

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, April 26, 2011

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 Sturniolo
Sol Gibbons
Stanley Bernstein
Ralph Vigliotti

Members Absent: Doug Hertz

Staff Present: Anthony Oliveri
Nanette Bourne
Whitney Singleton
Austin Cassidy

Acceptance of Minutes

March 22, 2011 – Regular Session

Motion: Stanley Bernstein
Second: Ralph Vigliotti
Aye: Sol Gibbons
Aye: Vice Chairman Sturniolo
Aye: Ralph Vigliotti
Aye: Stanley Bernstein
Abstain: Chairman Cosentino

Continuing Review:

**Gallin Design Studio
Canine Kindergarten
333 North Bedford Road
PB2011-1**

Present: Michael Gallin, AIA, Gallin Design Studio
David Stolman, AICP, PP, President, Frederick P. Clark
Associates, Inc.

David Stolman: You have a draft resolution before you. There is a blank on Page Four regarding the county's response to the referral. The county has said this is a matter of local concern. Mr. Oliveri suggested additions to the resolutions, as follows:

1. The outdoor lighting level should be field verified to conform with the proposed illumination guidelines of the village prior to issuance of a Certificate of Occupancy.
2. A pre-construction meeting must be held with the village engineer and building inspector prior to work starting.

In Mr. Diamond's letter of March 23, 2011 he states the addition of the Canine Kindergarten triggers the next required traffic study, which is required at 90% occupancy. We should mention that in the resolution. Even though it is required already by virtue of previous resolutions and all those conditions in the previous resolutions still apply, it would not hurt to mention that. Michael, when do you think you'd be getting a C.O.?

Michael Gallin: I would say in three months for Canine Kindergarten, specifically.

David Stolman: That seems like a reasonable length of time to give the applicant for the traffic analysis.

Michael Gallin: I think the intention is that it includes the numbers for Canine Kindergarten.

David Stolman: If that is the case, then we are in the middle of the summer and the traffic counts really can't be taken at that point. It would be October or so before we see the traffic study.

Michael Gallin: The applicant doesn't have a preference one way or another. It's really whatever the Board thinks is more valuable. If the Board would like to get the data, including Canine Kindergarten then we would defer it to the fall. If the Board is comfortable having the data excluding Canine Kindergarten, we can do it now.

David Stolman: To put it in perspective, this is 6,500 square feet over a total of 568,000 square feet. This is relatively diminutive compared to the greater project. If you would like to see the study sooner, I do not think there is any problem not waiting for Canine Kindergarten. 6,000 square feet over 600,000 square feet is so minor that you're not going to really see it in the analysis. It is up to the Board whether you want to see the study now or later. How long till the C. of O. of the bowling alley?

Michael Gallin: Probably not until the fall. That construction has not started. They are in the funding stage. It will probably be September or October, as a guess.

Chairman Cosentino: You will probably have to come in for an extension of the building permit if they file.

Michael Gallin: I will have to follow up with where they are with it. I will check the dates on that.

David Stolman: We ought to put a date in the resolution by which time you have to submit a traffic study, maybe the end of October. I think it would be worth having the bowling alley in.

Chairman Cosentino: I agree.

Anthony Oliveri: Will the pool be open yet?

Michael Gallin: (Re the pool), we are still dealing with the Department of Health. They are hopeful by the fall the pool will be open. It may be about the same time as the bowling alley. Unfortunately, there are

not well-defined dates because we have variables that are out of our control.

Chairman Cosentino: I think we will wait until the bowling alley is in.

David Stolman: We will put in the resolution that within two month's time of the bowling alley being operational we will have to submit a traffic study.

Michael Gallin: That is fine.

Motion to Approve the Resolution of Amended Site Plan for Canine Kindergarten, Diamond Properties, 333 North Bedford Road (underscoring the changes just made including dates for traffic study and issue of Westchester County Department of Planning stating the fact that it's local determination)

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

Continuing Review:

Kisco Avenue Business Center LLC
185 Kisco Avenue
PB2010-19

Present: Anthony P. Beldotti, President, Anthony P. Beldotti Management Corp.

Chairman Cosentino: We have a draft resolution before us; a letter from Andrea Oncioiu and Gregory McWilliams dated April 15, 2011.

Nanette Bourne: The issue facing the applicant in addition to getting site plan approval is to conclude SEQRA so he can get a storm water pollution protection plan application being considered complete by the Department of Environmental Protection (DEP). As you know from previous applications, DEP officially is not supposed to review storm water pollution protection plans until the lead agency has declared themselves lead agency and done a negative declaration. They vary those regulations with each application and for this particular one they are holding the applicant up until this is done. The board declared their intent to be lead agency at the last meeting. There is only one involved agency, which would be DEP. I had a telephone conversation with Andrea and her supervisor stated they did not want to be lead agency. We expected they would not. So, they have accepted the Planning Board as lead agency and you have the ability to issue a negative declaration based on the applicant's proposal, which is a modification of their site plan to increase parking. Their modification would result in a 219 square foot reduction in pervious area. It is a fairly simple application.

Motion to Declare a Statement of Determination of Non-significance for the Property at 185 Kisco Avenue.

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

Whitney Singleton: With regard to the parking, the parking spaces should be 525. There are seven spaces being proposed here.

Nanette Bourne: That is correct.

Whitney Singleton: In the prior paragraph, it should read "owner" not "contract vendee." Substantively, I'm sure it is in there, but is there anywhere within this resolution where it shows what use this is?

Nanette Bourne: No.

Whitney Singleton: So this application is solely for the site plan. There are no uses being changed within the building?

Anthony Beldotti: No.

Whitney Singleton: We should probably have a representation of that as a condition that it is solely for the approval of the site plan and no use change is authorized. If there is a use change it has to be reviewed. It is solely for the purpose of site modification and there is no authorization for change in the tenant usage.

Anthony Beldotti: The tenant usage is based on zoning, and zoning is based on the parking count.

Whitney Singleton: Yes. If you have a change of the nature of the use, you must come to Austin.

Nanette Bourne: That would be an additional provision of #17.

Whitney Singleton: I suggest adding #18, "any proposed changes result in site modification is required by NYCDEP shall require a return and approval by the Planning Board."

Nanette Bourne: That is here in #5.

Whitney Singleton: Thank you.

Anthony Beldotti: #14 is already set into the building regarding the backflow prevention devices.

Whitney Singleton: On this application I don't think it is significant, but where we have applicants leaving us, they are then going to begin their review of DEP. How does that impact the length of the approval? We generally put as a requirement that discussion has to be held and completed.

Nanette Bourne: This is an age-old issue that we have had with DEP. If you look at the regulation of DEP, they periodically become very

rigid in their regulations and they will not engage an applicant or consider a formal review of an application until they get site plan approval from the Planning Board, which, in my opinion, is absolutely absurd. The case in point was the intergenerational center. You approved it subject to DEP approval, and they made significant site plan modifications that I don't think the Planning Board would have approved. There was no recourse for bringing them back to the Planning Board. We are trying to create a good working relationship with DEP, so we do a little bit of an "in between" dance to make sure that by the time the Planning Board is ready to issue the Negative Declaration and you are about to issue site plan approval, you are fairly confident that the DEP has provided the applicant with substantive issues so that what is left is for them to make minor changes to the modeling, but not site plan changes. It is a really difficult dance to dance.

Chairman Cosentino: So you're saying that they like to see the resolution passed before they do anything and it's not fair to hold the client up because of that.

Nanette Bourne: Yes, we had this with Old Iron Warehouse.

Anthony Beldotti: We submitted all of the requirements that they wanted. They were, I thought, waiting for the Negative Declaration and they were then going to start proceeding. We did not think they were going to make any more substantive changes. In fact, they didn't make any substantive changes to the plan.

Nanette Bourne: In my conversation with them, they were comfortable with the plan.

Motion of Resolution of Approval for Modification to the Approved Site Plan for Kisco Avenue Business Center, LLC, 185 Kisco Avenue, PB2010-19

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

Chairman Cosentino: You're all set; you have a beautiful building there.

Anthony Beldotti: Thank you for all your help.

Special Discussion:

Memorandum from Building Inspector Austin Cassidy dated April 20, 2011 re Outdoor Dining Study

Austin Cassidy: At the last meeting the Board asked for a somewhat atypical cross section of the village so we can get an understanding of typical relationships of inside seating and inside table counts vs. outside seating and outside table counts at restaurants where there is

outside dining. Both in terms of geography and size, I essentially took random samples through the village.

Ralph Vigliotti: Are these actual counts or what is on file?

Austin Cassidy: Hard counts.

Chairman Cosentino: I always thought a "people" count would be better than a seating count. Some of the other Board members felt that count was a lot. I think it would reduce the amount of people that can be out there.

Vice Chairman Sturniolo: We said two weeks ago that we were all concerned that table count may not be the appropriate number to use regarding outdoor dining vs. individual seats. We were looking to get draft language to submit to the Village Board about making a change in the village code using seating vs. table count. That is what we discussed at our last meeting as well. We wanted the seats substituted for tables.

Chairman Cosentino: We wanted the Village Board to look at this because it is a concern of this Board that it's an individual count and not the table.

Austin Cassidy: In amending that, Mr. Vigliotti said that he could not perceive how a discussion could go in the abstract without having some stats in front of the Board.

Whitney Singleton: A side issue is whether or not the outdoor seating should have an associated parking requirement.

Chairman Cosentino: Maybe so. Maybe there should be a parking requirement for the outside seating. Right now the outside seating is blown way out of proportion of how many can and cannot sit there; do we need more parking spaces because of the outside seating? This is long, long overdue and really needs to be studied. It seems Mount Kisco has become a restaurant leader of the county. More and more restaurants are opening up here with more and more seating is being placed outside. It's time we do this. I would like to schedule this for a work session.

At this point, the work session was scheduled for the Planning Board Meeting on May 10, 2011.

Ralph Vigliotti: Austin, may we also get a copy of the current outdoor dining code?

Austin Cassidy: Yes.

Chairman Cosentino: I want to add that this Board is not against outside dining. We are looking to control it.

Correspondence:

New York Metropolitan Transportation Council Notice of Comment Period

At this time, Mr. Cassidy reminded the Board that it was decided at the last meeting to schedule a field visit for Saturday, May 14, 2011 at 9:00 am at Glenclyff. Chairman Cosentino asked Mr. Cassidy to send out reminder notices, and Mr. Cassidy reminded the Board that they will be meeting here. It is a gated estate, so they need to coordinate.

Whitney Singleton: Pursuant to your rules for procedure, you are allowed to confer with counsel on pending proposed and existing litigation matters. It is not executive session, per se.

As there was no further business to be discussed by the Planning Board, on a motion by Mr. Vigliotti, seconded by Vice Chairman Sturniolo, the meeting was adjourned at 8:30 P.M., at which time the Planning Board entered into a conference with counsel to discuss a pending litigation.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

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