

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, September 14, 2010

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
Vice Chairman Anthony Sturniolo
Joseph Morreale
Sol Gibbons
Stanley Bernstein
Doug Hertz
Ralph Vigliotti

Staff Present: Nanette Bourne
Whitney Singleton
Anthony Oliveri
Austin Cassidy

Acceptance of Minutes

May 25, 2010
June 8, 2010
June 22, 2010

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

Formal Application:

Charles Morgan
21-27 Ward Avenue
PB2010-13
Present:

Brad K. Schwartz, Attorney at Law, Zarin and Steinmetz
Charles Morgan, Property Owner
Peter J. Gregory, P.E., Vice President, Keane Coppelman
Engineers, P.C., Project Manager
Beth Evans, Principal; Evans Associates, Project Wetland
Consultant
Donald Ford, Neighbor
Robert Pytell, Neighbor

Brad Schwartz: We are not here for a Public Hearing, but we are certainly glad that the neighbors are here and everyone who is relative

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to this application is here this evening. This is a project for a single-family residence. Mr. Morgan owns the property at 21-27 Ward Avenue. It is a zoning compliant project located in the RS-6 zoning district. The general layout of the project is the proposed residence, garage and new drive with an asphalt apron leading to a predominantly gravel drive with a turn-around area for access coming in off of Ward Avenue. There are also individual proposed sewer and water connections. There is an area in the back showing for storm water mitigation. We have indicated there will be landscaping provided along the common property lines. That is the general layout of this single-family residence project.

Chairman Cosentino: How long is the driveway?

Peter Gregory: It is about 80 feet from the property line in, and we are about 70 feet in from Brook Street into the right-of-way. Overall, it's about 150 feet in length.

Brad Schwartz: 80 feet of the driveway, more than half, is within the four corners of our property. The remaining 70 feet is within Ward Avenue, which is a paper street, shown on a map that was filed with the County in 1907. The reason why this application is before your board is because we are seeking to approve, first, approval of this road improvement plan. Before Mr. Morgan can pull a permit for his house, he needs to satisfy Village Law 7-736, which essentially requires satisfaction of a two-part test. One, Ward Avenue needs to be shown on the Village's official map, which I've confirmed with Mr. Singleton that it is. So we satisfied Part One. Part two is that Ward Avenue needs to be "suitably improved" to the satisfaction of your board to ensure safe and adequate access to the site. This road improvement plan proposes what we believe is a suitable improvement of Ward Avenue. We believe we have shown what is minimally required to access the site. Again, it is predominantly a gravel driveway. We are not proposing to pave all of Ward Avenue. We wanted to show what we think is the least amount of disturbance possible. The first component of this overall application is the road improvement plan and your jurisdiction under New York State Village Law. The second part of the application seeks approval for what we have called an "after the fact" lot line change. This is where it gets a little confusing, given the history behind the property and the conveyances. This map would essentially ratify lot line changes that occurred by deed metes and bounds descriptions – two Deeds; one in 1968 and one in 1971. Neither of the lot line changes were ratified or approved by the Planning Board sitting at that time. In order for us to have a developable parcel, we now need to ratify those lot line changes that occurred over 40 years ago without your board's approval. As a result of those lot line changes, Mr. Morgan or the property of 21-27 Ward Avenue consists of 60 feet in width. These are the lots that were shown in that 1907 Fish Map that I referenced. Through these Deeds, Mr. Morgan and his predecessor in title gained this five-foot strip of Lot 2 and this ten-foot strip of Lot 155. As a result, in Mr. Morgan's Deed today, the property description shows him to own all of Lot 1, as shown on the fish map, which is 45 feet in width; he owns five feet of the westerly part of Lot 2.

Chairman Cosentino: Who owns Lot 2 now?

Brad Schwartz: Mr. Pytell. 155 is Mr. Tapia and Sedeo. They are not here tonight. These lot line changes again were contained in Deeds. This five-foot carve-out from Lot 2 was effectuated by a Deed in 1968. This 10-foot carve-out of 155 was done in a Deed in 1971. When you follow the chain of Title, Mr. Morgan today owns 60 feet – the ten-foot portion of 155, 45 feet of Lot 1 and 5 feet of Lot 2. Your village's tax map reflects these lot line changes. The Deeds, both of Mr. Pytell and Mr. Tapia also reflect these lot line changes occurring. The only problem is, for whatever reason, no one ever filed a revised map reflecting these changes in the County. Before we can pull a building permit for a residence, we are seeking approval from your board to file a lot line change map which would merely reflect what is already articulated or set forth in the filed Deeds. No new lots are being created and nothing is actually changing in the field regarding what Mr. Pytell owns or what Mr. Tapia owns.

Chairman Cosentino: Does it affect either of Mr. Pytell's side yards?

Brad Schwartz: It does not. There are two reasons why. The corner of this house is 10 feet from the property line. In 1983, the owner of this parcel sought and obtained a Zoning Board variance for a rear yard setback. The rear yard requirement is 30 feet; they obtained a 20-foot yard variance. So, the variance approves the location of this house vis-à-vis this property line. This was actually considered a front yard.

Whitney Singleton: That was one of the concerns that we had when initially reviewing this. I don't know how this was done without approval from your board, but when this was done it was done in a fashion where you have a flag walk and not the flag pole, but the flag itself has frontage on a paper street. So you actually have the double-frontage lot here, and the question then becomes without the frontage lot, what is the rear yard and what is the side yard? Either way, they got relief from the ZBA.

Brad Schwartz: The Zoning Board considered this a rear yard back in 1983, therefore they sought and obtained the variance.

Chairman Cosentino: And that runs with the land?

Brad Schwartz: Yes.

Whitney Singleton: If it were a side yard it would be a lesser setback.

Austin Cassidy: The whole fronts are a double frontage. There is no rear yard. There are two sides and two fronts.

Whitney Singleton: I would like to address two things that Brad said. When you asked whether this affects anyone's side yard, by shifting the lot line, even if the ownership is already changed, you are by definition shifting ----- . I cannot tell from this plan whether Mr. Pytell's building is proposed to be shifted in a fashion which would create a great non-conformity. The building is not depicted on the plan.

Chairman Cosentino: Please confirm that for the next meeting.

Brad Schwartz: Yes.

Mr. Pytell: It is a concern of mine. I bought that house six years ago. I had a survey done, and all of a sudden.... I have not seen the file yet. I don't understand if it is encroaching on me five feet, or is this the way it is now?

Chairman Cosentino: Good question and we don't know either.

Mr. Pytell: That is my only concern. There have been four or so surveys done on this property. I did not know anything was in play until the surveyor was standing on my property, and I questioned what he was doing there. The surveyor told me they were building there. I want to be clear on that, because I've never done this. I am not a builder like Mr. Morgan. This is all new.

Chairman Cosentino: Are you going to live in this house, Mr. Morgan?

Chuck Morgan: No, sir, I do not plan on living there. It will be for sale.

Mr. Ford: My problem is the water that comes down off Guard Hill.

Chairman Cosentino: When the Ritter's owned that, we had floods there.

Mr. Pytell: I'm in the Ritter house. My second fear is anything that goes on this lot is going to push water into my basement?

Chairman Cosentino: There was a stream coming down from Guard Hill. There were floods there.

Mr. Pytell: When I moved in, people were telling me how the Fire Department would come in and pump their house out. I was not aware of that. I am new to the community.

Beth Evans: I looked at this property over the last five years. I went out this spring just to confirm at Mr. Cassidy's request that there are no wetlands on this property. There are areas, clearly, where a little bit of surface water ponds after heavy rains, but if you go down a couple of inches the soils were well drained. There is nothing that meets the criteria as a regulated wetland or water correspondence problem.

Chairman Cosentino: We had a house go up down the road as you come in. If I am not mistaken there were special provisions made in the back because of the water flooding.

Mr. Ford: I know this is not a public meeting, but if you're saying that you checked it, why is the water coming from there across my driveway when it rains? Can you answer that?

Beth Evans: Water flows down hill, and definitely there is a wet area here.

Mr. Ford: This whole area is wet. Years ago, if you go back, the Crane's used to own this house, this house and that house before they

sold it the Manion's. This was all wetland. There used to be a pond there. Can you answer me that?

Chairman Cosentino: I do not want this to be a debate. There will be time for that. We have many questions as well. We are not going to get them all answered tonight. We have to absorb all of this.

Beth Evans: I've gone out three times, looking at this area because of the surface drainage that Mr. Ford is talking about. Someone has put a pallet here, and there is a defined path that goes across this property.

Mr. Pytell: There is a lot of foot traffic.

Beth Evans: The palette is obviously to get across an area that is wet sometimes. I dug all through this area. There is no evidence that water stays on this lot long enough to create flooding conditions.

Chairman Cosentino: We will have our expert visit the property. How are you going to address storm water management?

Peter Gregory: We are going to look at a number of different options here for addressing the storm water. We can do something with tanks – maybe store and recycle some of our run-off.

Anthony Oliveri: Right now, there are no details. There are a number of things that we will need to see. From my perspective, I am looking at this as a subdivision. I know you are presenting it as a lot line change. I am going to need to see an existing condition survey. We need to see the house on Lot 2 and 3, to the east. It is not shown on the map.

Brad Schwartz: Lots 2 and 3 are Mr. Pytell's property. As long as Mr. Pytell grants us the necessary access that our surveyor would need, we will be glad to show that house.

Anthony Oliveri: As a subdivision, you need to show on the map in the zoning table how each of the three lots that are affected meet the zoning, not just your lot. With that, an existing condition survey should be submitted. I did not see proposed grading on the lot, and we need to see that including a disturbance area. If you are over 5,000 square feet, including what you are disturbing in the paper street, you have to get DEC permit. We will need details on the sewer and water connections. You should get inverts on the sewer connection in the street, so we can verify.

Mr. Pytell: I share that road access, and it's clearly wrong on this. I am concerned because I have young children and I am now going to be sharing a driveway with someone. Also, during construction there are going to be trucks all over the place.

Chairman Cosentino: We will take that all into consideration.

Mr. Pytell: Is my sewer going to be shut off for awhile? My wife is very nervous about this. I respect the fact that he wants to build it, I get worried about water coming back.

Chairman Cosentino: Do I understand that they are taking property from Mr. Pytell?

Brad Schwartz: No.

Mr. Pytell: I want to be clear about that.

Anthony Oliveri: The sediment and road ----- plan will show the construction access limits of disturbance. That will define where the activity will take place.

Mr. Pytell: How do we maintain the shared driveway?

Chairman Cosentino: This board is here for the safety and welfare of the residents of Mount Kisco. We are not going to let anyone hurt either Mr. Pytell or Mr. Ford. This will be done in the right way and I'm sure they know about it.

Brad Schwartz: To clarity, I have reviewed Mr. Pytell's Deed, and I can absolutely confirm tonight that he does not own this five-foot strip – never did. We are not taking land from anyone.

Chairman Cosentino: Who owns the five feet that you're taking?

Brad Schwartz: Mr. Morgan, by virtue of a Deed from 1968.

Chairman Cosentino: So the land belongs to him but it was never shown on the plan?

Brad Schwartz: Yes.

Whitney Singleton: I have reviewed this all the way back. I have spent a lot of time on this file. Everything that Mr. Schwartz has said so far is true. I would say it's an oversight that they did not get the revised subdivision plan approved and filed.

Chairman Cosentino: There is no map within the village stating that said five feet belongs to the village?

Whitney Singleton: No. There are a number of things to be addressed here, many engineering items and some legal items. There are a number of things that should be reviewed to the extent that this proposed plan is compliant with village code. It is subject to subdivision regulations and the applicant is asking you to waive certain requirements.

Chairman Cosentino: If this board wishes to waive certain requirements, fine. If they wish not to, fine.

Whitney Singleton: It is very important that we go through this methodically.

Mr. Ford: Obviously these five feet is new to me. My survey and research does not address something of a Deed. I am worried that my closing and Title Company are wrong now. I have research to do now to find out if they missed something. Nowhere in my paperwork are any of these 1968 /1972 items mentioned.

Chairman Cosentino: There are many questions here that have to be answered, and Mr. Schwartz, I think you realize that.

Beth Evans: If I could ask if the village consultant come out and confer with me, and we do that sometime within the next six weeks or so during the growing season, so that we can really see the conditions that are out there.

Nanette Bourne: Do you have any soil data sheets or was it a visual observation?

Beth Evans: Given that I found no wetlands, I have field notes. I do not have formal data sheets. I did the digging by hand auger to the depth of two feet. We will have a water bottle with us to confirm the soil conditions. If possible I would like to do it while the plants are still alive. That is very helpful.

Mr. Pytell: There is a whole village drain behind my house, which floods two to three times a year. That open land absorbs some of the flood water when the village drains overflow. I want to make sure that the village will always have access to get back there to clean that drain. They bring heavy trucks and backhoes.

Chairman Cosentino: The village is responsible for a drain that is back there?

Mr. Pytell: Yes, sir.

Chairman Cosentino: Whose property is that drain on?

Mr. Pytell: My property ends before that drain.

Chairman Cosentino: Do we know whose property that is on?

Whitney Singleton: It is not depicted on any of the plans, so I'm not sure.

Mr. Pytell: It's the Guard Hill area.

Chairman Cosentino: Is it Guard Hill property?

Mr. Pytell: I do not know. When I moved in, my lawyer said to make sure I allow the village trucks back there to service that drain. That is where the flooding happens. I am worried if they build a house on this property that will push more water back up into my property.

Mr. Ford: It's town property. I spoke to the foreman from the Highway Department, Pete, and he informed me.

Chairman Cosentino: Anthony, please get some information from the village on that drain.

Anthony Oliveri: I will speak to Pete.

Joseph Morreale: How does the village get back there?

Mr. Pytell: Through my driveway.

Joseph Morreale: That would not be affected.

Mr. Pytell: I want to make sure, since he is now going to be adding into our driveway, that there is no issues with heavy village trucks going through there.

Brad Schwartz: I want to clarify to everyone that we are not cutting into Mr. Pytell's driveway. We are improving Ward Avenue, as shown on the plan.

Mr. Pytell: I said I share that driveway, and it's on Ward Avenue. It's an easement.

Brad Schwartz: We are not going to do anything that burdens access to that.

Joseph Morreale: When you had a survey done, did they stake your property?

Mr. Pytell: I don't remember.

Joseph Morreale: There are no stakes on the property?

Mr. Pytell: Honestly, I don't remember. I have a survey. The only stakes I've seen is when Mr. Morgan's surveyors surveyed it. I believe they did it four times.

Nanette Bourne: Have you submitted a copy of the survey as part of your application?

Brad Schwartz: No. We will.

Nanette Bourne: That would be very helpful.

Brad Schwartz: All of this information on Mr. Gregory's plan was taken based on Rob's survey. We have asked Rob to put together a survey to submit. In response to Anthony's comment, we will also show Mr. Pytell's house on that survey against Mr. Pytell's survey.

Chairman Cosentino: We would want a copy of Mr. Pytell's survey also, as well as a survey of the other side.

Brad Schwartz: We can get that.

Mr. Pytell: Mr. Morgan, didn't you own that other property, too? The old Manion house up the hill?

Chuck Morgan: Yes, I did.

Austin Cassidy: At this point, most of this is going to be engineering, legal and environmental, so I don't require anything now. I have gone over a good part of this already from the zoning, so I am just waiting for the facts before I finalize my decision.

Chairman Cosentino: What size house is going there?

Chuck Morgan: Approximately 2,100 square feet. The style and shape fits very well with the era of the homes that were built in that neighborhood.

Vice Chairman Sturniolo: I would like to draw your attention to page three of your letter, paragraph four. Who owns 15 Ward Avenue?

Brad Schwartz: 15 Ward Avenue is owned by Mr. Tapia.

Vice Chairman Sturniolo: It says, "the plan also proposes new water and sewer connections to the property for the proposed residence, as well as a new sewer connection to the adjoining 15 Ward Avenue, Mr. Morgan promises the owners of 15 Ward Avenue that he would seek approval for this sewer connections so they could abandon their septic..." My question hinges on the word "promises." Is that painting the village in some kind of a box where one person says I promise something to you, and that is encapsulated in a letter of proposal to the Planning Board?

Whitney Singleton: This would be a legal requirement of the subdivision, and it would probably require the owner of that lot to be issued his consent as part of the subdivision. Whether it actually has to be a signatory fact – I don't believe so. If there is going to be a requirement that a septic field be abandoned and tying into the sewer line, we would have to have adequate insurance that that would be enforceable.

Vice Chairman Sturniolo: So the word "promises" doesn't really hold weight?

Anthony Oliveri: When it goes to the health department, they will require that that lot connects to the sewer within 200 feet. It's about 100 feet away. I'm not sure why it is still a septic.

Brad Schwartz: We thought it would actually benefit everyone if that property was taken off septic and sewers added.

Vice Chairman Sturniolo: From the County Board of Health Department, I would agree with you 100 percent.

Brad Schwartz: I only meant to say that we promised to seek approval. We didn't guarantee Mr. Tapia anything. It was always explained to him that it was dependent upon what your board and the County ultimately decided.

Vice Chairman Sturniolo: I was uncomfortable with the word "promises," as if we could be, in a Planning Board decision, either way caught in the middle by a promise that cannot be fulfilled predicated on research that we have done and/or research that the County Board of Health has done.

Whitney Singleton: Is Mr. Tapia's septic field together with all the pipes and lawns fully within his property line?

Brad Schwartz: Yes.

Anthony Oliveri: That septic field should be located and shown on the survey. Is Mr. Pytell's property on septic?

Mr. Pytell: No. In fact, I've been curious because they came in at one point and ran radio sensors through. They don't know where this drain is that runs under my property.

Anthony Oliveri: The drain behind your house?

Mr. Pytell: Yes. It's been kind of a scary thing to know there is this giant sewer sitting there, but I know it also protects my property because it's behind there. But no one from the village knows how far down it goes. There is a lot that is very nebulous. I am trying to work with the village on that.

Chairman Cosentino: There is also a stream that comes in the rear of the house to the right of you.

Mr. Pytell: This is a confluence of two different hills coming into that pit and overflowing that pit, and if you look at the FEMA map, that is the flood zone, which kisses the back of the village property, or whoever owns that property behind it.

Chairman Cosentino: That is what we had some problems with because it wasn't clean and backing up. That goes down to the house that I was speaking of. That is the stream that goes down to the end of Brook Street. Someone had to do something to the back, and we were concerned about it.

Beth Evans: It was our design. We had to build some walls to make sure that the house was separated from the drainage through the back of that property.

Mr. Ford: But you forgot the first house, which I am alongside of, that comes across my driveway and grass. A few sandbags are good. It still is a sponge. If you're checking this, you can check that.

Chairman Cosentino: We will address all of this, I promise you. We are not here to hurt anyone, I can guarantee you that.

Mr. Pytell: I know that is not Mr. Morgan's intent.

Chairman Cosentino: I know it's not.

Chuck Morgan: I was born and raised in this town. I was riding my bike to The Boys Club when I was five years old.

Brad Schwartz: If we can recap, we wanted to present to your board tonight at least the basis of the project and explain the road improvement plan and get into a little bit of the historical conveyances.

Chairman Cosentino: I would like to say to my staff that I do not want this coming back before us without information that we can work with. There is no sense to that. I will set a date for their return on our agenda when that happens. There is a lot to be done.

Whitney Singleton: I respectfully disagree with the building inspector's assessment. There is a lot to be done here, but from a legal perspective, there is nothing to be done. There are a number of engineering and logistical issues with regard to water, sewer, road widths, curbing, sidewalks, drainage, wetlands, etc. There are a number of issues there that need to be identified. There are a number of things in which they are proposing for your board to waive with regard to road improvements and other requirements. The question is going to be, and Mr. Schwartz aptly stated this is his letter, that they are trying to propose this in a fashion which accommodates the prospective traffic, while at the same time not unnecessarily creating disturbance and impacts to the site. That will be a determination that your board will eventually have to make. As far as his assessment that this is a street on the official map of the village, that is correct. As far as his assessment of the width, it is suitable under the code for minimum road width. As far as his assessment as to the history of the Deeds, he is accurate in that regard. I cannot speak for Mr. Pytell's Deed. I have not verified the joint properties.

Chairman Cosentino: I am sure Mr. Morgan wants to do the right thing, and we are here to protect everyone.

Austin Cassidy: Just to recap, so I know the thresholds for rescheduling, is that we have heard a punch list of items that need to be responded to, and I would presume there would be a point on exchange of data that Anthony will be able to say that the information was there to be presented to the board. Also, there is going to be a field check of the wetlands within the next six weeks. This will not be returning to this board until those two big items are done. Is that correct?

Anthony Oliveri: I would agree with that. I would also add to that if you are proposing a storm water infiltration system, you do percolation tests in that time period also. Mr. Gregory can speak to me directly as far as the punch list.

Chairman Cosentino: Before we bring you back to the board, I am going to go over it with staff to make sure everything is in order. Then I will set the agenda date now. I would say November.

Doug Hertz: Whitney is speaking of the compromise and improvements of the roadway based on what village code would be. Will you just go through specifically what you are proposing on road improvements that would not be up to code?

Peter Gregory: It comes down to what extent we improve Ward Avenue. Right now we are not proposing a development of a full width of roadway asphalt storm drainage facilities on that. We are looking to create an individual, 10-foot wide gravel driveway that will access the property off of the intersection of Ward and Brook. There will be a portion of that that will fall within that paper street and there will be a portion at the entrance that will be connected to Mr. Pytell's entrance. Instead of looking to develop a full road into Ward, we are looking to bring an individual driveway.

Chairman Cosentino: I would like to know what the code says he has to do.

Whitney Singleton: There are two different provisions. There are provisions in the State Law in the subdivision regulations, which require that the streets and highways be of sufficient width and suitable grade and shall be suitably located to accommodate prospective traffic and afford adequate light and air to facilitate fire protection. The Village Code requires that they be a sufficient width, suitably located at but be constructed to accommodate the perspective traffic and afford access for fire fighting, snow removal and other road maintenance, and shall be so coordinated so as to impose a convenient system. Our code also requires, as does State Law, the authority of your board to waive what can otherwise be standard requirements. The village standard requirements would be curbing, sidewalks and drainage; to waive those things under particular circumstances associated with the site. In other words, are we looking at a road extension that is going to result in 70 lots down the street, or is it going to be one more lot? That may affect your determination as to the degree of improvements that the board may require. You do not have to make that determination now. That determination may be in a large part the result of the existing conditions that are at the site. Right now, the other adjoining property owners have driveways that are partially in the right of way. Perhaps to have fewer disturbances to the site by not having a 25-30 foot paved road is a better way to go.

Mr. Pytell: Right now it's grass. I actually cut it even though it's village property, and in the winter I plow it.

Whitney Singleton: And if that is done, it is not going to be something that the village is going to accept dedication on.

Chairman Cosentino: The code calls for our choice. Of course, you don't want to see a highway with a line in the middle going up to a house.

Doug Hertz: I am trying to understand what the two sides of the scenario are.

Brad Schwartz: It's a fully paved wide road with curbing and associated drainage facilities versus a gravel driveway.

Doug Hertz: I am thinking the least amount of disturbance.

Mr. Pytell: You wouldn't want it, because it would create a traffic flow. Right now there is a ton of foot traffic that goes between Gary's driveway and his property. It's a shortcut. Motorcycles have even gone through here. Mr. Tapia, whoever is living there – I know it's a rental – have tried to put bushes in to try to block people from walking up and down that hill.

Chairman Cosentino: What is the pitch on the driveway going up?

Peter Gregory: Minimal pitch. I believe we are about 2 percent.

Chairman Cosentino: Where is the water coming down the driveway going to go?

Beth Evans: There is clearly water coming down here as well as water probably coming through this lot. It pools right in here.

Chairman Cosentino: Anthony, please look into where it pools coming down the driveway. If it's time to correct it, now is the time. We'll never get a chance to do it.

Nanette Bourne: We will look at the pooling when we look at the wetlands.

Ralph Vigliotti: Mr. Chairman, at some point through the process we will have to do a site visit.

Chuck Morgan: I spent quite a few hours with Peter talking about a lot of ways we could stop that water from getting into Mr. Ford's property, too.

Chairman Cosentino: Maybe it's time we need to do something to solve the water problem.

Mr. Ford: On my property, too?

Chuck Morgan: Well, yes. I'm below you, so I understand your position. You think maybe that the water will build up and come up.

Mr. Pytell: Your house is level with Lot 2. There is not much of a grading there. I am worried it's just going to park between us. That is what happens when that drain overflows now. I get three to four inches there.

Chuck Morgan: Where do you get that water?

Mr. Pytell: Right from where your flags are, all the way over.

Chairman Cosentino: Our engineer will work with you and let you know what is going on.

Anthony Oliveri: We will set up a meeting with the DPW foreman, look at that drain and find out what he knows about it.

Chuck Morgan: The two houses that pass it do get flooded. One is Van's, and the next house.

Doug Hertz: Assuming that the property line is determined to be exact, there is nothing non-conforming about what you're proposing. No variances that are being sought.

Brad Schwartz: It is a single-family. We took the most conservative use of the side yard requirements. We have an 8 and 18 rather than a 6 and 16.

Doug Hertz: So the issues that appear that we are solely dealing with are whatever technical issues about the lot lines being put in stone, engineering issues regarding water flow and then a decision about the driveway and access and how much development should be done.

Brad Schwartz: That is accurate.

Whitney Singleton: I believe at some point in time you need something from your client's title company. Did they certify that each of the adjoining property owners show ownership at the center line of the strip?

Brad Schwartz: Yes.

Whitney Singleton: There will be nothing to prohibit Mr. Tapia from gaining access to Ward Avenue as well, correct?

Brad Schwartz: Correct.

Whitney Singleton: So it is possible there could be additional extensions of this road to Mr. Tapia's property? You are already running sewer lines to his house.

Brad Schwartz: I would have to confirm with the owners going to the center line if the Tapia property is one of them.

Whitney Singleton: What might be a very beneficial thing not only for your client but for the adjoining property owners is if you could relocate the sewer line so that it doesn't go that far down, and potentially re-map a small portion of Ward Avenue so there would be no future access to that lot.

Brad Schwartz: Yes.

Mr. Pytell: Right now it's not a road, its dirt.

Whitney Singleton: It's a road on a map. That is something the board has to think, because otherwise it becomes like a third-world country with a bunch of driveways all off a public street.

Mr. Pytell: We are in agreement. I don't think we would want the road to go through because it would affect his property value. We now have a full street going through there, and it is a definite cut in to that whole neighborhood.

Mr. Ford: I believe the one that is up above owns that land across Ward Avenue.

Chuck Morgan: I don't believe so, because I own that house.

Mr. Ford: You owned it and you don't know what you sold?

Chuck Morgan: I don't believe that part of the Ward Street paper street cuts into that.

Brad Schwartz: We will double check.

Chairman Cosentino: Are any of these two houses going to need a pumping station?

Brad Schwartz: I don't believe so.

Ralph Vigliotti: It seems like this all comes down to engineering to protect the neighbors. It is a natural wet area to begin with, and we

need to make sure we are not going to exacerbate what is there already onto the neighbors. That is our priority.

Brad Schwartz: We spent a lot of time this past year with Whitney and Austin on the legal lines. We wanted to present to this board and we fully anticipate having to deal with all the engineering.

Chairman Cosentino: We need a survey of everyone involved.

Brad Schwartz: If we could have access for our surveyor to locate your home on our existing conditions survey that would be helpful. That is totally within your discretion.

Mr. Pytell: I've already given your surveyors that. I have never objected to all four of your surveyors.

Chairman Cosentino: Mr. Schwartz, please do not leave the homeowners out of the loop in this planning.

Brad Schwartz: Yes.

Chairman Cosentino: There will be a public hearing as well. If you need records, Mr. Cassidy will be happy to help you in anyway.

Brad Schwartz: Thank you for hearing our application.

Questions:

Vice Chairman Sturniolo: Have we gotten any response back from Mr. Finkelstein regarding the updated memo that I suggested we get every two weeks from him?

Austin Cassidy: We do, weekly.

Vice Chairman Sturniolo: Where is it?

Austin Cassidy: It came yesterday. Did you want it handed out at the meeting?

Vice Chairman Sturniolo: I didn't know it came yesterday. I will get it tomorrow.

Chairman Discussion:

Chairman Cosentino: I want to speak about one matter before the board. This matter involves the board. I would like Dr. Morreale to recuse himself from this, as I do not want him to participate in it. In a Mount Kisco dot something, Mr. DiChiara wrote a letter. I don't know if we all read it. It was about the job the Planning Board did for Sherwin Williams, Dunkin' Donuts, etc. Mr. DiChiara speaks without fact. He speaks about the front of it not being completed, but he does not know about the State DOT coming in with their drainage. He quotes that there will be more traffic on North Bedford Road by doing this. I need you to read this.

At this point, Vice Chairman Sturniolo read the following:

This is dated August 31, 2010.
Sherwin Williams Carrying Enough Green
Filed on the news opinion administrator
3:01 P.M.

As anyone driving on North Bedford Road/Route 117 can see, there is now a Sherwin Williams paint store and a Floor Liquidators Outlet moving into Mount Kisco. Mount Kisco welcomes new merchants that will contribute to the community. If they are going to be a positive influence on the community, and there is a debate on whether these national chains are. Driving by Sherwin Williams recently, it is hard to not notice the unending expansive blacktop in their parking lot. This brings up two questions. Where is the run-off going to flow, and where is the green space? One nice feature of North Bedford Road is the green barrier from St. Marks Episcopal Church to the end of the Mount Kisco border at CVS, even in front of Dunkin Donuts. Looking at the plans and reviewing the Mount Kisco Planning Board minutes, there was a discussion regarding these plantings along North Bedford Road; however, they are to be planted in a small strip planted in the right-of-way and not on the Sherman Williams property. Mount Kisco residents will have to see how this turns out. With this new addition and the Planning Board's recently approved office building on Barker, near Valley View Terrace, traffic will be busier along North Bedford Road.

There are two photographs.

Chairman Cosentino: I do not think this is good for the Planning Board. I think we did a good job in what we did. My question is do you want to answer this comment or let it die? I wanted to bring it to you so you may make the decision on what you want to do. The Planning Board does a good job. I do not need a deputy mayor to come and tell us what kind of a job he did. Of course, it is his opinion, but I think it's very tacky of him to do so.

Doug Hertz: I agree that we do not need to be told what to do. We are an independent body. On the other hand, just as with the discussion of the Mosque, he wants his opinion to be known and write whatever he wishes.

Stanley Bernstein: But he is mistaken. The fact remains that that driveway was there for 30, 40 or 50 years. It is an existing driveway. Do you ask an applicant to tear up his driveway and make it all green? Where are his customers going to park?

Chairman Cosentino: I take umbrage when an elected official, a deputy mayor, writes something like this against the Planning Board that gets paid nothing for what we do. He could have come before us or called a meeting with us. This is nothing but a political ploy. There is another one in there naming me, which I will take care of personally. He is the same man who came before us here and said that Target and the A & P should not go there because of the traffic. Yet, it employs over 150 people from the village. That is a fact. I leave it up to you. If you want to let it die, it's perfectly okay with me. If you would like a letter written back to him, that's perfectly okay with me. I wanted all members to know that I appreciate all of you and

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you are all doing a good job. I take umbrage to these comments knocking our Planning Board.

Ralph Vigliotti: Mr. Chairman, if he had thoroughly read through all of the minutes for the last two years on those sites, he would have an understanding of what we tried to do and what we accomplished to create more green space. Because of his lack of diligence in going through the Planning Board meeting minutes to back what he thought, and what he thought was incorrect, he doesn't have a leg to stand on. I would appreciate in the future that he spend some time going through the minutes to support what he is saying rather than just saying it for the sake of saying it. That is all I request of him, and I'm sure he would request that of us if we made statements against the Village Board of Trustees that we would do our homework and read the back minutes to find out what took place during village board meetings as we are requesting of him when he makes statements against the Planning Board.

Vice Chairman Sturniolo: Mr. Chairman, in reference to the Simone property, based on the date of that blog, all the Planning Board did was grant an extension for commencement of the building of the Simone property. The approval of the resolution was done one and a half to two years ago. Factually, he is missing the target as far as the date. Based on that date to me, our Planning Board resolution was on August 24, 2010, and all we did was grant an extension – not an approval. The approval was done a long time ago. It appears to have kind of mish mashed into a current calendar date that coincides with the date of the blog.

Chairman Cosentino: I say it again – it's a political ploy. He needs to go back to school to learn what a political ploy is. He doesn't know yet. He needs a teddy bear. I take umbrage to that. You are a great bunch of guys; you take time away from your family to come here. There is no reason he could not come into this room and address it like a man. Obviously, he didn't – he doesn't know how. If we let it die or rebut this is perfectly okay with me.

Doug Hertz: If I may, as one board member, I am not a fan of helping someone justify their blowing off steam, as blogs are, by responding to him and giving it credibility. Its one man's opinion – someone's ranting on their personal space. If we answer it and make it big deal about it, it gives it credibility.

Chairman Cosentino: I agree with you 100 percent. When he speaks about the Planning Board that is what I take umbrage to. I do not care if he talks about me. I have big shoulders and I can take the weight – but don't talk about my Planning Board, and that's what I get upset. If he wants to attack me, I've been attacked before; one more time is not going to make a difference. We will leave it alone. I just wanted the board to know. If he reads the minutes, he will know how I feel about my board.

Sol Gibbons: Was this in the paper?

Chairman Cosentino: On his website, his personal blog. I did not say this to belittle the man. I said it out of frustration because he hit the board. I apologize if I seem hot about this.

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As there was no further business, on a motion by Mr. Vigliotti, seconded by Mr. Hertz, the meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Stanley Bernstein
Board Secretary

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