

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, March 22, 2011

Meeting called to order at 8:20 P.M. at the Municipal Building Mount Kisco, New York by Chairman Cosentino.

Members Present: **Vice Chairman Sturniolo**
 Doug Hertz
 Sol Gibbons
 Stanley Bernstein
 Ralph Vigliotti

Members Absent: **Chairman Joseph Cosentino**

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

Returning Case:

KH Realty II, LLC
130-132 Main Street
PB2011-2

Present:

Craig Intinarelli, Senior Architect, Granberg & Associates
Ira Granberg, Granberg & Associates
James Atwood, Owner of KH Realty

Vice Chairman Sturniolo: Tonight we are discussing a memo that the Planning Board received a few days ago from our planner regarding parking demands for this new operation. This is a menu that I picked up today. I recall in the past you said a few times that your idea is to incorporate this high quality but "casual" type menu in this new operation. I am not saying every item on there is going to be there, but it gives one the flavor of what you're doing. The menu, obviously, not to make disparaging remarks, is not McDonalds, but it certainly is not high end such as 42 or Molino's in White Plains or BLT. It is pretty much, what we see here is what you're proposing there. We are coming to the point of parking spaces, what is required and the various usages. Please walk us through your calculations regarding table count and parking spaces.

Ira Granberg: The overview is that the cellar level is a prep kitchen; the first floor will be the main kitchen and small sales area for retail sales with six seats for quick take-out. The second floor will be the main dining room, where we actually designed it with built-in seating. (Because of that) our actual seating count will be less, on a square foot basis, that is allowable. We did a table count of a total of 36 tables, which includes the first and second floor. We also were requested to evaluate the roof area. Based on the actual square

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footage in the chart of the roof of 15 square feet per person and the fact that we have one exit from the roof which would allow (based on the square footage) up to 50 people, and the fact that the rear yard, if developed at the lower level, could have up to 50 people just purely on a breakdown level, we determined that the restaurant itself could have a maximum of 36 tables. However, we won't have 36 tables. We'll have far less than that. From an occupancy point of view, we were able to have 72 seats. The roof area, from an occupancy point of view, could take up 48 seats, even though as you see from our plan, we don't have anything close to it. We were requested to come up with an equivalency of tables on the roof that might be allowed if we wanted the lower level grade seating. We will have less seats on the roof than we could have if we took seating in the rear at the yard level, and we have actually dining seats on the second floor that are 15-20% less than we can actually fit and meet code requirements. If anything, by creating a -I hate this term- "high-end" restaurant not by price point, but by quality, we are designing a restaurant not maximizing the seating count, which is contrary to every other restaurant we've ever done. We felt that a balancing act between the number of tables in the restaurant, the rear yard equivalency and the use of the roof for seasonal dining was meeting the criteria that we were asked to meet. The chart that we have submitted to you reflects the maximum worst case scenario which we will not even achieve to prove that it fell within the guidelines of what we were requested. We were given the original number of seats of The Brass Horn. We used that as a benchmark to see how we panned out for that, how many parking spaces they had, how many parking spaces we would have, and I believe the numbers worked out at parody with one another.

Vice Chairman Sturniolo: 27 parking spaces correlate with The Brass Horn?

Ira Granberg: Yes. I might point out parenthetically, when the restaurant is in operation, for all intents and purposes, the sales area is closed for the day. When we have the occupants of 13 people in the prep kitchen, their hours are from 4 A.M. till noon. They are not even going to be in the building. So everything that has been allocated for parking, even though we are under the umbrella of acceptable numbers, we don't have that density. That is something that should at least be considered in that regard.

Vice Chairman Sturniolo: When the take-out portion is closed, and the restaurant opens on the roof, is the menu the same?

Jim Atwood: I would say this is thematically the same. For us to have a successful restaurant, we are going to have to change some things, maybe seasonally. We are targeting price points that are probably not going to be a whole lot different than the Lexington Square Café, would be my guess. This is the type of food that the chef prepares, who is my wife's brother. We cannot have the same stuff downstairs as upstairs. That would be pretty boring. We are going to have to mix it a little bit. Thematically, it will be consistent.

Vice Chairman Sturniolo: It will be different once the downstairs closes and the focus of business goes upward?

Jim Atwood: Exactly. Our hours of operation, we've noticed in Bedford Hills, that things trail off after 6 P.M. anyway. If people are going to buy food to bring home for dinner, they've done it by then. It actually seems like it is a pretty good fit. This is a little bit of new ground for us. We can tell you what we think.

Ira Granberg: I want to stress that the roof area is not intended to have the same menu as the main dining room. The roof will be lighter fare, mostly for casual waiting for the dining room and to have before dinner appetizers and drinks.

Doug Hertz: I have a question regarding what you just said about what you can get on grade versus what you could not. In this application, are you basically saying you won't apply for any on-grade?

Ira Granberg: That is correct. By doing the design we've done, we've increased the "green" area potential for the rear yard. As you can see from the rear elevation, the rear of the building will be designed as the front of the building. There is no rear anymore to this building. The whole idea is to create a green setting for an arrival down a central core to make people engaged and to improve Blackeby. It is not only transfer, it is an improvement based on what we can achieve.

Stanley Bernstein: I would like to know the actual seating on each level. It is not delineated here. You have a total of 87, but to what do (136) refer?

Craig Intinarelli: That includes the roof occupancy during the seasonal dining.

Stanley Bernstein: So in other words, it is left for us to figure out where the seating will be on which level. It will be based on the totals.

Ira Granberg: The second floor is the main dining room. Based on the plan that you have before you, that physical area in the main dining room by code can support the 64 seats. I am stressing that we designed the space for 54 seats.

Stanley Bernstein: I understood that from Day One. But, I'd like to see an outline of the tables. I don't believe that is going to tie your hands.

Ira Granberg: We have a layout all finished, but it was not under the criteria we thought we needed for this meeting. I will be glad to provide that for you.

Stanley Bernstein: Thank you. Every restaurant that we've approved here on the Planning Board, we insisted that the tables were shown. I'd rather not make an exception here.

Ira Granberg: We will supply that for you.

Craig Intinarelli: Our previous submission does show the tables on one of the sheets, strictly for calculation purposes.

Vice Chairman Sturniolo: Is anything changing with the plans or the design concept of the elevator?

Ira Granberg: Absolutely not. We've met with the elevator company; we've gone over our code parameters. I must say that the amount of structural interface that we need to do to achieve this is over and above what our client ever anticipated. It is all feasible and we've gotten the corroboration that it can be done. We are moving ahead and everything we showed you the first meeting will be included in the final plan.

Ralph Vigliotti: We probably will put in the conditions of this application that if we are going with rooftop dining, it would exclude outdoor dining on grade level.

Ira Granberg: No question.

Ralph Vigliotti: I think this is going to be quite an asset to the village, and I hope this is profitable for you. Is there an emergency staircase going to the elevator to the third level?

Craig Intinarelli: Yes there is. We are putting in two complete, separate, independent staircases for the entire building. One of them is an egress there and making code.

Sol Gibbons: Everyone is in favor of this application going through. Of course, we are concerned about the parking count. If that can be resolvable, it will be an asset to the village.

Anthony Oliveri: The parking will be left up to the planner and building inspector. Comments in my memo need to be addressed.

Ira Granberg: As we develop the project, they will be with our civil engineering side and all the components.

Nanette Bourne: To reiterate what you said, table layout will be very important with numbers, seats and collaborating with the charts. Also, by using the roof for outdoor dining instead of at grade, that comes with an annual permit renewal requirement. Every year you would need to renew the permit.

Jim Atwood: Is that just in the ordinary course?

Austin Cassidy: All outdoor dining in the village.

Nanette Bourne: That gives the village some security.

Jim Atwood: The whole idea is to have this be a really nice place. We are not trying to make a bar, a place where people go to drink. We will serve cocktails, but the idea here is a staging ground, plus a nice venue to be outside when the weather is nice. Our intention is very consistent with what you're talking about.

Austin Cassidy: Should you decide you wish to pursue any type of cabaret, that activity will be exclusively inside and there would be no outdoor use of that. It is definitely separate, but the rooftop would not be part of consideration.

Vice Chairman Sturniolo: We will incorporate that language into the resolution of approval. What is the contingency plan if you have diners on the roof and it begins to rain?

Ira Granberg: The design is to have an enclosed roof area on one-third of the roof. The bar and food service is designed to be behind rollers that close off, so that the food service would not be ruined. The number of seats under this are from here down is a projection to get into the elevator and get out, or right down the stairwell to the main dining room. Since is not full dinner and not tablecloth, there will be, like any outdoor dining, some shifting around to accommodate.

Vice Chairman Sturniolo: At this point, we are looking to see a table layout on the various areas.

Whitney Singleton: You will also need to take your landscaping plan to the acceptance on village property and re-submit it.

Vice Chairman Sturniolo: We will put you on our agenda for April 12 with revised plan including table seating and a draft resolution.

Nanette Bourne: We understand the first floor will close when the roof is open. Please put some parameters on the tables and seats on the second floor, because that will determine the maximum that you have on the roof. Right now how many tables are you proposing?

Ira Granberg: I cannot answer that because we have fewer seats than we are allowed, and some are built in. I will have to show you by forecast. You will see how the 54 seats came about.

Nanette Bourne: So you have 54 seats that collect around "X" number of tables, but you don't know (the number of tables)?

Ira Granberg: No. If I took the square footage and wanted to design the space to reach the amount of tables we could get and the number of seats, I would not have designed it this way. I could put 30 tables comfortably on the second floor and generate 60 seats. But I'm not doing that, so I'm going to end up with 54 seats, which would be fewer tables. But if I put fewer tables, then it would not give me the equivalency of parking. In order to get the parking count, I would say I will design it for 30 tables and make it more crowded. It's like a double-edge sword. On one level, I am trying to create less density and make it a comfortable restaurant. On the other level I am losing tables, which would give me equivalent parking. There has to be some consideration that we are designing it to be less encumbering, but if I give you a seating layout that only has 22 tables and therefore I don't have the ability to save 30 tables, then I've lost, theoretically, allowable parking. Would it be terrible if I designed it for the 30 tables and we ended up with 24 tables? For the record, I can give you that layout that corroborates with my charts.

Austin Cassidy: We are getting abstract here. The tables do not equate to parking spaces.

Nanette Bourne: Theory aside, we need to see action.

Austin Cassidy: The seating plan is important.

Whitney Singleton: So you are saying that you are demonstrating one thing, but in reality it is going to be something else?

Ira Granberg: It's going to be less.

Doug Hertz: You're trying not to give up the equivalency of parking?

Ira Granberg: Yes. Without maxing out the design that we normally would get.

Doug Hertz: We are trying to demonstrate that you are not going to exceed. That is our concern. We need to quantify that this parking is not going to exceed what you're adding. I understand where you are going, but we have to demonstrate that we are going to stay on par or less with the entirety of the submission.

Vice Chairman Sturniolo: The parking is the benchmark, and then we are working towards the numbers below that to support that number.

Nanette Bourne: We need your photometric lighting plan and landscaping as part of your submission.

Ira Granberg: We have not retained a landscape architect yet. Can the vote happen prior to this actually being designed and landscaped?

Whitney Singleton: On whose property is the landscaping?

Ira Granberg: Both.

Vice Chairman Sturniolo: The village definitely would want to see the landscape plan on their property.

Jim Atwood: There was not a formal landscape architect on the last approval.

Ira Granberg: We are not doing any rolling gardens. We will take the plans that were approved before and use the same general species and designations so it looks right.

Nanette Bourne: When you build it, it has to be the same as what is approved on the plans.

Ira Granberg: Yes.

Vice Chairman Sturniolo: What does the applicant have to do with the village between now and April 12?

Whitney Singleton: The applicant needs to make application to the village in the form of a letter. The applicant is fully familiar. They are going to do the same exact thing they did last time with an updated plan and an updated letter.

Jim Atwood: Also, the language will be the same, as it references a site plan. We are just revising the site plan. Everything else on the license will be the same.

Whitney Singleton: It would be helpful to know if you are having a separate tenant, whether the operation of the restaurant is separate and apart from the ownership of the building.

Jim Atwood: It will still be that way. We will keep them separate.

Village Board Referrals:

A. Definition of "Cemetery"

Vice Chairman Sturniolo: We have a letter to the village manager to from the village attorney along with a definition.

Whitney Singleton: As your board will recall, we had an application come before you for a crematory a few years back. It was not something that was well-received by your board, in large part based upon traffic and some other concerns about the impacts of taking a site that does not generate a lot of impact and bringing a use to it which does. I believe the building inspector determined that based upon the project that was described to him and the degree of use, he would not deem it to be an accessory use but another principal use based upon the cremation furnaces going 24 hours a day. He deemed that to be a new principal use and not a permitted use and therefore denied the application. No appeal was taken of that determination. Things sat dormant for awhile. As part of a round table that the staff was having with the Village Board on various issues, the Village Board had broached that as being one of the items that was still outstanding. There had been some prior discussion clarifying what does and does not constitute the word "cemetery" followed in the parameters of the term "cemetery" and rather than have that remain vague, the Village Board requested that I work on a definition and explore what other communities have done, which I did and proposed to incorporate a term for definition of "cemetery." There is currently no definition in the code for the term "cemetery," and they wish to include a definition, which is before you. That request from the Village Board preceded an actual submission of an application by about a week. There is currently an application that was submitted to the village which now is being suspended because we have a built-in moratorium in our code. There is a 90-day moratorium on any new legislation. The only way you can get your application approved is if your application would be compliant with both the code as it presently exists and the code as it is proposed to be amended should the legislation be adopted. The application that they are proposing clearly would not be capable of improvement if this modification to the definition is adopted by the Village Board. Pursuant to 110-59 the Village Board is required to refer this matter to you as they are to refer to the county for your input and recommendations as to whether this is an appropriate modification to the zoning code. I will read to you what the local law requires (110-53): *Whenever the Board of Trustees shall by resolution authorize a Public Hearing on a local law, which, if adopted, would amend or change any provision of this chapter, the Board of Trustees shall refer the proposed local law to the Planning Board for its report and recommendation. The Planning Board, in making its report on any proposed amendment, shall make an inquiry and determination concerning the item specified below. Whether the change would be consistent with the aims and principles embodied in this chapter as to the particular district's concern, which areas, land*

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uses, buildings, establishments in the village will be directly affected by such change and in what way will they be affected, the indirect impacts of such change in its effect on other regulations and whether such proposed amendment is consistent with the aims of the master plan of the Village of Mount Kisco. If your board thinks this is a positive change, you should so refer.

Vice Chairman Sturniolo: Obviously we need to put that in the form of a motion to direct the village attorney to communicate the outcome of the Planning Board's desire.

Whitney Singleton: Yes.

Motion that the Mount Kisco Planning Board Communicate to the Village Board that the Proposed Definition of "Cemetery" Presented to us is Acceptable to the Planning Board

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

B. Outdoor Seating on Village Property

**Present: Isidoro Albanese
Fran Albanese**

Vice Chairman Sturniolo: We have a memorandum from Village Manager Jim Palmer and attached descriptions and photos and a letter from Mr. Albanese along with a landscape plan, bench plan and Photo Shop visual depiction of the site.

Vice Chairman Sturniolo read the following memo from Mr. Palmer sent to the Planning Board:

Attached please find a description and photos for proposed improvements to both the side lot of the above referenced property and the abutting village owned property. The description and photos are the result of the Village Board's request for additional information following the property owner's interest in completing improvements on village owned land. The Village Board has further instructed the village attorney to draft a license agreement identifying the improvements and maintenance and utilization of this village owned area and how it relates to the proposed improvements to be made to the abutting lot to be considered by your board since the village Board will be reconsidering this matter at their meeting on Monday, March 22, 2011 I will be sure to update subsequent to their meeting.

Vice Chairman Sturniolo: If I understand this correctly, the improvements are to be made on your property and you are volunteering to make improvements on the village owned property.

Isidoro Albanese: That is correct.

Vice Chairman Sturniolo: You've recently got the approval for the interior that you are calling The Goodie Shop." We have already gone through that. Approval wise, is this an amendment to the existing site plan?

Anthony Oliveri: Unfortunately, I think it would have to be a site plan amendment. Part of this is on your property.

Isidoro Albanese: All of it is on our property.

Anthony Oliveri: It looks like some of this might have spilled over onto village property. I also believe the Department of Environmental Protection (DEP) would want to look at it since it is in the village Main Street area. You mentioned here, "impervious" surface. You might have meant "pervious" surface.

Isidoro Albanese: Yes. It was the wrong word. We did a section by the garbage with the same kind of material that we are going to do in the front.

Anthony Oliveri: What is that?

Isidoro Albanese: Concrete blocks.

Anthony Oliveri: That would have to be a site plan amendment. Also, DEP is going to want to see any kind of disturbance. That is a whole process unto itself.

Isidoro Albanese: I thought if we changed it in a way such as cementing the whole thing in.

Anthony Oliveri: If you put in pavers like that, there is some change to the pervious-ness of the surface. It is not the same as having grass or vegetation there. It is going to be different, and we have seen that even when you are reducing impervious surfaces and disturbing other areas as a trade-off, they still want storm water measures taken even if it's a small area. I don't know if there is a way around that.

Isidoro Albanese: That takes a really long time and will just hold up this whole thing, especially on the side of the town.

Anthony Oliveri: By code also you have to file an amendment to your site plan. This is a separate issue from DEP. This would not be an acceptable submission. It would have to be something from an engineer or a surveyor. You need detail on it. From an engineering perspective, I don't know there is any way around that.

Isidoro Albanese: Can I speak to DEP and see what they say about it?

Anthony Oliveri: That would be a start. You can approach them and see how they want this handled.

Isidoro Albanese: The other way would be gravel.

Anthony Oliveri: You can speak to them and see what they require, get a cursory look at it and get a letter back saying its fine the way it is.

Isidoro Albanese: We could get the materials they want to comply, but I think something like this is nicer and fewer accidents would happen if we do it this way.

Ralph Vigliotti: I don't think this Board will approve gravel at all, not on a Main Street corridor. Anything loose is a problem.

Vice Chairman Sturniolo: We still need to address the amendment to the existing site plan, putting aside the DEP issue.

Nanette Bourne: This submission is something that would be appropriate for a conceptual discussion just to get the flavor of the idea. It really does not meet the level of a landscape plan, because you are really proposing a revised landscape plan for this. Because it is really the arrival of your business, it is a critical area for the village. It really sets the tone. The Planning Board is going to be very concerned with the details, the materials that you use, the vegetation, species, irrigation and lighting. None of this is included.

Isidoro Albanese: The vegetation is all there, it is just going to be moved. We are keeping it exact.

Nanette Bourne: You have to show from where it is being moved. This is not the kind of plan that the Planning Board could approve.

Vice Chairman Sturniolo: You also say, "we will maintain and replace planting and gravel on an 'as needed' basis." To me that sounds like the vegetation may easily change.

Isidoro Albanese: That is for the village side of the property. On our side we have the irrigation that is already there along with everything else. The Village Board wanted to see what we are going to do on their property. We are going to keep it clean, maintain the landscaping there, replace bushes or anything else that is in that area. That is what we are referring to. For our area, we have a landscaper who comes three times a week.

Anthony Oliveri: For a site plan amendment, the Board cannot accept a sketch like this. It has to be by a registered architect, licensed engineer or a landscape architect, signed and sealed. It is New York State law that we cannot accept a sketch that is not in that form. A professional needs to prepare the plan.

Nanette Bourne: Also, I understand that the Planning Board does not approve the improvements that are on village property. Do you have an integrated site plan that shows the village side?

Isidoro Albanese: Yes. I gave the village a separate sketch for that.

Nanette Bourne: The Planning Board needs to see it. They don't approve it, but they need to see an integrated site plan which shows how the two are connected.

Isidoro Albanese: It is similar. This is a full color rendering of it.

Nanette Bourne: How many benches total?

Isidoro Albanese: Six benches here and three on the village side.

Austin Cassidy: Before you get too involved in spending money, one of the things we need to find out right up front is how many square feet of pavers you're talking about?

Isidoro Albanese: Here it is about a couple of hundred square feet.

Austin Cassidy: You have total development coverage, that is building and essentially blacktop and pervious and impervious surfaces, including gravel. I don't know where you are with it. If you're over, it's a disadvantage for your property.

Doug Hertz: My recollection is that it is right at the tenths.

Austin Cassidy: It might be a zoning issue. If you want to pursue this, you might have to get a variance for it. I think it is important that we look at that math right away. Please contact our office.

Isidoro Albanese: One of our biggest goals here is to make it an area where anyone can go, kids and families in a park setting. There is no real place downtown where we are to sit at a bench. I would like to do benches in front of the building that match our pots along the front to make that area more alive.

Vice Chairman Sturniolo: You write in your memo that you would install outdoor cameras to be monitored from inside. Why do you believe you need outdoor cameras?

Isidoro Albanese: If you're inside, you can see what's going on out there. If something happens in the middle of the night, we can see it. We also have cameras outside of Bellizzi.

Vice Chairman Sturniolo: Does that trouble you at all? The fact that you said that kids hang out and now you want to put cameras? I'm wondering if there is a level of security concern that you're looking to protect because the benches are going to be there and because it could be a gathering place.

Isidoro Albanese: Even if the benches are not there, I think it's good to have cameras out there just to see what is going on. In the past years we've had rocks been thrown through the windows. One time someone put a match to an awning. A lot of times you don't even know the cameras are there, but if something happens you can look at it. As far as security there, we are going to be open later there. Right now there is no one there. After a certain time, A T & T closes, and basically it is just kids that are skateboarding there. By bringing in adults and families, anything happening is less likely, although we have had nothing happen in that area before. The area is safe.

Ralph Vigliotti: I can appreciate where you want to create an area where your patrons can sit and enjoy the products that you are selling. To do that you are creating this space on an open, green area of the village which is rare for downtown. I'd rather see it stay green. We are bringing in nine benches – the heaviest cluster of benches in the village. I do not think there are nine benches in the village total, but we want to put nine benches here to a site that is already at risk with

children of all ages hanging out and skateboarding. And they will use those benches to skateboard off, by the way. I can see why the village would like to bring you on Board to enhance the village property, that is without question. You have a lot of hurdles to go through here, and they are not hurdles that we are putting in front of you. They are hurdles that have to be placed in front of you, which is DEP, pervious surfaces, developmental coverage which Austin brought up, which is probably the biggest piece of all of this. You may not be able to cross that threshold at all. I do recall early on that you just barely met that number that was needed. I think it will look nice, but the concentration of benches in that area will become an attractive nuisance that cannot be necessarily monitored. If you have an outdoor dining, you own that space and you can regulate it and control it a little bit differently. If you're saying this is going to become a public space – are you deeding it? Are you giving up any rights to the space to the village? How are you doing that?

Isidoro Albanese: No. It will be our space to maintain.

Ralph Vigliotti: If it were outdoor dining, we would be able to do a renewable permit each year, and the village could determine if it will work each season. At the least, if this should move forward, I think the village Board or at least the Planning Board should have some kind of permit in place similar to outdoor dining worded differently, of course, so that it could be pulled, literally, if this becomes – and I honestly believe it can become – an unattractive nuisance. It may look nice, but it may become that attractive nuisance that the village doesn't need.

Vice Chairman Sturniolo: I have one thought to echo and support Mr. Vigliotti. I've got quite a few young nephews who love to skateboard. I've been with them and I see what they do. The temptation to be on the bench with the skateboard, get down on a hard surface and be able to jump up and look for the different benches is just too tempting to become a skateboard paradise in a small way.

Isidoro Albanese: The last skateboarders were prevented from doing that because they are set back, although anything is possible. Our biggest goal is always to improve Mount Kisco, and the same goes for this property. You have seen in the last two and a half years how we have maintained the property with landscaping.

Ralph Vigliotti: The space is beautiful as it sits.

Vice Chairman Sturniolo: I agree.

Isidoro Albanese: This is another step for us to take it further. If it's not possible, then it is not possible. On the other hand, if we can, how would we do it if we did want to put these kinds of benches in the front of the building right against the walls between us and A T & T? Is that a possibility? Also, if the Village Board also wants us to do something on village property, we can still continue.

Austin Cassidy: The building sits right on the front lot line. The concept is that it is new ground. The code does not speak to it as a permissible activity. Let's take a look at identify what the issues are. As I'm looking at this, I realize the photograph might have some

degree of depression of space in it. I am also looking at the walkway and it's proximity to the trees, whether or not that presents any issues with respect to the growth of the trees. Listening to this dialogue about youthful activity, and regular surface pavers on private property would be ratcheting up your liability. You may want to think about that. Let's take this one step at a time and look at it.

Stanley Bernstein: I like it, and there are many problems that we can foresee. I don't think they are all insurmountable and they can be worked through. I'd like to see it happen. By the way, I am very gratified that you're calling it "The Goodie Shop," which brings back some nice memories to me and my family. Good luck.

Vice Chairman Sturniolo: The next step for you would be to come back with a conceptual plan and proceed forward from there.

Isidoro Albanese: I will talk to DEP first to see if it's possible.

Whitney Singleton: When you come back, it has to be on the same type of drawing that you had when you received your original site plan approval showing the landscaping on a proper scale. Also, there are provisions that allow flowers and planters on the public right of way. There is not provision throughout anything other than that except for outdoor dining – sidewalk cafes. Flowers, plantings and sidewalk cafes are the only thing that are allowed on public property. (With the sidewalk café) you have to have a minimum passable width of six feet. Maybe there is six feet there, I don't know.

Isidoro Albanese: If it is on town property, would that be a Planning Board issue or a Village Board issue.

Whitney Singleton: The seating capacity depends on the village manager.

Ralph Vigliotti: You were proposing three benches along the sidewalk, which is village property?

Isidoro Albanese: Yes.

Ralph Vigliotti: That may be interesting. It doesn't change the green space. That is something we will take a closer look at. The Village Board is excited about that piece on their property. It may assist in that area and not be so concentrated.

Nanette Bourne: Personally, I have no problem with skateboarding, but those are benches that will really encourage (skateboarding). I think you can look for some urban benches that are specifically designed to discourage skateboarders.

Sol Gibbons: If you put these benches on village property and someone gets hurt on them, who is responsible for that?

Isidoro Albanese: The village.

Whitney Singleton: If he improves village property, we have an indemnification that is required to have the insurance on that. As the last applicant, if they are going to use village property, it cannot be on

an exclusive basis. They have to assume responsibility for the improvements, maintenance and liability.

Isidoro Albanese: Thank you very much

Correspondence:

- Letter from James Palmer, Village Manager, to Mr. Michael Caruso, Vice President of Facilities, Northern Westchester Hospital Center dated March 7, 2011 re 400 Main Street.
- Letter from James Palmer, Village Manager to E & I, LLC dated March 7, 2011 re 7 Main Street.
- Letter from James Palmer, Village Manager to Five Ross Realty, LLC dated March 7, 2011 re 11 Main Street.
- Letter from James Palmer, Village Manager, to Mr. Anthony N. Tsoconos dated March 7, 2011 re 15 Main Street and 17 Main Street.
- Letter from James Palmer, Village Manager, to Viga 19 Main, LLC re 19 Main Street.
- Notice of Public Comment Period, Draft Project Lists for the 2011-15 Transportation Improvement Program.
- Letter from Teatown Lake Reservation to Planning Board Members dated March 10, 2011 re Hudson Hills and Highland Environmental Leaders Learning Alliance (ELLA).

Vice Chairman Sturniolo: The letters from Mr. Palmer, with the exception of the hospital, seem to be focusing in on the same subject to various property owners.

Doug Hertz: These are all prior promulgation lanes. We spent an ungodly amount of time looking at the Northern Westchester Hospital site plan and trying to understand traffic flow, etc. I am not quite sure why – at this late date – there is a change to this. They were consulted on this, and this is a change to the site plan. Why didn't this happen when it was being reviewed? I can understand old site plans; the other ones being referenced here. Areas that are not being used in a way they were designed to be used, but for something like Northern Westchester Hospital, I am just baffled why we are seeing this memo.

Austin Cassidy: Not having seen these documents, there is an existing fire lane there now per the site plan of record. However, the fire lane plan was never updated and it is a traffic promulgation and has to be passed through the Village Board so then it can be legally enforced in a court of law. That is all for access for emergency services. You cannot enforce it if it is not duly promulgated and posted.

Vice Chairman Sturniolo: Similar to the "no parking" along Ice House Road that had to be promulgated by the Village Board for 333?

Austin Cassidy: It's actually different, because this is private property, the village cannot promulgate on private property because of the no parking. They can for fire lanes. There are only two vehicle traffic promulgations you can make on private property; handicapped parking and emergency access vehicles that is municipally enforced by government. Without that promulgation, you can't enforce it in a court of law. This is all to complete and update the fire lane system that is already there. Actually, the update came from our fire inspectors to the manager. The manager is obligated by local law to notify the property owner.

Doug Hertz: I will make the same comment, which is that this should be properly done when all the plan is being reviewed. There should not be a surprise that they have to go back later on and strike this.

Austin Cassidy: The aspect of the promulgation itself never happened. It was stimulated by a fire inspection. Again, the fire lane system existed at 333, but it was literally a run-around box. If you recall, there is a lot of new landscaping and sort of more of a flow line to the traffic and curb lines around the building, which had to be modified and updated.

Doug Hertz: I absolutely understand that and agree with that. I think that should be properly done as part of the review and our approvals of these site plans. We do ask that ambulance and fire and police departments review these things so you have proper turn lanes for vehicles and access.

Austin Cassidy: They did, but they have no control over the making of promulgation. That part did not happen, so it's happening now.

Ralph Vigliotti: Are we members of the Hudson Hills and Highlands Environmental Leaders Learning Alliance?

Stanley Bernstein: The members of the Conservation Advisory Council are.

Ralph Vigliotti: Can you join as a Planning Board?

Stanley Bernstein: I am not sure about that and will find out for you.

Ralph Vigliotti: That would provide us with some opportunities as members and give us some opportunity for credits.

Stanley Bernstein: I will find out and have the answer for the next meeting.

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

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm

Planning Board Regular Session
March 22, 2011