

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, July 13, 2010

Due to the malfunction of the new auto equipment, there
are many gaps in this transcript

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

Members Present: Chairman Joseph Cosentino
Anthony Sturniolo
Joseph Morreale
Sol Gibbons
Stanley Bernstein
Doug Hertz

Members Absent: Ralph Vigliotti

Staff Present: Nanette Bourne
Whitney Singleton
Anthony Oliveri
Austin Cassidy

Acceptance of Minutes

June 8, 2010

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

Mr. Hertz noted a change on Page 7; Line 58 should read down "bold."

Public Hearing:

**Oakwood Cemetery
Re-Subdivision (Lot Line Change)
304 Lexington Avenue
PB2010-9**

Present: James Gmelin, on behalf of Howard G. Kensing, Jr.
Mr. Mark Farrell, Secretary, Oakwood Cemetery
Rev. Steven Clark, Pastor, St. Francis Cemetery

James Gmelin: We are proposing a new property line for Oakwood
Cemetery. The village ----- the two cemeteries require a
subdivision application. ----- .

Chairman Cosentino: And I don't believe there are going to be any 25 foot structures. I have no questions on this.

Mr. Farrell: I have the Affidavits of Posting here (*at this time, Mr. Farrell gave the Affidavits to the Secretary*).

Motion to Close Public Hearing

**Oakwood Cemetery
304 Lexington Avenue
PB2010-9**

- Motion: Vice Chairman Sturniolo**
- Second: Joseph Morreale**
- Aye: Sol Gibbons**
- Aye: Stanley Bernstein**
- Aye: Doug Hertz**
- Aye: Vice Chairman Sturniolo**
- Aye: Chairman Cosentino**

Final Action:

**(The Recording Machine was not picking up the speakers.
Difficulty with the new machine)**

**BMW of Mount Kisco
250 Kisco Avenue
PB2009-16**

**Present: John Slaker, Project Architect
Rich Staviridis**

Chairman Cosentino: We have a draft resolution here.

Whitney Singleton: At last night's Village Board meeting the Village Board did not put action from the application because of the Urban Renewal approval and for the removal of trees from the property. ----- placed back on the agenda after next week. To the extent that they would authorize the removal of trees ----- based upon ----- conformance, that the applicant be responsible for the removal of those trees and for the replacement in kind of the trees.

Rich Staviridis: -----

John Slaker: The only problem is that they are probably 8 – 12 inch, and we are not going to be able to plant the 12 inch.

Whitney Singleton: -----

Stanley Bernstein: Two four inch are not equal to one eight inch tree. There is a formula, please check with Nanette.

Nanette Bourne: For the summary -----

Whitney Singleton: The village will ----- and the applicant will be responsible for ----- and ----- in a -----.

Nanette Bourne: ----- returned to the -----.

Rich Staviridis: The one report in the file that we ----- that the village actually had -----, I don't know if that does suffice or not.

Whitney Singleton: I'm not certain. You are ----- . You'll have to figure ----- . I know some board members are independent upon a review----- . I don't know what everyone's perspective is on this.

Rich Staviridis: I think they are confused -----.

Whitney Singleton: ----- as you know it is a different perspective ----- and whether or not ----- or not ----- in the event that there are ----- still would like to know ----- to be determined by the board -----.

Chairman Cosentino: For the record, the village had already sent Save-A-Tree out to inspect these trees. The village paid for that and was given a report on those trees.

Whitney Singleton: The village is unaware of ----- . They ----- the Assistant Village Manager ----- the removal. They were -----.

Chairman Cosentino: I want it on record that it was done once already. If the village feels that they have to do this a second time, so let it be. They are paying for it.

Whitney Singleton: Who authorized it?

Rich Staviridis: For whatever reason – and I'm not 100 percent sure – I think they were doing all along that whole run. They were doing work on Kisco Avenue and it just so happened the trees were in this area.

Chairman Cosentino: Do you know who the person was who authorized it?

Rich Staviridis: I know they referred me to the woman who sits next to Nancy. I don't know who sent them out, but she seems to be the connection to Sav-a-Tree.

Doug Hertz: Should we then send a memo to the Village Board?

Chairman Cosentino: They already have it, they are doing it, they talked about it last night and that is what they are going to do.

Nanette Bourne: If you question the outcome of the trees issue, there should be a question in the "whereas."

Chairman Cosentino: We can vote on the resolution tonight subject to the changes.

Whitney Singleton: It is not a situation where we have a multitude of issues.

Nanette Bourne: My question is why we don't tend to put items under conditions and we don't -----.

Austin Cassidy: You would make them "subject to. Correct?"

Whitney Singleton: I understand what Nanette is saying, but -----
----. We could put in a condition under #34 that states -----.

Chairman Cosentino: We will vote this on a draft tonight, and you could put that as a condition on the next.

Doug Hertz: I missed a meeting and would like to comment on the discussion of the question of the lighting.

Nanette Bourne: The lighting got down to 5 foot candles with one exception of this small area.

Doug Hertz: That's fine.

Whitney Singleton: ----- independently -----.

Chairman Cosentino: That if it's under Urban Renewal.

Whitney Singleton: It is under Urban Renewal.

Chairman Cosentino: Now it is.

Motion to Approve Application PB2009-16, BMW of Mount Kisco, 250 Kisco Avenue

- Motion: Doug Hertz**
- Second: Joseph Morreale**
- Aye: Sol Gibbons**
- Aye: Joseph Morreale**
- Aye: Doug Hertz**
- Nay Stanley Bernstein**
- Aye: Vice Chairman Sturniolo***
- Aye: Chairman Cosentino**

Vice Chairman Sturniolo: I am going to vote "Aye," but I'd like to say something. I am normally a very strong supporter of steep slopes, and its impact on the Village of Mount Kisco. However, in this case, this rock out cropping, where the display vehicles are going to take place, I don't see that contributing at all to any disturbance to nearby neighbors, and I also don't see any impact from the display area as far as fire and police and ambulance and every utility vehicle being able to access this site. This is somewhat unique. It is a stand alone. Since, steep slopes are an issue that this board has discretion over; I am in favor of it because of the aforementioned issue that it is not going to be detrimental to the services that I just outlined. I want to get that into the record. Again, I vote yes.

Chairman Cosentino: I heard, "Why didn't you do this while you were building the complex?" The economy has changed since then. Everyone should realize that. If you do not know where BMW is, you are not going to drive to that spot.

Rich Staviridis: Thank you very much.

Joseph Morreale: Thank you for your patience.

John Slaker: Hopefully by fall, you'll see it there.

Formal Application:

**P.I.A. (Professional Indemnity Agency)
37 Radio Circle
PB2010-11**

**Present: Scott Blakely, R.I.A., Sr. Vice President/Principal
Landscape Architect, Insite Engineering**

Chairman Cosentino: I rely on my two experts on lighting for this applicant.

Scott Blakely: The proposal before this board tonight is the installation of proposed lighting in a currently under lit and unlit portion of the parking lot located at 37 Radio Circle Drive. The site has P.I.A. (Professional Indemnity Agency) offices. In the past, this parking lot has not been needed. The building was not full. They have since hired additional employees, and now they are utilizing portions of this parking area. It gets very dark at night back in that area. Currently there are three light fixtures that exist – two on the corner and one double-headed fixture on the end of this island. This area is pitch black. We are proposing to remove these three light fixtures that are right now non-conforming. We are trying to get the lighting to be consistent throughout that area.

Chairman Cosentino: We are concerned about the residential area just behind that. What effect is this going to have on that? When this was brought before us the last time, lighting was a concern of the planning board.

Scott Blakely: We were not involved in that.

Doug Hertz: In general, when we worked on the ordinance, we tried to make sure that we kept the height of the light bulbs low so there would not be a huge light up in the sky, and we made sure that trespass lighting is kept to an absolute minimum. Looking at the photometric here - the light level along the perimeter property – they all adhere. The height of these poles is limited height, and trying to keep making them comply does protect.

Scott Blakely: We went through a number of alternatives, based on the height of the poles of ten feet, the maximum number of foot candles allowed from underneath the light of five maximum. We struggled with trying to get enough lighting out here to make this safe. We tried to take into account the adjacent residential properties. We did not place any lighting directly on this rear property line. Because of the width of this property and the way it's laid out, we have a parking aisle here and one down the center – and then one parking aisle here. Because of that, we had to install one fixture in the middle of that parking lot.

Chairman Cosentino: Lighting is not my expertise, but I remember what happened 12 years ago and wanted to bring it up.

Scott Blakely: These three lights that were 12 feet in height and 250 watt fixtures will be removed and replaced with ten foot high poles and 100 watt fixtures.

Vice Chairman Sturniolo: Walking through the replacement fixtures that you are talking about, this depicts the proposed lighting plan here. What is the foot candle currently of these three that you are replacing?

Scott Blakely: We took some light candle measurements on the ground of these light fixtures. These are 250 watt fixtures with metal halos. We had readings in this area up to nine foot candles on the ground. It was very light here, very light here, and everywhere else was just pitch black.

Vice Chairman Sturniolo: The full cut-off fixtures and I agree 100 percent with Mr. Hertz that we reduce the height to ten feet using full cut-off fixtures are the way to go.

Whitney Singleton: Will the lighting system be on a timer?

Scott Blakely: Yes. They do not plan on working till six or seven o'clock this time of year. The lights may be on for a certain period of time. I do not know if there is a timing requirement from the village to have those goes off, but there will be a timer set to turn them off after the employees are all gone.

Austin Cassidy: -----?

Scott Blakely: They have maintenance people in at night, but they would be parking closer to the building.

Anthony Oliveri: The table here on the property line shows a maximum of ----- foot candles ----- . I don't see that at the property line. The other thing is a .1 minimum and I want to point out that the guidelines are not for that.

Scott Blakely: I think it's actually .2 in this zone for an office use.

Austin Cassidy: After tonight's review, looking ahead at the upcoming meetings, is this plan stable enough to start crafting something, or do you want to discuss this some more at the regular meeting and then craft something for August or September?

Chairman Cosentino: We don't see anything wrong here.

Austin Cassidy: So we will propose a draft to look at and talk about it at the August meeting.

Scott Blakely: That center right picture here could be overwritten. This curb line is about a foot off the property line, which was Universal Electronics. We have a light fixture here, and there is a reader under that which may be 4.7 right at the property line at that point. If that is not acceptable, there is a dense evergreen bumper planting. The whole perimeter of this site is heavily planted behind the fixtures. We couldn't put the fixture behind the curb line because then it would be on the adjoining property. We have an island here, so we may be able

to take this fixture and slide it up along that island to minimize that foot candle at that property line. I will double check that. I think it may be a typo. Worst case, I will slide it within that island and fish it away from the property line.

Vice Chairman Sturniolo: Is that the only one you are concerned about?

Anthony Oliveri: Yes, the .2 minimum.

Scott Blakely: There certainly are areas where even adding additional fixtures in that we could not get to the .2 just because of the configuration of the existing lighting.

Vice Chairman Sturniolo: You would obviously have to up the wattage overall just to meet the .2 at the perimeter because you'll sacrifice the other light.

Chairman Cosentino: Austin and Nanette, let's get the ball rolling on this one.

Scott Blakely: We will take a look at that one aspect with Anthony and see you on the 24th. Thank you very much.

Draft Resolution – Review and Comments

**Jim Han Bon Ann LLC
117 Smith Ave
PB2010-07**

**Present: Frank J. Veith, Attorney at Law, LLC – for the applicant
Thomas A. Nugent, R.A., Architect, for the applicant**

Chairman Cosentino: We have a draft resolution here.

Nanette Bourne: ----- a variance ----- so that needs to be ----- . That was the plan ----- . My second concern was the lighting plan. The lighting plan that the applicant provided is not for the benefit of the applicant. This lighting plan is still missing some items. You have indicated on the plan the location of lights, and there was an attachment that shows their lighting plan. This is moving in the right direction but not quite there. To put together a complete draft resolution, I included as a condition that a more formalized lighting plan be submitted. It is a question of whether it is done before a C. of O. (Certificate of Occupancy) is issued. Staff had different opinions as to the most productive time line for it. My concern is that the applicant needs to get this done. The parking that is proposed in the back is really not safe without having appropriate illumination. It is a very important security issue.

Vice Chairman Sturniolo: When you said, "at staff," what did you mean?

Nanette Bourne: We had a discussion about three issues. One, one of us thought that because there is a considerable amount of time before this will get back before the planning board, that is enough time to get a proper lighting plan done similar to what was provided.

Vice Chairman Sturniolo: Do you mean "at staff" within AKRF?

Nanette Bourne: No, the three of us - Anthony, Austin and I. We had a discussion and three different opinions on how this should work. We spent a lot of time trying to get this illumination plan advanced.

Vice Chairman Sturniolo: The problem I have is that I thought we were crystal clear two weeks ago that a photometric lighting plan had to be submitted as an example for Nanette to show, and then on Page 3, Item 10, I'm looking at it talking about site lighting plan, consistent with Mount Kisco illumination guidelines, "shall be provided prior to the issue of the building permit, etc." If we go with that, where is the control of the Planning Board? How do we know that plan has been submitted prior to a building permit being issued? Whereas, I think it would be better to have the photometric plan in place prior to approval. As the chairman just said, if you can provide that at the next meeting, that would work fine. As one member, I'd like to see it on paper.

Vice Chairman Sturniolo: That's good, but Austin is not going to be giving a permit at any time unless all this information is before us. Am I right?

Austin Cassidy: You're both right, actually. I want them to expand the safety aspect of it for the board because theoretically the applicant might not need a building permit for some reason. I want to have an and/or ----- with respect to a building permit or a C.O., no matter what, the applicant will need a C. of O. because there is none any longer. ----- Before the building is approved for any purpose you need a C. of O. I was looking for either or, so that whatever comes up first I can issue. This is only based on if this was subject to the stipulation of ----- . I agree with you, because my recollection was very clear, and I think it was very direct at the last meeting, that the lighting should be resolved before coming to the board ----- .

Vice Chairman Sturniolo: And it never materialized.

Austin Cassidy: Right.

Doug Hertz: The entire application is for just the lighting plan. Why would it make him, another applicant then have to go through all that work? Why don't we just tell the other applicants ----- or approval and hand it Austin on your way out. That is not our policy. This is what we typically expect. As one board member, I am not comfortable, and there are issues with this site. It is a tough site. I would really like to know that ----- . I wouldn't feel comfortable voting on something ----- .

Nanette Bourne: I've had several conversations with the applicant who has been trying to meet the spirit, but it's not really ----- to the law.

Vice Chairman Sturniolo: It's not difficult.

Nanette Bourne: Just so you see that this is what is expected and not this.

Frank Veith: Understood.

Nanette Bourne: In conversations I've had with the applicant, there are lighting companies that need to be contacted, and it could be that whoever did this one is also someone that could prepare a plan that would look like this.

Chairman Cosentino: You have a second floor record storage room, a copy machine computer room and a kitchen and food. For clarification, is the machine/computer room just for equipment? Is anyone going to be working there?

Frank Veith: Correct. Just for equipment.

Austin Cassidy: If you need clarification, then perhaps you may want to call it "unoccupied space."

Whitney Singleton: I think that ----- needs to be incorporated into the resolution. I think if you look at the plans, -----.

Vice Chairman Sturniolo: Based on that fact, the offices are going to have computers at their desks with a keyboard. Upstairs will be a computer server only, or is there going to be a keyboard upstairs?

Frank Veith: There isn't a tenant in there. I can't say with any great degree of specificity as to what computers are going to be where or how many. I just don't know at this point. All we've done is taken the language that you asked us to incorporate, and we've incorporated it, and said that it was going to be used for machinery and computer equipment.

Vice Chairman Sturniolo: I'm not going to raise my eyes, but if you put a keyboard upstairs, that then becomes the potential for office space. Because everyone else downstairs is going to have a monitor, computer and keyboard working. If you put a keyboard upstairs, that is nothing more than increasing the office space. If it's a server only that serves the computers downstairs, that is another story. That is what my concern is. Is there going to be somebody up there operating – even on a limited basis – a computer, because that little niche can now be considered office space.

Frank Veith: We tried to make it as clear as possible. No, it's not going to happen.

Vice Chairman Sturniolo: Then, Whitney, we really should tighten up this language.

Frank Veith: We took the language that you dictated to us last time we were here. I don't mean to interrupt you. Second floor will not – and I quote – will not be actively advertised as office space. I don't know how much more clearly we can make that language. Additionally, I don't want to limit it to a server vs. keyboard. I don't know where technology is going. I'd rather not have to come back here every time technology changes because our machinery is now passed by something else.

Vice Chairman Sturniolo: I'm not suggesting you need to come back every time you decide to go from a wired mouse to a wireless mouse.

What I am looking for is some kind of guarantee in the resolution that is supportive of the site plan. This is what I was hoping the dialogue was going to be between the two of you in the past two weeks. That there is language that will specifically state that that is not going to be an office area.

Whitney Singleton: That is my fault. I think you have, based on the plan, and it does seem to be incorporated ----- that the use for this site is general office. It is set forth that the second floor shall not be actively occupied as office space, therefore ----- other than set forth such as storage, file storage, stuff of that nature. I think it is pretty accurately covered in that regard. I do agree that you don't want to ----- specificity that is not going to allow for changes.

Vice Chairman Sturniolo: Technology expansion. Agreed.

Whitney Singleton: I think the intent is pretty clear on this, and I have to recommend ----- incorporating it into the resolution. Basically ----- of the uses ----- each floor has a restriction that is affected on the plan. I think the general intent -----
-----.

Chairman Cosentino: I would like to add to that. Austin, is the terminology on the draft enforceable, pertaining to the upstairs?

Austin Cassidy: Yes. The key word is "actively used office space."

Frank Veith: Just like any other aspect with a Certificate of Occupancy or building permit, I think it would be.

Vice Chairman Sturniolo: I don't want to make this become an enforcement burden.

Chairman Cosentino: As we always say regarding enforcement, who is going to be there 24/7? Nobody!

Doug Hertz: When we looked at this last, there was a discussion on the rear curb line, and there was an issue that the curbs didn't connect, and now they have connected the curb. I don't know if Anthony or Nanette has looked at this. Because we have five spots here, I think ----- potentially for someone to come into the office, so my suggestion would be that because that front is going to be most difficult to navigate, that be designated as one of the permanent spots for the office staff and not a transient spot. This is parking space one. This should be employee parking, the one at the very rear of the property line. If we can have that labeled as employee or long term parking that would be very helpful.

Whitney Singleton: The only thing ----- in this type -----
-- which are really merged ----- you're going to have -----
---- , and then you're only going to have on an entire ----- site
one ----- that is designated ----- one space.

Doug Hertz: I am just suggesting that we want to encourage that spot to be used by employees as opposed to transient so that the parking lot can be used as the safest way possible. That is what we are really going after.

Austin Cassidy: -----

Whitney Singleton: -----

Doug Hertz: However you want to do that.

Nanette Bourne: To recap, there is the issue of the parking variance, and the date to go back to the ZBA, Austin would be?

Austin Cassidy: The earliest would be September. In terms of time line legal flow, I will leave it to counsel to decide that. ----- I believe would be subject to successfully obtaining a variance, but I'll leave that up to counsel whether or not that -----.

Doug Hertz: I thought they wanted -----.

Nanette Bourne: I thought they wanted input.

Whitney Singleton: Quite frankly, I am comfortable making conditions for making, from the time it is accepted, whatever is best for this application upon ----- on the agenda for the ZBA prior to your board's site plan approval, and ----- to the ZBA simply to be referenced and subject to condition of approval with your board's approval first, which means a condition of approval is incorporated in the conditions that are ----- because part of the ----- is incorporated in the site plan -----.

Nanette Bourne: Some direction, determination for staff of what you need be included in here and the condition that the site line be modified, and the board is directing that you have a -----.

Austin Cassidy: I think it should be just very quick for the record that the expectation of the board is that probably ----- to have that lighting plan ----- Zoning Board in September.

Nanette Bourne: We will draft Conditions 10, 18 and 19.

Whitney Singleton: ----- Am I authorized to represent to the Zoning Board of Appeals that the plan is currently presented to your board with a supplement -----.

Chairman Cosentino: I don't think there is anymore you can do at this point, truthfully. I don't have a problem with going before the ZBA with a plan.

Doug Hertz: We have everything in place. The ZBA as a known quantity have already made their intentions known that they will grant the two spots.

Whitney Singleton: Actually, the only thing they will be waiting for is the five-space kicker. There will be no waiving of actual parking spaces because they have position ----- for this use ----- -- as a general office use with an additional five space kicker.

Doug Hertz: It would be my suggestion if we have the lighting plan and everything else that has been reviewed, that perhaps we can vote on this at the August meeting so they can meet their deadline.

Whitney Singleton: I am trying to have a contingency plan -----
-- site plan elements in place.

At this time, all members of the board agreed to Whitney's action.

Vice Chairman Sturniolo: I would strongly suggest that everything you heard tonight, get on paper, especially that photometric plan before you come back.

Draft Resolution

**Paul Krause Architect
130-132 Main Street
PB2010-6**

Present:

**Paul Krause, Paul Krause Architect
Michael G. Tierney, Paul Krause Architect**

Michael Tierney: After our original hearing we had multiple discussions with Anthony Oliveri, and we have revised our site plan which includes more plantings. We had originally proposed impervious surface, and it was at his urging that we limit that surface down and convert it to a concrete slab. Because of it being on Mount Kisco land, we wanted to make something more stable that did not require much maintenance. We also took heed to a curb cut, and the curb cut is 19 feet wide. All material will match. To control any type of water run off, we've inserted a linear drain that actually attached to the front sewer manhole that is next to the site. We increased plantings sizably. A little less than 100 square feet along the beds and we also added more details. The concrete slab will be a stamped pattern concrete as well as stained. We're thinking it will match the brick that is along the perimeters and essentially the same coloring as well as pattern. We do show a herringbone pattern. We chose two light fixtures on the back of the building and had a photometric plan made for us.

Vice Chairman Sturniolo: Is that full or partial cut off on the lighting?

Michael Tierney: It's a partial cut off. We were concerned about getting enough light across the doors. This picture is not a full cut off.

Vice Chairman Sturniolo: Are the specification in the lighting fixture for an automatic optional timer?

Michael Tierney: Yes.

Vice Chairman Sturniolo: You talk about exterior lighting operating dusk to dawn. Are you going to use the automatic optional feature or are you going to do it with a manual time clock within the business?

Michael Tierney: I actually have a photometric eye. The option.

Vice Chairman Sturniolo: Keeping in mind that this is not a full cut off – full cut off fixtures are a requirement of the village, in that corner you've got a reading of 7.3. How are you going to address to bring that down to be compliant with code?

Michael Tierney: I guess we could make some sort of an enclosure to cover it even further.

Vice Chairman Sturniolo: Whatever you're going to do, you need to re-submit it on a revised photometric lighting plan.

Anthony Oliveri: Also on the lighting, the trespass lighting is supposed to be .5 maximum. I see a much higher ----- backing up on the parking lot, so I guess the idea would be to try to tone the lighting down to get a 5 maximum foot candles and turn some of that trespass lighting to come down on the property line. I don't know that you're going to get .5 on the property line. I would look at ----- .

Doug Hertz: The other part of that is that this is the back of the building and we just don't want it lit that brightly. The real issue is that it is one thing to provide safe lighting, but the lighting is not necessarily on a private corner. Interior lighting is ----- so I really think that that has to be brought down. You don't want to highlight your ----- on the back of the parking lot. We want it safe and functional and I think the trespass lighting is one of the real issues. You only have to deal with the lighting that you provide. You can't deal address what is happening from the other sources, but I would look at that. I think in general you're doing a great job.

Michael Tierney: Thank you.

Chairman Cosentino: I am counting three air conditioners on the roof, including five ventilation units on the roof.

Michael Tierney: There are four heating and cooling units and two exhausts, six total.

Chairman Cosentino: Then you call for outside duct work on the roof?

Michael Tierney: Yes, on the roof. Nothing is on the side of the building.

Chairman Cosentino: How visible are those units going to be?

Paul Krause: We may have to take it to the ARB for screening.

Michael Tierney: There is only one unit that is high enough that is going to have screening.

Chairman Cosentino: Everything else you're not going to be able to see?

Michael Tierney: Yes. There is a ----- wall that is going to screen.

Stanley Bernstein: What type of HVAC have you got up there?

Chairman Cosentino: It says, "the cooling and heating for the space will be provided by a packaged rooftop unit with gas-fired 2-stage gas-fired furnace."

Stanley Bernstein: What is the fuel?

Chairman Cosentino: Gas.

Stanley Bernstein: Why did you get -----.

Chairman Cosentino: That is the electric blower unit.

Stanley Bernstein: It doesn't seem to cut down on energy

Chairman Cosentino: The blower unit needs electricity to run.

Stanley Bernstein: It's very expensive.

Paul Krause: The engineer said it didn't warrant a full-fledged heating system.

Stanley Bernstein: It's going to be run all winter. Who is the engineer on this?

Paul Krause: Lana Naome Engineering.

Stanley Bernstein: You could look into ----- geothermal.

Michael Tierney: We're trying. We are going to be insulating with -----.

Stanley Bernstein: That is standard procedure and you should have reflective ----- outside the foam. The duct work should be covered with foam and painted with reflective colors.

Michael Tierney: That is what we proposed for the roof system.

Vice Chairman Sturniolo: Condition # 29 on page 5 makes reference to approval of the Village Board of Trustees to disturb village owned land, etc. What is your game plan to achieve that and how are we going to know that you have gotten that approval from the Village Board prior to you being granted a building permit? How are you progressing on that subject of approaching the Village Board?

Michael Tierney: We honestly have not approached them yet as we are trying to finalize where we all stand.

Vice Chairman Sturniolo: You need the Village Board's permission to do improvements on village-owned property. My question is how are you progressing with that concept of moving forward? Have you written letters?

Whitney Singleton: Why don't you call me, or the Village Manager? We will both -----.

Paul Krause: Can that be done after we get your approval but before building inspection, or can that be done now?

Nanette Bourne: Our practice has been for you to act and then it goes to Village Board, or for them to get ----- . Then it comes back to you taking action, and then it goes to formal action to the Village Board.

Michael Tierney: Is this something we can accomplish by the next meeting?

Austin Cassidy: It will run parallel at the very least. What I'm hearing the board saying is that this would be ----- on this resolution.

Chairman Cosentino: Anthony, you're working on the basement?

Austin Cassidy: I will be addressing both issues.

Michael Tierney: We are going to ARB next week, hopefully with approval by then.

Nanette Bourne: Make sure that ----- revised resolution ----- and acknowledge that they -----.

Michael Tierney: I can get that ----- cool garbage storage. There is no dumpster there or anything outside.

Doug Hertz: All your refuse is inside storage?

Michael Tierney: Yes. Their intention is to have a service company come periodically.

Doug Hertz: Maybe we should, rather than add Condition 21, add that as a "whereas."

Chairman Cosentino: I don't think we should say all garbage should be stored inside, because that is other than trash for the area. I think we have to combine that with a trash-filled facility.

Nanette Bourne: Will there be any garbage outside?

Michael Tierney: No.

Chairman Cosentino: It should say, "Within the containment of the cool garbage storage."

Michael Tierney: That was in the owner's statement.

Chairman Cosentino: Whitney, you will have to word that the garbage will be stored in the cooled garbage container.

Nanette Bourne: I added, "Whereas all trash and garbage shall be stored inside within the cooled garbage storage area as designated on the plan."

Whitney Singleton: I ask that your board authorize me to draft correspondence to the Village Board

Chairman Cosentino: There was something else brought up, and since we don't have another meeting until the end of August, I think you asked permission to start work in the interior?

Paul Krause: Yes, subject to Mr. Cassidy's approval.

Austin Cassidy: The question was raised whether or not any work can be done in advance of the August meeting, and it was asked whether or not the board was comfortable with the status of the claim, could interior work only be performed clearly for the record at the applicant's

risk. No work would be done outside before site plan approval is granted.

Chairman Cosentino: No work whatsoever can be done outside. That is up to my fellow board members. They will not be back here until the end of August, and they want to get ahead of the game a little bit at his own risk only in the interior.

Doug Hertz: If it's interior work, it poses no problems.

Joseph Morreale: I would agree.

Vice Chairman Sturniolo: I have no problem, but I would like to ask Austin if he has a mechanism to check that strictly interior work is being done?

Austin Cassidy: The plans would be relative. We do this on other matters relative to ARB where there are issues with no exterior work being done. There is a way to monitor.

Stanley Bernstein: I don't have a problem.

Chairman Cosentino: Work with the building inspector. We are approving it, but you need to work closely with the building inspector.

Anthony Oliveri: Once you get all your approvals, we need to have a pre-construction meeting relative to the site plan.

Michael Tierney: Thank you very much.

Continuing Review

**Gail and Ed Smilkstein
340 Spring Street
PB2010-4**

Present: Edward Smilkstein

Austin Cassidy: If there is any ----- before the Village Board last meeting. It is our understanding that the Village Board is now ----- with the rezoning which allowed the return of this applicant -- ----- lot line change which is ----- . The next move would be to schedule a Public Hearing for the re-subdivision. You may want to target the August meeting to schedule that.

Chairman Cosentino: Absolutely. Mr. Smilkstein, we could have the Public Hearing for the August meeting and then approval for September.

Austin Cassidy: Would you want a draft resolution for review and discussion ready for the August meeting?

Chairman Cosentino: Yes.

Austin Cassidy: Mr. Smilkstein, contact our office tomorrow and coordinate the process of the planning board with Nancy.

Mr. Smilkstein: Very well.

Re-Zoning Referral:

**Diamond Properties
333 North Bedford Road
PB2005-21**

Present:

**Brad Schwartz, Attorney-at-Law, Zarin & Steinmetz
James Diamond, Diamond Properties, Property Owner**

Brad Schwartz: We are here tonight to answer any questions your board has about the recent ----- permitted by Mr. Diamond that responds to various questions that came up at the last meeting.

Austin Cassidy: For the clarity of record, we are speaking to the required document that was written ----- to approval. The matter is subject to -----.

Brad Schwartz: In a letter that was submitted by Mr. Diamond to your board.

Whitney Singleton: -----.

Chairman Cosentino: I've read this numerous times. It gets to the point of what is happening. Your letter is self-explanatory. It's growing and almost completely rented out.

Whitney Singleton: Notwithstanding the fact that you felt that there would be a representative from F.P. Clark Associates here tonight, we are not going to have Mr. Diamond ----- and acknowledge that he is here for a very limited purpose since we do not have the traffic studies. Since Mr. Stolman is not here, he simply wants to discuss his June 29, 2010 letter and what is going to be significant amount of time until the next appearance before the board by the applicant; he wants to discuss the issues that your board raised at the last meeting with respect to your questions ----- to effectively do that. He wants to make sure that the secretary still ----- areas that need to be made ----- the opportunity to supplement those before the next meeting for these internal outstanding issues.

Chairman Cosentino: According to my notes, from the questions we were asked, you have answered everything I wanted to know.

Vice Chairman Sturniolo: Referring to the June 29 letter, I think it is very comprehensive to all the key points the planning board had zoomed in on. The first page discusses the aggregate of no more than 35 percent of the square footage. The second page talks about stand-alone restaurants not being permitted at 333, the following page talks about Grand Prix likely to continue to require customers to purchase memberships at bowling, which would not require membership as currently proposed. Further down the page is the parking analysis of what current bowling alleys require, meaning three spaces per lane. If you multiply it out times 24, you still come out with the same total of 120 parking spaces that Grand Prix currently is allowed and operates under. I find this letter extremely comprehensive and candid.

Stanley Bernstein: The letter explains everything very well. I really have no problems at all with anything contained in the letter. You did a good comprehensive job in doing so. But, we have discussed this a few times and we know I feel it is a disaster in the making for allowing kids to walk down and crossing the parking lot. I do take issue with going through the woods. Those woods are not woods. Everyone here, listen carefully especially Whitney, this was a wetlands. It's just been dried up by the village, and ever since you came before us how many years ago I've always said and asked if there was any help for you to restore this wetland. If it's just going to be dry and kids are going to be walking through to get to the facility, I guess there is not much I can do about it. Just as we lost a nice piece of steep slopes a little while ago I hate to lose a five-acre wetland.

Chairman Cosentino: If I may, I would like to address a problem there. Please correct me if I'm wrong. All the garages on the end of Jim's area, including the field, were flooded with water – never draining out.

Stanley Bernstein: That was because of the diversion of the sheet flow into the wetlands.

Chairman Cosentino: Exactly. Then the village hired Labriola to correct the drainage so Mr. Diamond's property would no longer get flooded with three feet of water.

Stanley Bernstein: Hurricane Floyd started it all. The water was eliminated, it made his property viable. But the water was not eliminated the way it should have been. It was sent down a stream through a culvert. That berm should have been knocked out and the sheet flow should have continued in and maintained the wetland the way it was before the village came in and screwed it up. Whoever they hired to do so screwed it up. It is no longer a wetland and just another five acres of wetland that disappeared from Mount Kisco. It should not be.

Chairman Cosentino: Unfortunately, there is nothing we can do about that now. I do not think Mr. Diamond caused that problem.

Stanley Bernstein: No, he did not. I am not trying to push this on him and make him correct it either. I want to point out that my hopes are that one day that it is restored it to its original use. It seems impossible now.

Chairman Cosentino: I appreciate what you're saying, but everyone's hands are tied and there is a lot of money involved in doing that.

Jim Diamond: We have had no flooding.

Whitney Singleton: I was the one that filed the Notice of Claim against it to the prior ownership of the property.

Stanley Bernstein: I remember.

Whitney Singleton: At that portion of the property, ----- Route 117, I don't know if some of the berms were taken down, some of that wood lot was taken down. I don't know if -----.

Stanley Bernstein: I'd have to look at that.

Whitney Singleton: ----- cross the street and all of a sudden --
-----.

Jim Diamond: Our concept was not necessarily ok access in the sense of a sidewalk, but more of like a nature trail, boardwalk, and an elevated walkway tied into the whole soccer field, creating a nearly ten-acre park.

Vice Chairman Sturniolo: An environmentally sensitive passageway.

Jim Diamond: Exactly.

Stanley Bernstein: If you can restore that as wetland and build a board walk or nature walk and cross that on the way to the soccer field, that would really be a home run.

Jim Diamond: Our plan is to submit traffic information next week. In addition to traffic, is there anything else that we should be doing?

Chairman Cosentino: The job is well done.

Brad Schwartz: We will be in a position to re-submit at the August meeting.

Whitney Singleton: If the board does not have any questions, -----
----- the applicant ----- special events -----.

Chairman Cosentino: It's a special thing, not a major thing, Dave had something -----.

Jim Diamond: Should I address that now?

Chairman Cosentino: I don't know what it is all about. I will wait for David's comments.

Jim Diamond: Thank you. Can we address this letter that was submitted in conjunction with respect to the Mount Kisco Athletic approval? One of the conditions of that approval was that prior issuance of the building permit; we update this document which generated originally for The Wine Enthusiast and Safe Haven approval. That had been updated with Ideal Electric. It is really just a document listing the tenants that we have at the property and the retail sales that they do as well as accessory incidental part of their primary business. One of the conditions of Mount Kisco Athletic Club approval was that we update this to add Mount Kisco Athletic, which I've done. Grand Prix predated the creation of this document. Since Grand Prix is now under review by the planning board, we could as part of this application add Grand Prix to this document as well. Our concern right now in terms of moving forward with Mount Kisco Athletic Club with being able to be issued a building permit, the planning board has to express satisfaction with this document. I have added exactly word for word out of the submission material describing their business description and consumer interaction in the retail component, which will be within the reception area – an area with athletic and fitness gear as well as snacks and beverages are offered for retail sale. As would be typical in any health club and their existing health club.

Stanley Bernstein: ----- open space.

Jim Diamond: It's not there all the time. It's there primarily Saturday and Sunday.

Chairman Cosentino: In answering Jim's question about obtaining a building permit, what has to be done?

Austin Cassidy: I need to hear for the purpose of record your board's satisfaction with the revision to the document, and then if you wish -- -----.

Whitney Singleton: Obviously ----- David Stolman is ----- --- special counsel to confirm what Jim ----- GPNY does not come as part of that document. As Jim stated, it is part of the renewal application ----- .

Chairman Cosentino: I don't see any problems. I am in favor of a building permit issued. We have approved this already, if this is just a glitch.

Stanley Bernstein: Will they have to appear before the Village Board for the final on the rezoning?

Jim Diamond: It is my understanding that the Village Board is waiting for recommendation from the Planning Board.

Vice Chairman Sturniolo: That is the whole two-prong approach to address both issues simultaneously.

Austin Cassidy: That condition is satisfied -----.

Jim Diamond: Thank you.

Correspondence:

- Memorandum from Jim Palmer, Village Manager, to Mount Kisco Planning Board re Local Laws #6 and #7 for 2009.
- New York Metropolitan Transportation Council Notes of Comment Period.

Vice Chairman Sturniolo: On multiple occasions tonight, we discussed lighting, photometric plans and conformity to code. A very long time ago, the Planning Board drafted and submitted to the village new lighting guidelines.

Chairman Cosentino: I checked into it like you wanted me to, and they "are not willing to do anything now." They have had enough with the new sign ordinance. They don't want to do anything with the lighting plan now.

Whitney Singleton: -----.

Chairman Cosentino: I checked with the top, and that is the answer that I received.

Vice Chairman Sturniolo: I had my say, and I'm tired of being politically ignored. We put a lot of time and a lot of effort into these

guidelines. We've asked applicant after applicant. 19 out of 21 applicants all agree to conform to the newly proposed village guidelines, and we're pushing our luck. Someone is going to come up and say, "It's not a law. I don't have to conform." Technically, they are right. We look like fools.

Whitney Singleton: I agree with you that -----, I would ----- rolling the dice and ----- . Your board is ----- the fact that you have consistently ----- goes to the fact that your board has been ----- with applications and review. Whether its law or simply a practice of your board, if you wanted to take a position of an applicant, we require on all applicants that they be five-foot candles and no more at the property line. We require ----- . As far as I'm concerned, that is a reasonable condition. It is not ----- .

Vice Chairman Sturniolo: But then you can apply the same kind of logic to anything else, whether it's a Planning Board issue or a Village Board issue. As long as it's reasonable and not documented in the village code, it is a defensible issue. Why do we have a code book that thick if everything can be summarized?

Whitney Singleton: There are certain things that are mandated and certain things that are exceptions.

There being no further business by the Planning Board, on a motion by Vice Chairman Sturniolo, seconded by Dr. Morreale, the meeting was adjourned at 9:40 P.M.

Respectfully submitted,

Stanley Bernstein
Recording Secretary

dm