think what we are looking for - if you have such a feeling of insult, which I don't understand.

Doug Hertz: I'm getting insulted by your attitude. I have sat here on and off for 15 years and I have yet to be insulted by a single person who has come up here, and you've just done it. That is pretty stunning in 15 years. These are real issues, and the fact that you can't envision that someone wants to develop a piece of property has an onus to do it in a safe and reasonable fashion I find absolutely incredulous.

Barbara Martensson: I think the way you point things is entirely incorrect. I am more than well-aware that there are complications.

Doug Hertz: We have had developer after developer of lots and multiple lots who come before this board for decades, and if a road is sub-par, they understand that it is part of what they are going to do to develop their lot, they will be doing some work off-site. There is not a single person who has ever come before this Board who has counsel where that has not been considered. I find your attitude to be very surprising that you have not suggested to your client that he consider

off-site mitigation as that would be a minimum that would be suggested here.

Barbara Martensson: We have discussed that, but as Mr. Cassidy pointed out, the point of coming here tonight was very specific. It was not to reiterate that the road is problematic. You have addressed that. We know that you've addressed it. The Zoning Board is looking for more guidance.

Doug Hertz: Mr. Sturniolo just asked very directly, "what is it that you propose to do to make this better"?

Vice Chairman Sturniolo: What are you going to do to make the situation better from this point regarding the road.

Nikola Pinnetti: In 1980 we donated a piece of land to the village, which is on the corner of Oak Ridge Road, which the village promised to fix and expand, which it never did. We provided the minutes to the attorney and we were congratulated for giving the piece and helping because the village has a fire hydrant on that part of the property. That was never done. That corner could be improved tremendously so that two cars can pass by without a problem.

Whitney Singleton: I would like to correct the record. What Mr. Pinnetti said is an incorrect statement. He never dedicated any land to the village. There is no record of any dedication to the village. He had made an offer, but he never did the dedication.

Nikola Pinnetti: I made an offer and they accepted.

Whitney Singleton: There is no deed that goes from title to you to the village.

Nikola Pinnetti: It was accepted by the village. It is in the minutes.

Whitney Singleton: Then you can provide this Board with the Deed. There is no Deed. The village would be incapable of accepting dedication of that Deed. The only way for a village to accept dedication of a road is for you to make an Offer of Acceptance, and for them to accept both the offer and accept receipt of the Deed. There is nothing in the Village Board minutes. There is nothing in the Westchester County Clerk's Division of Land Records to demonstrate that what you said happened did in fact happen. To the contrary, there is no Deed.

Nikola Pinnetti: In this case, the village seems to not want the road safe.

Whitney Singleton: All you have to do is provide us with the Deed.

Nikola Pinnetti: I will provide you with a Deed. That is no problem. That is an improvement that can be made so that two cars can pass.

Vice Chairman Sturniolo: Putting that corner aside, that is not to address the area from this point on to that corner.

Nikola Pinnetti: We do not own that road. The village owns the road.

Stanley Bernstein: That is debatable. It is not a final statement. It is not true. You feel it is a village road, and we feel it is a private road. It has to be litigated.

Chairman Cosentino: I do not want to talk about whether it is a village road or a private road. Let's talk about what we can do to improve the road, if any. As far as who owns the road, that is a legal question and let the attorneys do what they have to do to litigate. Our job is to find out what improvements can be made to the road and send it back to the ZBA.

Vice Chairman Sturniolo: My initial question was what improvements are you going to make that we can send back to the ZBA?

Nikolas Pinnetti: I'm open to the Board's suggestions. I'd like your help at this point.

Vice Chairman Sturniolo: We are not the property owners.

Nikolas Pinnetti: I don't own the road.

Austin Cassidy: But you're in the driver's seat. That is the point.

Anthony Oliveri: Part of the problem with this plan is that we do not have any information from that point down even to set a starting point. How wide is the road? We know the driveway is 15 feet, and I know there is a choke point. Is it 12 feet there, does it go to 15 feet? The Board doesn't even have that as a starting point.

Barbara Martensson: I am certainly not here to insult you, Mr. Hertz, or to say that anyone – I or they – have any disregard for what you're doing in terms of the general well being. I am trying to help them come to some kind of constructive resolution. I am sure everyone here can understand that if we cannot do that, they have land that is essentially rendered worthless. We are trying to avoid that result. Unfortunately, it is everybody's burden to some extent because the road is difficult, has been difficult. All I am asking is that whatever accommodation we try to come to be reasonable in terms of what they need to do. They cannot, so to speak, unravel all the years and all the problems of the road. That is what we are trying to get to. All I can say tonight is, how do we get to point one, that maybe we can have another meeting and all be more constructive. What is it that you would suggest we go out and research and do, and perhaps what could the Board do? I do think Mr. Cassidy's description of a punch list is basically where we want to go so that we can sit down and say, "Yes, it's reasonable," or "this is unfeasible."

Anthony Oliveri: Like I said previously, if we had more information on the roadway we would at least have a starting point. Can it be widened in any way? We are not even sure of that at this point. What is the width? We don't know that.

Barbara Martensson: I thought because people had gone to visit the site that they had known.

Anthony Oliveri: There might be structures in the right of way. That we do not know because we don't have a survey.

Barbara Martensson: Can we define from where your expectation is to where you want to see the road improved? I cannot imagine that you're going to say we need to improve it all the way out and down the entire road.

Stanley Bernstein: With all due respect, that is a very interesting premise you're making. Why don't you draw the entire road, give us a picture and let us review it and tell you what has to be moved, done, etc. You give this piece of paper which is a disgrace. I'm not insulted, I think this is a disgrace to get a piece of garbage like this. I happened to have found something else. And I would like to know – you have a Section AA here, which would give us a lot of information to what can be done. I don't see Section AA drawn. Where is the allocation for Section AA through the property? I don't see it.

Nikola Pinnetti: This was a sketch of what was proposed.

Stanley Bernstein: Why is there an AA section and no drawing for the AA?

Ralph Vigliotti: Why don't we add a little summary to this because I think we need to kind of end this. At this point it appears as though we need to have the road from Grove Street all the way to the top of the property with all of the impediments, widths, stone walls, trees and telephone polls accurately drawn on the plan so we can sit here and help you in widening the road where it possibly can be or not. With this particular plan scotch taped together, you are asking what you want from us, but we need a benchmark.

Whitney Singleton: Going through the plan that is before your board, regardless whether it's scotch taped or not, has a revision date since this application was previously before you and since it's been to the Zoning Board. I would like to know what the revision was.

Nikola Pinnetti: There were several revisions primarily because we provided the information which was never entertained. Then you sent us to the ZBA and that was never presented to your board. They asked us to derive what part of the area we proposed to enlarge to accommodate the turn-around. When we provided the prior plan, we never heard anything for a month. Then we heard that we have to go to the ZBA because the road was not on the list. I will provide you the proper survey which you requested indicating the width of the existing road and if there are any impediments on the existing road. We will provide a plan with the existing road and with the proposed turn-around. You can then determine what improvement you would like to make.

Whitney Singleton: I would like to know, for purposes of keeping a clear record, what provisions have been made to this plan since going to the Zoning Board?

Nikolas Pinnetti: I don't know. We can find out and let you know.

Nikola Pinnetti: I do not think there was any revision. I have to say I agree with you that this was a mistake.

Chairman Cosentino: Did you inspect these before you submitted them?

Barbara Martensson: We made copies and provided them to you.

Chairman Cosentino: I've been on this Board for 28 years and I've never seen anything like this. In all fairness to everyone who is here, I echo with my fellow Board member, Mr. Hertz, said.

Stanley Bernstein: When you intend to bring a survey and draw the road and show existing conditions so we can advise you as to what can be done to improve. The same time, whoever does the drawings for you, better re-do these contour lines. They are woefully inaccurate. This looks the way it's drawn, like a flat piece of property, and we all know this is extremely steep slope, even over here.

Nikola Pinnetti: I agree with you if that is the case.

Vice Chairman Sturniolo: Why did you submit the plan if you agree that the contour lines are incorrect?

Nikola Pinnetti: I did not review the plan. There was a sketch of the proposed road, this is not an official drawing.

Chairman Cosentino: Who drew these plans?

Stanley Bernstein: Theodore Lawrence Strauss and Associates.

Nikola Pinnetti: We will provide you the proper copy.

Doug Hertz: It is going to cost a significant amount of money to survey the road and do it accurately all the way down to Grove Street, which is what was requested. I want to make it very, very clear that at least for this Board member, I cannot see – having gone up to this site multiple times – what mitigation measures can be done on that road short of buying parcels of property, many of the adjoining property owners on the way, telephone poles being moved - this is an expensive undertaking to get the road to be still sub-par. Forget bringing it up to village standards. That is not a possibility in this lifetime. You'd have to buy every house on the road. To get it to a sub-par state, that might be insurmountable. I wish to caution the applicant that any expense they will take to move this thing forward is at their own risk, because they may still find themselves at a point where there is no reasonable mitigation that can get this thing better. I want to say you are at your own risk in doing so. You've heard members of the Board express their opinion as to what the inadequacies are, and there is lots in the written record about what the inadequacies are. No one here has any ideas at this point about how to make it better. If you have those ideas or a method of doing that – homeowners will give up five feet or ten feet of their property, whatever it may be - this is something you are going to explore at your risk. I want to make it very clear there is no suggestion by this Board that we can come to an accommodation like your counsel suggests. Because it is so woefully inadequate at this point, unless you can come up with some ideas that I do not see at the moment, please understand that I don't want to see your pour good money after bad.

Barbara Martensson: I think they understand that. Part of what my concern is, and I guess perhaps I am not getting my point across in

the right way to you, but they are just two individuals with a lot worth "X" amount. I think essentially what you're saying just to try to remedy it can become so hugely expensive and completely outweigh the value of the lot. This is a really serious problem.

Vice Chairman Sturniolo: I think you may have come to that conclusion already just listening to this conversation when we're talking about eight telephone poles and purchasing property from other homeowners. I think the dollar signs are starting to beginning to add up.

Nikola Pinnetti: I know what you are trying to do. I know the dollar signs, and you would like me to kill this property.

Vice Chairman Sturniolo: I did not say that. I did not suggest that. I want you to understand what you are about to get into when you hire an engineer to do a quality drawing of this road and all of it's impediments, because that is going to cost money.

Nikola Pinnetti: So you want these kids to pay taxes every year and nothing else?

Vice Chairman Sturniolo: Do you know what the phrase "caveat emptor" means?

Nikola Pinnetti: Do you know what the phrase "constitution" means?

Chairman Cosentino: That's enough.

Barbara Martensson: I apologize for the document you were provided and how it was presented. I don't think they thought it was presented like this, I'm not sure where this occurred. Thank you for your time. You've made your position very clear. We will have to make a decision as to whether they are going to spend the money to do a whole site plan that you're requesting. If we do go forward with that, we would ask that we be able to come before you again.

Chairman Cosentino: I have no problem with that.

Whitney Singleton: I think I would be doing not only the Board, but the applicant a disservice if I did not comment publicly. The applicant's counsel made a very good point in picking up with what the building inspector said. They are absolutely correct. They are trying to figure out whether the road is substandard now. Everyone in this room agrees it is. The question is whether or not it can be improved, to what extent it can be improved and the extent to which they can improve it - is that going to be sufficient enough in your board's estimation? As Mr. Oliveri pointed out, a starting base is knowing what the impediments are. Is that road as it's currently laid out even within the right? You have the right-of-way as it exists on the subdivision map from 18--, and then you have the physical roadway and various encroachments. I don't know whether the stone wall is in the right-of-way or not. We need to know those things. I also think, before the applicant spends a lot of money, what everyone needs to know what the reasonable standards are in this regard. It would be appropriate for your staff professionals to provide you with what those standards are, and to provide the applicant what they are. We all know in Mount Kisco that the smallest street is a minor street, which this is a minor

street to the extent that it is a street at all, and that the minimum width is 50 feet. Clearly they cannot provide that, and there are other streets in Mount Kisco that are not 50 feet.

Chairman Cosentino: We are not looking for it to be 50 feet.

Whitney Singleton: So the question becomes then - not only what is the minimum roadway, what is the minimum paved roadway? I don't think your board is going down a path of sidewalks, curbing, etc. The question becomes what components are going to become absolutely necessary in your board's estimation? I think between New York State Department of Transportation, ASHTEL, Village requirements, requirements of past practices of the village, etc., you should have an idea of what those things are. Then you can make the determination whether or not that 15 feet is even going to be feet - to what extent it can go beyond that.

Chairman Cosentino: That is all good. But how are they going to do what they have to do? Which is essentially get an engineer and engineer what they can do like any other applicant that comes before us, bring it back to us or let their engineer talk to you regarding what is compliant?

Anthony Oliveri: None of it will be compliant.

Chairman Cosentino: If not compliant, then could it work? As of now, we don't see anything that can work.

Anthony Oliveri: We do not know if there is any possibilities.

Chairman Cosentino: Any other applicant that comes into us comes in with a plan of the road, their engineer makes the improvements that are planned to be made, it is brought to you and then it's brought to us. That has not happened yet. That is what we are looking for.

Nikola Pinnetti: We are not doing a subdivision. We just applied for a building permit for the lot. We did not know what to provide for the road. Like anyone else on that road, when Mr. Finch built a two-family house in 1995, he went to Mr. Cassidy, they gave him a building permit and he built his house. We were not aware.

Chairman Cosentino: It is not only you. There is a person near you on another street that is doing the same thing you have to do. We just did two others that are doing the same thing.

Nikola Pinnetti: We will try and accommodate your requests.

Anthony Oliveri: To point out, when they were before us with the steep slope application in 2008, one of the things I identified in my memo was a survey down to the end of Oak Ridge Road. Of course that was a different application, but it has been out there. Since then we have not seen what the existing conditions are on a survey.

Barbara Martensson: If we are going to proceed, we are very clear on what you need. We will make that choice and present what you need. Thank you very much.

Chairman Cosentino: When you are ready, please call Mr. Cassidy and he will give you the guidelines and help you.

Nikola Pinnetti: Thank you very much.

**Correspondence:**

- ❖ Letter from John Bainlardi to Chairman Cosentino and Board members dated November 9, 2010 re TCO, 681 Main Street and progress update.

Chairman Cosentino: Mr. Bainlardi is coming in on November 9, 2010. He wants an extension and a TCO on his building. He is making improvements as best he can right now.

- ❖ Minutes of the Beautification Committee dated October 6, 2010.

As there was no further business to be raised by the Planning Board, on a motion by Mr. Hertz seconded by Mr. Bernstein, the meeting was adjourned at 9:30 P.M.

Respectfully submitted,

Stanley Bernstein,  
Recording Secretary

dm