

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, May 10, 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
 Doug Hertz
 Stanley Bernstein
 Ralph Vigliotti

Members Absent: **Sol Gibbons**

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

Staff Absent: **Austin Cassidy**

Acceptance of Minutes

April 12, 2011 – Regular Session

Question:

Vice Chairman Sturniolo: On Page 2, Line 48, where it reads “the idea of table vs. draft.” I don’t believe draft is the right word, I’m not sure what the right word is, and considering the fact that I uttered it, it is probably wrong anyway. I suggest we delete that sentence.

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

Final Action:

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

Present:

Ira Granberg, Granberg & Associates
James Atwood, Owner of KH Realty

Chairman Cosentino: I notice on Page 3 the words “Food Prep” are on each floor. Please define that.

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Ira Granberg: It is basically a glorified waiter staging. As the dumbwaiter goes up and down the building, for the rooftop there will be storage for hors d'oeuvres.

Chairman Cosentino: We should state in the resolution that there be one operating kitchen, just to identify "prep" as not a kitchen.

Whitney Singleton: I would suggest other than restaurant seating and the first step in the rooftop you delete. The food preparation is going to take place in the basement and first floor.

Ira Granberg: Other than, in summertime, there might be a grill on the roof. That has always been in the plan, but no actual kitchen facilities as such. No dishwashing, no food prep; mostly pre-prepared.

Ralph Vigliotti: Do you want to take the word "kitchen" out of the second floor and rooftop sections?

Whitney Singleton: I will point out that Chapter 93-4 of the code has a provision that says "preparation of food and beverages shall be served in sidewalk cafes or shall be prepared within this restaurant or retail food area. I think it's better to simply leave the first two the same and just say restaurant.

Jim Atwood: I am thinking if something comes up and you put it on a plate. We are not going to be doing any cooking on the second floor, on the rooftop except incidentals, coming from the kitchen "factory" (first floor and basement). Do you want to strike the words "kitchen" and keep "food prep" on the second floor and rooftop?

Whitney Singleton: It specifically states that you are not supposed to have food preparation outside. I would suggest you leave the basement description as is, the first floor I would refer to as "kitchen food prep and patron area and food retail," second floor is patron area and the rooftop is outdoor dining. That would be fine. Invariably in town there is a certain amount of accessory food service area in every outdoor dining and sidewalk café; whether it's filling the water glasses, bussing tables, etc. It exists at every place.

Chairman Cosentino: So, it's okay to make a hamburger or a hotdog?

Whitney Singleton: That is not my call; that is Austin's call.

Chairman Cosentino: So we will let Austin decide that.

Whitney Singleton: If you refer to the rooftop as outdoor dining, and just as outdoor dining.

Ira Granberg: I've gone over with Austin exactly what we are going to do, and he did not see any issues for that.

Nanette Bourne: This language came directly from the site plan. So the final site plan would have to be changed to reflect that. It could be Condition #36.

Vice Chairman Sturniolo: On the same Page 3, "Whereas per Chapter 93... [WWS1]. Is that an integral part of the paragraph?

Whitney Singleton: That was one of my changes. The comment was why there was a reference to 110-46 regarding special use permit requirements when there is no reference to a special permit use. The only situation in which a Special Use Permit requirement is triggered is in the event that the restaurant is over 8,000 square feet. My suggestion would be to take out the bracketed area, separate that off by commas, put in the words, "to the extent applicable," and continue. That is a function of inconsistencies and deficiencies in the code.

At this point, Chairman Cosentino advised the applicant that four votes are needed, and there were at that time, only four Board members present. The applicant responded by noting that he would rather vote this evening with only four Board members present.

Motion of Final Resolution of Approval for Site Plan Modification, 130-132 Main Street, KH Realty, PB2011-2 on May 10, 2011

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

Chairman Cosentino: Congratulations on an interesting concept. I hope it works for everybody. Rooftop dining is something new for the Village, and I think it is going to be great for the Village. I am glad it's happening.

Jim Atwood: We will build something that you're proud of.

Chairman Cosentino: I know, and you have the right people to do it.

Whitney Singleton: Regarding the condition about the licensing agreement for the Village, is any aspect of that changing?

Jim Atwood: It references the site plan.

Whitney Singleton: Dimensionally or qualitatively, is anything changing?

Jim Atwood: I don't think so.

Ira Granberg: I have not seen that, so I don't know.

Jim Atwood: My recollection is that nothing will change.

Whitney Singleton: I am speaking of the work to be performed on public property. You will need to provide copies of those plans to the Village Board.

Jim Atwood: I believe the text of the license won't change. It references the site plan, which obviously has changed.

Continuing Review:

**Glen August
151 Sarles Street
PB2011-4**

Present: Edward J. Delaney, Jr., Bibbo Associates, LLP

Chairman Cosentino confirmed a site visit for Saturday, May 14, 2011 at 9 A.M at Village Hall, to arrive at Glenncliff at approximately 9:30.

Ed Delaney: Since we last met, we provided additional plans to the village consultants and have gone in front of the Architectural Review Board, from which their approval was received in late April. We are back here for continued discussion to set up our site walk for Saturday morning.

Chairman Cosentino: Our main concern is the quality of life around the area.

Ed Delaney: I think you will be pleasantly surprised about what you cannot see.

Anthony Oliveri: You need to adjust your limited disturbance to go around the whole disturbed area, the temporary sediment pond, and temporary basin. You limited your disturbance to the finished product.

Ed Delaney: That is the last thing we added on there.

Anthony Oliveri: You also need the out poles for the outlet protection.

Ed Delaney: We don't want it on bare ground.

Stanley Bernstein: When we approved the lake, at that time I asked Mr. August if he would consider a conservation easement because it's right next to The Marsh Sanctuary, a wildlife sanctuary. I asked if there was a possibility of working something out. He sounded amenable at that time, but nothing came of it. Perhaps you can ask him again pleasantly; no one is demanding anything, if there is a possibility of a conservation easement.

Ed Delaney: We can ask. Most of our clients are 50% one way and 50% the other way.

Stanley Bernstein: Thank you.

Ed Delaney: I will have the corners of the building staked out to give you a size dimension on Saturday.

Special Discussion:

Outdoor Dining Study Parking Issues

Chairman Cosentino: At our last meeting we discussed people seating vs. table seating.

Vice Chairman Sturniolo: If we read the bottom of page two of our minutes and all of page three, we will have an overall summarization of what we discussed and what we expected and what we are looking toward.

Chairman Cosentino: Unfortunately, Austin went home ill today. I know he had some important information he wanted to give us.

Vice Chairman Sturniolo: I would also like to raise the point of besides substituting the word "seats" vs. "tables," maybe we should consolidate the approval process of outdoor dining. Right now the Village Manager is allowed to do X amount, the Building Inspector X amount, and the Planning Board X amount. Maybe we should consolidate that, clean up the language and let everything rest with the Planning Board. We have an example in our packet at the last meeting of how many different outdoor establishments that Austin provided us, and it is surely an increased workload. Maybe we should consolidate the three different entities, the manager the inspector and the Planning Board into one approval group, being the Planning Board. It is simpler and cleaner.

Whitney Singleton: When I found out that Austin was not going to be here this evening, I composed this memo to point out to you some of the issues that should be considered modifying this particular section. My first issue is under the word "definitions." Outdoor dining area is defined as "a restaurant, café or other for-profit dining facility located outside of any building." I never really thought that was a problem, but the term "outside" has taken on a "subject to interpretation" meaning. Is a rooftop outside? That is perhaps something that should be addressed.

Chairman Cosentino: Do you think there should be something that should go along with that? When you say rooftop/outside, shouldn't there be some other definition? If a building comes in where we honestly don't believe rooftop dining should be there for some unknown reason, even though it has to be approved by this Board, that could be denied by this Board for certain reasons. This place (KH Realty) is ideal for what it is. There may be other places that are not ideal.

Anthony Oliveri: You cannot address it as a condition, you have already set the precedent that rooftop is outside.

Chairman Cosentino: When you define "rooftop," shouldn't that be determined by the building inspector and Planning Board?

Whitney Singleton: No. It is not your job to interpret the zoning.

Chairman Cosentino: Can we deny it for reasons?

Whitney Singleton: That is not part of the definition. That is part of the discretion of your board. The question is how are you going to define the term, "outdoor dining?" Whether you approve it or deny it is another matter. In light of the fact that The Brass Horn has pushed the envelope as to what constitutes "outdoor dining," you may want to propose new language.

Stanley Bernstein: The definition of "outdoor dining" specifically says outside the building. Rooftop dining is not outside the building. There has to be a whole new definition. You have a list of outdoor dining definitions, and we need one for rooftop dining. Otherwise it's not going to work.

Chairman Cosentino: I do not want outdoor dining and rooftop dining to be the same. Rooftop dining has to be completely set aside with a different definition. We are trying to prevent, "including" rooftop. We want it to be separate.

Whitney Singleton: Do you deem the roof to be outside of a building?

Stanley Bernstein: Technically it is not. It is part of the building.

Vice Chairman Sturniolo: Maybe leave it the way it is and address in a second sentence what "rooftop" constitutes.

Chairman Cosentino: I am not happy the way it reads here. It has to be separated.

Whitney Singleton: The next, Section D, the permitting authority, who is the issuing body.

Vice Chairman Sturniolo: I'd like to clean it up, make it simple and have it less regionally interpretive. I'd like to see that the Planning Board as the approval authority for outdoor dining and/or rooftop dining as well.

Chairman Cosentino: Are you saying more than 10?

Vice Chairman Sturniolo: Yes.

Whitney Singleton: I believe Vice Chairman Sturniolo is saying that the Planning Board should be the issuing body for everything, sidewalks, etc.

Chairman Cosentino: I agree with him.

Whitney Singleton: I'm not disagreeing, but right now you have the Village Manager, Building Inspector and Planning Board as all being potentially issuing authorities of outdoor dining.

Vice Chairman Sturniolo: That should be changed to Planning Board. Period.

Stanley Bernstein: I agree with that.

Whitney Singleton: Annually there should be a meeting in which outdoor dining permits are addressed.

The Planning Board all agreed.

Nanette Bourne: They will have to be exempt from that process.

Stanley Bernstein: Yes, it has to be put in the language that it is a renewal of license, which does not require any application.

Chairman Cosentino: Is there a fee now?

Whitney Singleton: Yes. There is supposed to be a renewal each year. I had lunch today at Lexington Square Café. Wonderful outdoor dining. They have more than 10.

Nanette Bourne: I believe that was before the outdoor dining law was in force.

Whitney Singleton: It's irrelevant. We have a law that says your permit is only on an annual basis.

Nanette Bourne: Lexington Square Café outdoor dining was approved before.

Whitney Singleton: It does not prohibit the change of law.

Nanette Bourne: So that's why they are not coming in?

Chairman Cosentino: I think we can do a better job of implementing the procedure on outdoor dining. We put more into it. Also, we are not here to hold anybody up.

Nanette Bourne: As long as there is a streamline for renewal.

Ralph Vigliotti: Does the Village send out a letter in the winter to the restaurants that have outdoor dining?

Vice Chairman Sturniolo: That is an excellent idea.

Whitney Singleton: I agree with Nanette that it could be a very streamlined process. They should all be on the same agenda.

Chairman Cosentino: That is what we have to work on.

Whitney Singleton: Everyone's outdoor dining permit or sidewalk café permit expires on December 31 each year. It's already in the code. It should really be coordinated with the Building Department and law enforcement. Going through, under Paragraph D-1-A, "*the village manager is hereby authorized to grant revocable permits for the use of the sidewalks in non-residential zoning district for sidewalk cafes...*" There is no limitation in there as to seating capacity. If you look at Paragraph (b), the jurisdiction of the building inspector is limited to outdoor dining areas providing seating for 10 customers or fewer on privately owned property. If you were to have separate permitting authorities, they should probably have the same jurisdiction as far as the number of seats that they can approve. If someone were to come in and approve seating for 60 on the sidewalk, theoretically there are certain properties that can do that – that perhaps shouldn't be done administratively by the Village Manager, but should be done by a Board that is familiar with the layout of the restaurants, parking, etc.

Vice Chairman Sturniolo: That gives it more credence to the fact that all this should be Planning Board approval.

Whitney Singleton: That is why I put out D (2), "should this be limited in number to seating for ten, as in subparagraph (b). The Building Inspector is authorized to issue up to ten presently, ten or fewer, on privately owned property in non-residential zoning districts subject to the conditions of subsection D(2) and renewal permits for outdoor dining permitting by the Planning Board pursuant to Subsection 1(c). Your board is saying that you want Paragraphs A, B and C all to hold onto the Planning Board's jurisdiction?"

Vice Chairman Sturniolo: Yes.

Whitney Singleton: I am confused by Paragraph D 1(c), "*the Planning Board is hereby authorized to grant permits for outdoor dining areas on privately owned property in all non-residential districts, other than CB-1 and CB-2 Districts, and for outdoor dining areas in the CB-2 and CB-2 Zoning Districts providing seating for 11 customers or more.*" I am confused as to what the distinction is there. They might be trying to say that any zoning district other than CB-1 or CB-2, the Planning Board makes the determination respective of the numbers. In CB-1 and CB-2, the Planning Board only has jurisdiction for more than ten.

Vice Chairman Sturniolo: That will be superfluous once we condense our proposal to the Village Board.

Whitney Singleton: If things were to stay the way they are, I don't see that the Building Inspector could circumscribe in Paragraph B to mirror the jurisdiction in Paragraph C, which states that the Planning Board is the issuing body for any non-residential zoning district other than CB-1 or CB-2 and that they are the issuing body for more than ten seats in CB-1 and CB-2. Paragraph D does not limit the building inspector's jurisdiction to CB-1 and CB-2, which it should if it's been properly mirrored in Paragraph C. If the Planning Board does not have jurisdiction over all these applications, that should be addressed. In Paragraph C it states "*subject to the requirements of § 110-46 in this code.*" I had gone to § 110-46, which are the special use requirements, for the code, and there is nothing regarding outdoor dining.

Nanette Bourne: I interpreted § 110-46 has the performance requirements.

Whitney Singleton: Right, but there are no standards set forth within § 110-46. I am reading this as they want people coming in for outdoor dining come in as a special use requirement, and that has not been your practice. If that is the case, Public Hearings would have to be held for outdoor dining. I don't know whether that is something you think is appropriate or inappropriate.

The Board agreed it does not need Public Hearings for outdoor dining.

Whitney Singleton: Certainly this should be an issue that is clarified with the Village Board and rectified in the code.

Nanette Bourne: 110-46-A-1 is what talks about it.

Whitney Singleton: Maybe we should simply lift that language out.

Chairman Cosentino: Paragraph G states, "*the Village Manager shall grant or deny an application for a license pursuant to this section within 60 days of its complete submission.*" We would narrow that down. Our application will be a lot quicker than that.

Ralph Vigliotti: We should send out notice in January or February and establish a meeting in which they must attend.

Whitney Singleton: With regard to outdoor entertainment, it opens up the issue as to what is appropriate. Right now it says you cannot have it if people are going to be sitting on the roof of The Brass Horn or Mango Café or Fab and background music is playing.

Ralph Vigliotti: Whatever way we go, when we do have our meetings with restaurants that have outdoor dining, that would be a great time to review the rules and how they will be enforced.

Chairman Cosentino: I like that idea. We are very capable of putting this together and having them come before us. There may be some that have problems, which can be addressed right here.

Doug Hertz: Regarding the music, it's a tricky thing. If a restaurant has glass doors that are going to open – like Eduardo's – all of a sudden the music is playing outside, how does that get defined?

Vice Chairman Sturniolo: The source is inside but the spillage is noticeable outside vs. the source being outside as well.

Doug Hertz: It is possible these days to bring out wireless speakers to have ambient music. Is that something we object to? What would be objectionable? If it interfered with the business next door?

Whitney Singleton: That has already happened. Eduardo's has already received complaints from residents.

Chairman Cosentino: By doing that, they have outdoor music where they should not. That is a violation.

Doug Hertz: We have to decide on a level of music. You already have noise statues in residential neighborhoods. We don't mind quiet music, but we do mind a bandstand. Outdoor dining is a very small adjunct to their indoor restaurant. I personally don't think it would be a terrible hardship to say, "No music."

Ralph Vigliotti: I agree.

Doug Hertz: It might be something that we want to take situation by situation. Do we want to automatically say no?

Chairman Cosentino: It definitely has to be controlled. There is already cabaret license on the books.

Doug Hertz: This is not cabaret.

Chairman Cosentino: No, but if they have music inside with outside dining, how do you control that if the music flows outside?

Doug Hertz: It's different if he has a cabaret license.

Whitney Singleton: It doesn't matter if he has one or not if it is stereo music. You don't need a cabaret license to have stereo music.

Ralph Vigliotti: My concern is along Main Street, where there are a number of apartments above restaurants and storefronts. It can get noisy.

Chairman Cosentino: If the music feeds out and the owner opens the doors, that is violation and for code enforcement. I would leave "E" the way it is with no outside music.

Whitney Singleton: Based upon recollection, most of these places do have music outside.

Chairman Cosentino: Then that is Code Enforcement fault.

Whitney Singleton: On 2 B, Furnishings, the last sentence reads, "*all furnishings shall be removed from the sidewalk and stored in an approved manner when the sidewalk café is not in operation.*" Do you want that to be in? This is specific to sidewalk dining only.

Chairman Cosentino: Absolutely.

Whitney Singleton: What is troublesome is when they do that, because they don't want to bring them in every night, they also want to protect it, so they chain it. This says you cannot do that.

Chairman Cosentino: We don't have the enforcement to check on these things. There is nobody to police it, and as one member of this Board, I am tired of that. The violations that are out there need to be enforced.

Doug Hertz: I would like to comment that the situations are different in all the various restaurants because of the width of the sidewalks and what they are adjacent to, etc. There are some restaurants where having outdoor dining doesn't impede traffic and the sidewalk is extra deep, etc. With Fab, their sidewalk is not functional for anything else. In some of these situations, I do not know what we are gaining by requiring they take everything in and in other situations it is an absolute must.

Chairman Cosentino: Then you have to change what is in the books. You cannot do for one without doing for the other. It is not happening here.

Doug Hertz: Is there a way to create an approval where a determination is made that the furniture will have to go in or not?

Anthony Oliveri: The intent is that if it is on public sidewalks, it has to come in. If it is on their property it's different.

Whitney Singleton: A sidewalk café is defined as anything between the edge of the building and the curb, whether it's public or private property.

Anthony Oliveri: Maybe it can be defined as anything within the village right of way.

Ralph Vigliotti: Café of Love is a perfect example. It's not on town property and not impeding on the sidewalk. But there are those that are on village sidewalks and it should be taken in. It poses a nuisance.

Chairman Cosentino: There could be provisions for this, but if there is something within our code that prevents it, that is what you need to change.

Doug Hertz: I understand, but this whole thing should be looked at while we are reviewing it.

Whitney Singleton: Doesn't it do that for you right now? It talks about things not being left outside that are on the sidewalk for a sidewalk café, public or private. Fab, Mango, Café of Love are all sidewalk cafes.

Doug Hertz: I am not convinced that all those really benefit the town from having to come in at night. I am throwing this out there. Is there a benefit to taking them all in? In the cases where they are defined as sidewalk cafes because they are between the building and the curb but they are on private property. I think of Café of Love, for instance, where it is tucked way in. It's not on the sidewalk.

Vice Chairman Sturniolo: That is definitely contrasted to Eduardo's, where it is right on village owned property.

Doug Hertz: I agree they are very different situations. I am wondering are there situations where we think it's beneficial to have the tables taken in every night? Does it serve a purpose for aesthetics or safety?

Whitney Singleton: From my observation with my office next door to it, I don't know if leaving the furniture out is a problem; that is not what they do. They chain everything. Aesthetically, that presents a problem.

Vice Chairman Sturniolo: And they have more than 10 tables outside.

Doug Hertz: Are we thinking leave them out, but leave them out at your peril?

Whitney Singleton: Actually that code provision says, "*Shall be stored in an approved fashion.*" Maybe that language gives you the discretion to approve on a case-by-case basis.

Ralph Vigliotti: The key is "the public portion of the sidewalk."

Vice Chairman Sturniolo: And there is the discretion of the Planning Board.

Whitney Singleton: Paragraph (f) 1: (Delineation of Dining Area) Do you need those things to be necessary? I would suggest some sort of generic language be put in there that says other appropriate provisions as determined by the permitting authority or the Planning Board, as

the case may be. I don't think you need to barricade the chains and flower boxes.

(The Board agreed).

Paragraph (g) is regarding accessory use. The number of tables shall not exceed one-third (1/3) of the total number of tables within the premises. We want to keep seats

(The Board agreed).

Chairman Cosentino: Are heaters with propane tanks prohibited in a public area?

Ralph Vigliotti: Heaters are allowed.

Whitney Singleton: It would be on the plan if they are approved.

Anthony Oliveri: It is governed by the building code and has to be an enforcement thing.

Whitney Singleton: You can also put a provision on your design guideline, where you can say, "*all items to be placed outside shall be depicted on the approved plan.*"

Nanette Bourne: It should be on the plan, and when they come before you for their renewal, all items should be included on the site plan and ask the question.

Doug Hertz: Going back to (g). If we are saying number of tables, seats, etc. shall not exceed 1/3 of the total within the premises, are we allowing an expansion of 33% of their usage for the summer months?

Vice Chairman Sturniolo: We need to incorporate language referring to non-compliant restaurants.

Whitney Singleton: We discussed previously where we have a situation where they are pre-existing non-compliant with regard to parking. Is it appropriate to allow them this 25% increase in capacity, even if on a seasonal basis, where they are sub-standard regarding parking? The compromise that was reached in their approval was basically that they were limited to 10 seats.

Doug Hertz: I know we did that specifically, but if another restaurant is approved without rooftop dining and they can show that they have adequate parking but not in excess, they have just met their requirement. In the summer, are we allowing this expansion without taking away an appropriate amount of interior space? There is no part of the code that says you have to make a change in the interior. I don't know that we have run into problems because of it.

Whitney Singleton: We've handled two situations like that, and the position of the Planning Board was consistent. To the extent that you want to have outdoor dining beyond what we've given them has got to come out of the expense of indoor dining.

Doug Hertz: Do we want to put that in a language now or do we want to wait until a specific restaurant comes before us? When a new restaurant comes for approval, do we discuss the possibility of outdoor dining with them in their conditions of approval and make that determination at that point?

Whitney Singleton: This was discussed at the last meeting. The permitting presently by the Village Manager and the Building Inspector does not have an associated parking requirement. For up to ten there is no parking requirement. After that, it is to be determined by the Planning Board. There was also a discussion that perhaps in the event that someone has not complied with the parking, they should not be entitled to additional spaces outdoors.

Nanette Bourne: There is a note in the parking requirement provisions that you may want to have applied, which is, "*the Planning Board can require a parking study if, when combined with the opinion of the Board an increase in the number of parking spaces required may be warranted,*" which is maybe what you are referring to. That way we don't burden every outdoor dining with having to provide additional parking.

Whitney Singleton: That would come into play particularly as these permits are ending. You are not grandfathered; it is an annual permit. 222 Main Street is the only one that has some degree of parking, yet they don't have sufficient parking under our code. If we take a position that anyone that is not compliant with regard to outdoor dining can't have any outdoor dining, that is going to take a site like 222 and kill four restaurants.

Doug Hertz: I am not taking that position; I am asking the question.

Vice Chairman Sturniolo: We could put a cap on it.

Doug Hertz: If they want to have outdoor dining and they are clearly crunched for parking, they can always swap indoor for outdoor. I don't see why that would be problematic.

Ralph Vigliotti: The key word here is that it's seasonal use.

Doug Hertz: We want to set up a situation where these restaurants can thrive without negatively impacting what everyone else wants to do.

Chairman Cosentino: I agree.

Ralph Vigliotti: I think we need to be careful on that. Seasonal can be four months, not necessarily six. Parking becomes a real issue then.

Doug Hertz: Even if we want to do something that says if you are non-compliant in terms of parking, anyone would have the ability to apply.

Whitney Singleton: Do you want to provide a nominal number of outdoor seating irrespective of whether you're compliant or not?

Doug Hertz: If it is a small number, I have no issue with that.

Ralph Vigliotti: The seating was always based on the ratio of tables. If we go to seats, we have to be careful on that ratio. The one-third was one-third the number of tables. Now we are looking at whether it should be one-third the number of seats. It might have to be 25% of the number of seats. Let's assume there were 30 tables. One-third would be ten seats. But 30 tables could have 90 seats, which means outside you would be putting 30 seats. I think the number of seats would shrink, as opposed to the number of tables.

Whitney Singleton: I think the way it's written now affords an applicant the ability to ambulate the numbers.

Ralph Vigliotti: So we are going with seats, but it shouldn't be one-third the number of seats, as we have now one-third the number of tables. I think the number should be smaller. I think it should be 20% the number of seats.

Whitney Singleton: That is for the Board to decide.

Ralph Vigliotti: If a large restaurant has 30 tables, 33% outside would be ten tables outside.

Whitney Singleton: Just choose a seating capacity inside.

Ralph Vigliotti: We have to take a real close look at that. I don't think the one-third stands anymore, once we go to seats.

Whitney Singleton: Most of them have seating capacities under 100.

Chairman Cosentino: We need to get our thoughts together and continue this. It is important that this be finalized and get on the books. Whitney, you did an excellent job.

Vice Chairman Sturniolo: We stopped the discussion at the end of 2 (g), (Accessory Use Only) with the exception that under Design Guidelines we talked about adding a #6. I think having this special discussion on our agenda and continuing on is extremely crucial. This is an important subject that we need to correct within the village, because the abuse and violations are rampant with the outdoor dining picture in general.

It was placed on the agenda for continued discussion for the May 24 Planning Board meeting.

Correspondence:

- New York Metropolitan Transportation Council Notice of Executive Committee Meetings
- Mount Kisco Beautification Committee April 6, 2011 Meeting Minutes

As there was no further business to be discussed by the Planning Board, on a motion by Vice Chairman Sturniolo, seconded by Mr. Hertz, the meeting was adjourned at 9:00 P.M.

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May 10, 2011

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm