

Minutes
Meeting of the Planning Board
Work Session
Village/Town of Mount Kisco
Tuesday, June 14, 2011

Meeting called to order at 8:00 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
Austin Cassidy

Acceptance of Minutes

May 10, 2011 – Regular Session

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

May 24, 2011 – Work Session

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

Public Hearing (Continued):

**Glencliff, LLC
(Glen August)
151 Sarles Street**

Present: Edward J. Delaney, Project Manager, Bibbo and Associates, Consulting Engineers
David H. Abelow, AIA, Abelow Sherman Architects, LLC
Hali Weiss, AIA, Abelow Sherman Architects

Austin Cassidy: Just to remind the Board, the last we had left this, you provided a homework list, for all intents and purposes, for the applicant to respond to.

Ed Delaney: There were concerns raised at the last meeting and you sent us on our way, one of which is that we did not hear anything

Planning Board Work Session
June 14, 2011

more than once at the Public Hearing with six or seven other residents of The Chase as to how it was going to look to them. They used terms such as "gross looking thing, airplane hangar", etc. We were fortunate enough to have taken pictures during the winter of what we considered the closest parts we can possibly get to. We have included them in our submission to you. In fact, the submission I made to you for the visual part of this is the two photographs that we thought represented the winter view and the summer view. We have driven around the project a few times and we believe it has a minimal impact on where the indoor tennis court is right now. We are here to address Mr. Bernstein's comments, to request an activity on the environmentally sensitive natural area. It's quite a title for your code. Most of the pavilion is not in an environmental sensitive area, and we are not tearing down anything. We are not in a wetland environment. We are clipping in the corners some of the slopes that trigger the permit. That is why we're here. As of right, if we were not clipping these two corners here, we would be in front of Austin to just get a building permit for an indoor tennis court. You asked us to show what is going on with this 25-acre site. I have provided here a graphic that shows all slopes over 15-25% and all the environmentally sensitive areas associated with the wetland buffer. As you can see, we do not have too many choices here. We can put the indoor tennis pavilion, which the client wants to walk out of their house and into, in front of their house. We can put it where their garages are and their entrance is, we can possibly put it down here next to Chase, or we can put it by the road. If our goal here was to provide an indoor tennis court not associated with the housing, these are the spots we could possibly look at. Every other thing means we tear down through slopes and we get much worse conditions than where we are right now. Also addressing the uniqueness of this proposal, and this being the largest estate single family lot that you have in your village, and with the uniqueness of this, you may never see a proposal like this in front of you ever again unless the August family comes back with something similar. With that being said, I misspoke at one of the meetings, Mr. Chairman, in that I told you how big this court was going to be. I didn't understand. They are building a club court, which is the smallest regulation court they have. It is much smaller than a U.S. Open court by several meters on both sides, length and width. Also, Mr. Chairman, some of your comments I took to heart. I, and my firm, have been employed many, many times in the Town of Bedford, which this was annexed from, which has several pavilions like this. If I talked to the town planner at Bedford and told him I had an indoor tennis court, he would tell me that I am starting at 9,000 square feet and going up. In the Town of Bedford, we can come up with eight or nine of these over the last ten years. They house Olympic swimming pools, basketball courts, etc. It is tremendous what money will do, obviously. We just finished one in Yorktown with a 12,000 square foot indoor Olympic sized swimming pool. We also have in Bedford indoor riding rings for horses. If we add in Pound Ridge, Lewisboro and North Salem, we have dozens and dozens of these. So, while it is fairly unique in your village because we have been annexed here, if we go across the line, you will see they have the same concerns. Lighting is the number one concern. We have told you before there are no external lighting and no windows on the side of this building. Other than that, that is basically what you've asked us to do. I think we've provided that. I will remind you that I did have the fire marshals there this week, and they seemed to have no problem with it. We have

Architectural Review Board approval for location, sizing and appearance. The consultants seem to be satisfied.

Chairman Cosentino: I believe Mr. Vigliotti spoke of a tree.

Ed Delaney: We have the famous beech tree here, which we will surround by construction fencing. In fact, I have not shown it on the town engineer's submission, but I think at the end of the day if you condition an approval, we will be doing deep root fertilization. This tree has to be trimmed. It's hanging over the house right now. It's going to look a lot different when I start this project after it's trimmed. If anyone wants to take a real good look at this tree, it's really going to change in the next couple of months, I would think.

Ralph Vigliotti: Is there an attempt to cable the limbs?

Ed Delaney: The limbs that are hanging over the house are terrifying. They are bigger than some of the trees, so they are coming down. The main branches will be cabled, but the limbs either coming over here or coming over the main house will be coming down.

Ralph Vigliotti: Why are they coming down now as opposed to five or ten or 50 years ago?

Ed Delaney: Right now they are hanging over the house.

Ralph Vigliotti: But they weren't five years ago?

Ed Delaney: I was not there.

Ralph Vigliotti: The point I am making is why wasn't this done five years ago?

Hali Weiss: Because the owner loves the tree, and she just didn't have the heart to do it.

Ralph Vigliotti: Now she has the heart?

Hali Weiss: She doesn't have a choice. I do not know. We've raised it many times.

Ed Delaney: There is a risk of it coming down on the house.

Hali Weiss: She has been advised many times by many different consultants.

David Abelow: Every tree surgeon that we've consulted makes the same recommendation; ultimately it is going to be up to the Augusts' to decide what is prudent for them.

Stanley Bernstein: It's not only a specimen tree. I cannot describe the feeling I have when I look at it. We asked you to move the pavilion, which you've agreed to.

Ed Delaney: We moved it 13 feet.

Stanley Bernstein: That tree is going to die. 13 feet is not enough for a tree that size, within the drip line, and there is no way you're going to save that tree.

David Abelow: There is a significant change, though. The original pavilion, which started right at the corner of the existing screen porch, has been pinched in by us by 10 feet plus moving the whole building 12 feet.

Hali Weiss: The length is only 12 feet wide now.

David Abelow: This first 12 feet is not sunken down that we would run a frost grade beam from the house, with the idea that if they cut, which will be 20 feet from the tree, they have a very good chance of selectively pruning the roots, because they are not excavating there. The excavation is happening significantly forward of the tree, which is a detail we've done before around very significant trees.

Stanley Bernstein: I don't think that tree is going to make it. I still think you're too close. And furthermore, it depends on what kind of equipment you are going to use for building and excavating. If you come in with big bulldozers you have compaction. It's not going to make it. Look at all the trees they lost at The Chase. I said at the original proposal that they are going to lose so many really good specimen trees unless you do a lot of work by hand or come in with the smallest possible equipment that is viable. No contractor wants to do anything by hand, nor do they want to do anything small.

David Abelow: The contractor was going to be here tonight, but they cannot be here. At one of the pre-construction meetings we had with the contractor, (it was decided) they are going to make access this way. This will all be significantly fenced.

Ralph Vigliotti: Is it your company that is going to oversee the excavation in and around the tree?

David Abelow: We are not the overseeing construction managers, but we are the architects of record. We have been engaged by the Augusts to be present during the whole construction phase. We will set out in writing the parameters for fencing and maintaining.

Ralph Vigliotti: It is due diligence on your part that have the contractors doing the right thing.

David Abelow: We share the perspective of the Board and Mr. Bernstein's concerns particularly.

Stanley Bernstein: Since it was moved 13 feet, the encroachment upon the steep slopes is even greater than it would have been according to your original proposal. Is that correct?

Ed Delaney: It's a couple of hundred square feet, but we were over the 5,000 to turn the mechanism, now we're at only 5,200. It really is insignificant. If you stood there, and I think you did, Mr. Bernstein, we are not tearing down a steep slope. We have a couple of little bumps, and I cannot get around the bumps.

Stanley Bernstein: I understand. I visualized that immediately. Everything you say is logical and correct. I am well aware that he can build anything as of right provided it does not affect the steep slopes or wetlands. He has a 25-acre parcel, and of course there is not much we can actually do about it except for the steep slopes. What you say about Bedford is certainly correct. Also, what you say about the annexation, I for one, even though I'm a Mount Kisco resident for many years, was against the annexation. It was the worst thing that could have been done environmentally. I have misgivings and ambivalent feelings about the whole thing, but if someone has a big piece of property you cannot stop them from building something. Looking at it, in fact, if you were going to build an addition to the residence, the same thing would apply. It is as of right. I want you to know how I feel even though there is not much I can do about it. Also, you need to talk to Mr. Oliveri about the storm water management. It's going away from The Chase. The Chase won't be affected from what I can tell, but there is a neighbor to the south, and they have some water problems there. I think that should be addressed.

Ed Delaney: It has been address in our storm water pollution protection plan. The amount of water coming us has been calculated. The neighbor is 200-400 feet away through dense woods. We do not see that impact at all. Certainly if we were near the property line, spilling over a cliff, but right now we're collecting in a sediment trap all construction debris if it rains, which the woods will take over once we abandon that, and we get this rock level spreader, so there is no pipe discharging water. It is spread along very rough rocks.

Anthony Oliveri: The issue I still have with that is that it is not a level spread. We'd like to see a level spread. It's a rock outlet. It flares out, but I think it's going to create drills and an erosion past that outlet. One of my original comments is that I would like to see a level spread. I mentioned it last time. You mentioned that you provided the rock outlet, but I think a level spreader can be done.

Ed Delaney: If I was close to the property line I would agree with you, but certainly we can provide instead of a rock outlet spreader like this, we can bring along the contour before it spreads out. We are still a few hundred feet away from the property line. That is not an issue and can be done in a detail like that.

Chairman Cosentino: There is no one from The Chase here tonight. If there were no steep slopes, you would not have to come before us and just get a permit and put this building up. We are not trying to control the building; we are worried about the visual and the steep slopes. If this passes, whatever it may be, the people of The Chase have to know we have no control on the building itself. You could have put a 15-bedroom addition onto the house, and if there was no steep slopes issue, you would not be before this Board.

Ed Delaney: No, but I'd still be before Mr. Oliveri because I'd still be triggering storm water. We are east of Hudson on a watershed, we are disturbing more than 5,000 square feet, which triggers another whole review here which goes right to Mr. Oliveri.

Anthony Oliveri: I know some questions came up before the Board regarding the disturbance. The disturbance of over 5,000 square feet

but under an acre falls in with DEC in which they have to provide a storm water pollution prevention plan, which they have, which really addresses storm water during construction. There is no requirement for storm water detention or treatment post construction. The same with the village code, the cut off is at one acre. Anything disturbed under one acre does not require detention or storm water problems. They are within their rights in terms of the code requirements.

Doug Hertz: One of the things that we have heard repeatedly in many applications that are before us is to make sure that we do not have adverse water conditions on neighboring properties. Although I understand what you are doing, one of the weighing factors in a steep slopes hearing is that you are going to be removing steep slopes, the village's code deems them to be of value, so we want to find out ways in which we can mitigate that. One of the things I want to be comfortable with is whether the code requires storm water management post construction. I want to be sure that we are not going to create an adverse condition onto the neighboring properties. It is not something I am expert in, but I want to make sure our consultants are comfortable that post construction we have a situation that is not worse than it is today. Ideally better, but certainly not worse than it is today. I think that is a minimal requirement we should be considering for this.

Nanette Bourne: There is a vehicle that you are responsible for administering, and that is SEQRA, which has nothing to do with what the village code or DEC code requires. The SEQRA requirement echoes what Mr. Hertz said. It is incumbent upon the applicant to demonstrate that there are no adverse environmental impacts that would result in this project after construction. It has nothing to do with the storm water pollution protection plan. You have to make a determination in a Negative Declaration on that. Has he provided you and all of us the information that validates that?

Doug Hertz: I know you raised a concern about the small size of the discharge channel, if Mr. Oliveri can be satisfied...

Anthony Oliveri: That would certainly make me more comfortable, but there is going to be an increase in the run off. There is an increase in the impervious areas. When I review it, I am going by what the code requires in terms of not requiring storm water retention on the site. The level spreader to me would disperse it enough. It's a big enough site that the impacts would be minimized, but there would be an increase to storm water run-off. When you look at the whole 25-acre site and did calculations, you'd have very minimal increases. If you look at a smaller local area, you'll see more dramatic changes. But the site as a whole would be a very minimal increase. He is fulfilling what he has to under the code, and I think if he does a little more with the outlet, I would be more comfortable with that.

Vice Chairman Sturniolo: Nanette, a moment ago you talked about fulfilling the requirements of SEQRA. Does that broad statement also include fulfilling the requirements of the Planning Board to get our questions answered?

Nanette Bourne: That is your responsibility as the Lead Agency.

Vice Chairman Sturniolo: I will get back to that in a moment. Mr. Delaney, earlier in the meeting you mentioned that you still had some issues you had to work out with the town engineer. In your letter to us you write, "All environmental issues have been resolved during the previous meetings and with the Board and discussions with the town engineer." That sounds contrary to what you said tonight.

Ed Delaney: I thought we satisfied all the consultants' needs.

Vice Chairman Sturniolo: We are talking about a point that you had to resolve with Mr. Oliveri. I am referring back to the letter you wrote to us.

Ed Delaney: The overall environmental issues had been resolved during previous meetings with the Planning Board.

Vice Chairman Sturniolo: Yes, and discussion with the town engineer. Tonight you said there are a couple of issues you still had to further resolve with the town engineer.

Ed Delaney: I don't think so. The only issue we have now is what Mr. Oliveri brought up. I thought I was satisfied with the rock outlet protection.

Vice Chairman Sturniolo: In that case, if I could ask my fellow Planning Board members, and I'm going to get back to Nanette's comment. Please look at Page Seven of the May 24 minutes. If we look at Line 16-30, if I could summarize it there was a discussion about a model of what this is going to look like. There was further discussion from Mr. Hertz about an eye-line from a couple of spots, how this is going to be perceived. Then there was a quote by Evan Lerner, a resident of The Chase saying, "Do both," meaning the model and the visual impacts, the pictures that we have. It concludes with Chairman Cosentino saying, "I do not think this is unreasonable considering the size of it." Do we have the model?

Ed Delaney: There is no model. The representation was through elevations, so I did not provide a model.

Vice Chairman Sturniolo: "I do not think this is unreasonable considering the size of it," making reference to the model, in addition to the photographs. So, we have no model?

Ed Delaney: We have no model.

Vice Chairman Sturniolo: Gee, I wonder why.

Ed Delaney: We previously provided elevations of all perspectives, both from The Chase and from east, west, north and south. Elevations are all part of the record; they are all tied into the roofline of the building. Basically those are your models, from every perspective.

Vice Chairman Sturniolo: Maybe it would have been better if you said you were not going to provide a model after Chairman Cosentino said, "I do not think that it is unreasonable considering the size of it." I expected to see a model here tonight.

Ed Delaney: I never intended to do that.

Vice Chairman Sturniolo: Sad.

Stanley Bernstein: With all due respect to Vice Chairman Sturniolo, and you know I respect you very highly. Considering the fact that there is not one person here from The Chase here today, and we specifically told them this Public Hearing is going to be continued for their benefit, (we could have closed the Public Hearing last meeting), considering that fact, I don't think we should make this applicant do any more than he has done. As long as he satisfies us, and our environmental concerns, as far as any note to The Chase that we felt before should be given, I think it's completely invalid now.

Vice Chairman Sturniolo: Whether the folks from The Chase are here or not is immaterial. When the request came, as a reasonable issue considering the size of it from the chairman, we should see a model, assuming there was nobody else in this room.

Chairman Cosentino: As Mr. Bernstein just said, Vice Chairman Sturniolo is well-respected on this Board for what you do. You are one of the members that dots your "I's" and crosses your "T's."

Vice Chairman Sturniolo: I do not believe this applicant has done that.

Chairman Cosentino: I have learned something that I know now that I did not know at the last meeting. The model would encumber the building itself. We are not really here to look at the building. If I would have known that at the last meeting, I would not have asked for the model of the building itself.

Vice Chairman Sturniolo: Then the applicant should have stated and written that in a letter explaining to us, in advance, in a timely basis prior to June 7, why the model was not going to be provided here, as requested by the Planning Board. It is a simple matter of following up, doing your homework and complying with what is discussed and what is requested.

Hali Weiss: I might be mistaken, but I think I read a letter of what we were asked to provide, and I don't recall seeing a model on that list.

Vice Chairman Sturniolo: I'm going by meeting minutes.

Hali Weiss: I understand, but I think there was a letter that was then issued to us with a list.

Vice Chairman Sturniolo: From whom?

Ed Delaney: The residents of The Chase. I do not remember the summation of the meeting. There was certainly a discussion, but at the end of the day it was more about a visual from The Chase. It was not about the building itself.

Vice Chairman Sturniolo: That is an interpretation on your part, which has nothing to do with a directive of the chairman of the Planning Board to provide a model in addition to the photographic submissions that Mr. Hertz asked for and is here. I am talking about simple housekeeping chores. Models are expensive; I realize that. But let's own up to it and say, "I can't do it. I don't want to do it. It's too

expensive, it's not going to provide any information." Whatever the litany of reasons are, let's say it, but not leave this Planning Board to believe that we are going to see a model of this when it was requested.

Ed Delaney: I never led you to believe that you were going to see a model. I never heard that in the summation. I apologize. I did not hear that directive. I heard it as a discussion, but at the end of the day I never heard "please provide us with a model," as a directive.

Vice Chairman Sturniolo: "I do not think that it is unreasonable considering the size of it; the reference to the model as well as the photographs that you submitted".

Ed Delaney: I cannot say anything more than I've said.

Vice Chairman Sturniolo: Fine.

Stanley Bernstein: I have a request, which is not germane to this particular meeting but a general request. My colleague, Harry McCartney, and I have made an informal list of all the great trees in Mount Kisco. Naturally there is no way for us to have gotten to see your tree. I would like to go up there with Harry and maybe take some pictures before you begin to work on the tree, such as removing branches.

Chairman Cosentino: I would suggest the village do it instead of a member of the Board.

Stanley Bernstein: I really would like Harry to look at the tree.

Ed Delaney: If you represent an organization of the Village of Mount Kisco, we will send our client a letter asking for permission to come on Board. If anyone here wants to come and look at the tree, write us and we will process it.

Chairman Cosentino: We will leave the Public Hearing open for 10 days for written comment.

Whitney Singleton: Regarding any further submissions, revisions, addenda that you want the applicant to submit between now and next time they are here before us, what other documents are to be? Are they to be to address the spreader? Is there any change in the landscaping, particularly the building? We should make sure they are properly carried out.

Nanette Bourne: If you get to a point where you want to move this towards an action, the Planning Board needs to submit a revised set of the drawings that you want your board to take action on.

Ed Delaney: I heard everything here. What is going to happen back to the village is going to incorporate an additional tree protection here, during construction, what David was told on the plans about protection of the tree and the beam and the sequence of construction, surrounding by orange construction fence, adding Mr. Oliveri's level spreader. That is everything I heard here tonight and that will be put on the last of the plans.

Nanette Bourne: It has to be a complete set of plans that show all of the revisions. I think you had one revision with the landscaping. Wrap it all up as one full set of plans.

Chairman Cosentino: Know there is a time limit on that, so check with Mr. Cassidy and make sure the full set of plans goes to Ms. Bourne.

Ralph Vigliotti: Mr. Delaney there is landscaping as well as additional buffering?

Ed Delaney: We decided not to do that. We took that off at the second set of plans. The planting of spruce trees or pine trees on that slope looks totally unnatural. There is really no screening necessary. Right now, you have a landscape plan that will be incorporated. You can tell me whether you want to leave that or not. The owner is dead set against that. He thinks that it will just look totally unnatural to look up and see what you cannot see anyway and see a line of spruce trees in a hardwood forest.

Whitney Singleton: In lieu of that, is there representation by the client that a certain perimeter of the existing vegetation would remain undisturbed?

Ed Delaney: It's already on the plan. The area of disturbance is clear on the plan. It has always been there.

Chairman Cosentino: We will keep the Public Hearing open for ten days for written comment. We will then have a draft resolution at the next meeting with the following meeting for approval.

Nanette Bourne: Notice of Intent to be Lead Agency will be sent out tomorrow.

Discussion followed regarding meeting dates, public notices, etc.

Motion to Close Public Hearing and Extend Written Comment for 10 Days:

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

Mr. Oliveri left the meeting at this time.

Special Discussion:

Outdoor Dining Study Parking Issues

Mr. Singleton passed out written comments from Mr. Sturniolo and Mr. Gibbons, which he incorporated into the code in draft form.

Whitney Singleton: I received comments from two Planning Board members relative to what we previously reviewed re the outdoor dining regulations. Vice Chairman Sturniolo circulated his comments to

everyone. I also received some comments from Mr. Gibbons, who is not here, and he suggested incorporating certain provisions. Some of them are in the code; some are not. The first issue we had was the definition of outdoor dining area. Mr. Gibbons offered some solutions that existed in the North Castle code, for which I respectfully disagree. North Castle has a definition which I do not think actively covers what we are trying to address here. The North Castle code says “...an outdoor dining area located on a sidewalk or any portion of a food service establishment...” We distinguish between outdoor dining areas and sidewalk cafes. Also, I do not think it is good practice to define a word such as “outdoor dining area” by calling it an outdoor dining area. You usually don’t use the word you’re defining in the definition. I have not incorporated it, as I don’t really think that helps the cause. I think what we have in there as, “restaurant/café for other for-profit dining facility located outside of any building including but not limited to patios, courtyards, decks, rooftops and other similar outdoor features” is probably sufficient.

The Board agrees it is sufficient.

Clarification of comments on the three documents was discussed.
Whitney Singleton: Next is the permitting authority. Mr. Sturniolo suggested that we insert within the code a provision that discusses the goal of the outdoor dining regulations. Generally the purpose and intent of these are set forth in the beginning of the code section. There is already an introduction in 93-4A. But we can incorporate that provision in the back. I was a little confused by the provision. It says, “The outdoor dining regulations as established in this section are designed to allow sidewalk cafés or outdoor dining on public and private property in order to promote and protect the public health, safety and welfare by encouraging the most desirable use of the land and buildings and thereby protect the Village’s tax revenues.” I don’t know about the necessity of “and thereby protect the Village’s tax revenues.” My suggestion is to incorporate that language but incorporate it at the beginning of the document, not there. My suggestion would also be to delete the end portion of that underlined paragraph (*Document B, Page 3*), which says “and thereby protect the village’s tax revenues.” That does not seem to be appropriate, but the balance of it would be incorporated.

Doug Hertz: I would concur. I believe it is stated clearly without that last clause.

Whitney Singleton: Next is Permitting Authority. This is an area where there has been some debate. Right now the permitting authority is three different entities – the building inspector in certain circumstances, the village manager and others and your board for certain larger applications.

Chairman Cosentino: I don’t think you’re ever going to change that.

Whitney Singleton: I understand your board thinks it would be prudent to put it all under the purview of the Planning Board. I tend to agree with the chairman. I do not think that is something that is going to be acted favorably upon, but I can, nevertheless, put it in.

Stanley Bernstein: Why?

Vice Chairman Sturniolo: Right now it's what is known as "fragmented management." You cannot have three entities approving the same thing, and the only difference is an additional chair or a table. It's just not good management practice to have multiple people doing the same job and function. If the Village Board is apprehensive about it, that is another issue, but I do not think we should back down about any apprehension.

Chairman Cosentino: They will not go along with this.

Stanley Bernstein: I cannot understand why.

Whitney Singleton: I will explain to you what I think the logic is. First, the logic in the sidewalk cafes is that if we are dealing with public property that is properly within the purview of the village manager, you generally review site plans for private property, not public property. I think that is where the genesis of that jurisdiction lies. With regard to the building inspector being able to issue outdoor dining permits for less than 10 seating capacity or less, I think the theory is that there is less impact with a 10 seating capacity than there is with a 40-seating capacity, and therefore it can be handled on an administrative basis rather than subject an applicant to a rigorous Planning Board review process. That is what the logic is. Whether I – or you - agree or disagree with it, I believe that is the logic underlying those three different permitting authorities. That is not uncommon in our code. There are certain situations in the code where the determining body is a village engineer for certain things, but on larger scale projects, it gets kicked over to the Planning Board.

Vice Chairman Sturniolo: Let's just change the logic.

Stanley Bernstein: Exactly.

Whitney Singleton: I can do that. The question is, is it your proposal to handle all outdoor dining permit applications and sidewalk café permits, or just outdoor dining permits?

Vice Chairman Sturniolo: Correct. Dovetailed into the constructive suggestion that Mr. Vigliotti made that at a certain date in the wintertime, a letter goes out to everyone with an invitation to a Planning Board meeting for renewals. We are struggling with this issue of non-compliance and outdoor dining every single day. It seems to me that the Planning Board is the one vocal voice that wants to grasp this, correct it and change it and make it compliant. By fractured management, it cannot work. It has proven itself that it cannot work. I am not arguing with you. I am presenting my case to my fellow Planning Board members.

Whitney Singleton: If you look at Paragraph D 1 A, it states, "*The building inspector is hereby authorized to grant revocable permits for outdoor dining areas providing seating customers for ten or fewer.*" I believe that should be consistent in the CB-1 and CB-2 zoning districts. Read what it says currently: "*Upon terms and conditions set forth in subsection D-2 and renewal permits for outdoor dining areas permitted by the Planning Board.*" So, right now, they do not come back to you. They go to Mr. Cassidy for a renewal permit. You are proposing that everyone come back here, so I would have to change that if that is what you're looking for.

Doug Hertz: If that is the case, should there be a streamline permit process? Not just timeframe, but a physical form. What we are going to require people to do. Right now I do not know what is required to be submitted.

Whitney Singleton: Right now, if you're coming in for a new approval, it sets forth what needs to be submitted as part of your proposal. It has to show the furnishings, barriers, planters, flowerboxes, and clearance.

Chairman Cosentino: So we have to start this in January?

Ralph Vigliotti: We were going to have a public meeting with all of the restaurants as one unit, whether it be 10 or 15 restaurants that have outdoor dining to lay out the new code so they would understand what the code is and what is expected of them, so during the season they can't come back and say, "I didn't know that." Someone would make that presentation to them whether it's mandated or not, but they need to be here. I think it's a good step forward.

Whitney Singleton: Not to play devil's advocate, but you're telling me, (for example) Mardino's on Lexington Avenue. Four chairs on the outside of the property, no one can see it from anywhere. Instead of going to Austin every year and getting a renewal, they have to now come before the Planning Board on a Tuesday evening with a set of plans and sit here for a couple of hours and process an application to keep exactly what I've had there for the past 30 years?

Vice Chairman Sturniolo: It's the cost of doing business. We have to clean up this village.

Ralph Vigliotti: We might not get past two applicants by the time we get through the evening. The purpose would be to inform them that there is a new piece of legislation, a new ordinance for outdoor dining. We are going to outline it this evening so everyone in this village is clear on the new concept. It (would be a) general meeting in which we are outlining the new ordinance. In March when you need to have your permit in place, then you need to go to the correct authority, whether it's Mr. Cassidy or the village manager.

Whitney Singleton: We are talking about old renewals coming to your board.

Ralph Vigliotti: It would not be that one evening. That one evening in January or February or March - if this is in place and has been approved, is to meet with all the restaurants that have outdoor dining and go over the legislation with them.

Whitney Singleton: But that is not what is being discussed.

Ralph Vigliotti: That is what my proposal was. There is no way you're going to get through 16 or 20 applications in one evening. That is another whole process. Whatever that process may be, whether it's going before our Board or a renewal for Mr. Cassidy or Mr. Palmer, that is something else.

Chairman Cosentino: Are we a permitting agency?

Whitney Singleton: Presently you are a permitting agency for anything on private property with a seating capacity of more than 10. But you don't do your renewals. Those are handled by Mr. Cassidy. For example, Conte's has outdoor dining. You approved them 12 years ago. They are obligated to renew each year with Mr. Cassidy. If we modify Paragraph D-1-B so that the Planning Board issues all renewals, everyone is going to have to come into your board on a Tuesday night sometime in the year.

Chairman Cosentino: Is that process going to hold them up for weeks or months?

Ralph Vigliotti: It could.

Whitney Singleton: It depends. I will acknowledge that while you will get resistance from the Village Board, because it's changing the practice.

Vice Chairman Sturniolo: For betterment, let me add that.

Whitney Singleton: There are other communities that do it that way. They issue a special permit each year, or a couple of years or five years for each restaurant, and it's issued almost like rubber stamp provided it's a site that does not have a lot of problems associated with it. If it's a site with a lot of problems associated with it, then, perhaps, no, it does not get approved immediately.

Chairman Cosentino: How long does it take your approval Mr. Cassidy?

Austin Cassidy: From the time the renewal is filed, depending upon the workload of that week, 72 hours, possibly less.

Whitney Singleton: He is simply approving the plan, which has already been approved by your board. He is also ensuring that those things, which are on the outdoor dining plan are in existence at the site. You are asking to change that the village manager no longer issues permits to the sidewalk, and that the building inspector no longer issues permits for ten seats or less and renewal permits. The Planning Board is going to do it all.

Vice Chairman Sturniolo: We are gaining the oversight because it's being missed currently by the other approval authorities. We know where the mistakes are, just driving by the village.

Ralph Vigliotti: In my humble opinion, I think Mr. Cassidy should continue his renewal process. If he has problems during the renewal process, it should be sent to this board.

Whitney Singleton: I don't know how he can send it to your board. He can deny the permit renewal for lack of compliance.

Ralph Vigliotti: Any permits that are new perhaps can come before this Board.

Whitney Singleton: The code currently provides for ten or more now.

Chairman Cosentino: Mr. Cassidy, do you physically go to the site?

Austin Cassidy: Yes. Every year.

Chairman Cosentino: I don't think we are capable of inspecting these sites for renewal. I would not want to be responsible for that. There are gas tanks involved, heaters, etc. The building inspector would pick up, I wouldn't. For renewals, it should be done by the Building Department, which would take full responsibility of the inspection. New applicants are another story, but I'm not going to a site and inspect it for safety.

Whitney Singleton: Perhaps it would be easier to ask each of you who you want to handle renewals, sidewalk cafes, etc.

Chairman Cosentino: The problem is that a renewal could be a liability.

Whitney Singleton: How would you like to handle renewals?

Chairman Cosentino: I would like renewals to be handled by the building inspector.

Ralph Vigliotti: I would second that.

Vice Chairman Sturniolo: I say the Planning Board.

Stanley Bernstein: I say the Planning Board.

Doug Hertz: I say the building inspector.

Ralph Vigliotti: On the question. We only meet here twice a month. If they come in during a season in which we meet once a month because it happens to be the summer, we're holding back a business. And where on the agenda is any one person going to be placed so they don't get placed on the next agenda? In all fairness to the businesses in the village, they want a turn around time, and even a week is ridiculous.

Doug Hertz: I am all for planning. When a business is changing its operation or a new business is coming in, I am in favor of the plan being thought out, and done as intelligently as possible. I view renewals as code enforcement.

Chairman Cosentino: I agree.

Vice Chairman Sturniolo: Is there code enforcement? That is the key to this whole subject.

Doug Hertz: I don't think I'm prepared, as one Board member, to take on the responsibility and liability of code enforcement. I am not qualified, and I certainly know I don't have the time.

Chairman Cosentino: That is my point. I don't want the liability of it.

Doug Hertz: I do not disagree with Vice Chairman Sturniolo that things are not happening, but I am not convinced that the Planning Board taking it over would fix it.

Vice Chairman Sturniolo: But at least we would have the opportunity to say to the proper people at Village Hall, "X, Y and Z are in clear violation. Go out, look at it, report back to us and tell us what action you've taken." Right now, things are happening that we don't even know about.

Doug Hertz: Maybe we need to put that process in place additionally and separately.

Vice Chairman Sturniolo: Do we want to help the residents of the Village of Mount Kisco clean up these obvious business site violations with outdoor dining or not? Right now, without going through a bunch of names, we all know there are a host of outdoor dining operations that are in violation and continue to do so year after year with a rubber stamp approval.

Whitney Singleton: With regard to the renewals, the Board's position is that three of you are in favor of the building inspector doing it, and two are in favor of the Planning Board doing it. With regard to sidewalk cafes, this is the area of greatest consternation, concern and issues in the past. What ends up happening is, it ends up impacting the balance of the code. It is important that I get clear direction on this. Right now, the village manager is the person who is authorized to grant sidewalk café permits. I need to know whether it is your recommendation to the Village Board that he no longer have that authority, and that authority be vested with your board.

Ralph Vigliotti: Are these new or renewals?

Whitney Singleton: Both. You don't issue sidewalk café permits, even on a renewal basis. Those are handled by Mr. Palmer.

Chairman Cosentino: (to Ms. Bourne) Would you call outside cafes "planning?"

Nanette Bourne: Planning is anything that changes the land use. If there is something that significantly changes how a property or building is accessed, used, viewed, etc.; that is planning.

Whitney Singleton: With a sidewalk café, it does not matter whether it's public or private. It's between the building and curb line, which determines whether it's a sidewalk café.

Nanette Bourne: Adding a couple of chairs and tables does not change how the building functions. It doesn't change the people accessing it, getting by it, etc.

Whitney Singleton: It unquestionably impacts the aesthetics of the community.

Vice Chairman Sturniolo: Café of Love. Tables and chairs with chains on them.

Whitney Singleton: The Café of Love makes it look very nice when they are in operation, but yes, the question is what do they do at night?

Ralph Vigliotti: That is on private property.

Stanley Bernstein: It's also recessed within the building.

Whitney Singleton: With regard to the sidewalk, who is the appropriate permitting authority for sidewalk cafes?

Chairman Cosentino: Have you checked with other municipalities?

Whitney Singleton: In North Castle everything is permitted by the Building Inspector. In other communities, the Zoning Board of Appeals issues special permits for this. The Town Board of Bedford issues these permits on a three to five year cycle. It depends on where you are. Planning Boards are not uncommon to be the permitting authority. The question is the renewals.

Chairman Cosentino: I think if it's a Planning Board issue, this Board should handle it. From the information I'm getting from Nanette, it could be a planning issue.

Nanette Bourne: If you are using Café of Love as an example, putting tables and chairs out is not a planning issue. The chairs are a maintenance issue, a permitting issue. It is not a Planning Board issue.

Chairman Cosentino: To go a little further, for example, we now have a restaurant that wants a Special Use Permit with tables out in front. As of now, Mr. Palmer would determine as far as the tables. Did Mr. Palmer have anything to do with the outdoor dining on the roof?

Whitney Singleton: No. It is private property.

Chairman Cosentino: That's why the Planning Board did it. Why don't we say the Planning Board handles anything on private property?

Whitney Singleton: Because that is not how we define sidewalk café. It creates an inconsistency. A sidewalk café is "any area between the curb line and a structure, whether publicly or privately owned which is used by the public or any area open to use by the public for pedestrian purposes."

Ralph Vigliotti: That is okay for a definition, but then you get down to permitting.

Whitney Singleton: You can say that sidewalk cafes that are on public property are permitted by the village manager, sidewalk cafes that are permitted on private property go through the Planning Board. You're going to find that probably half the property is public and half is private.

Ralph Vigliotti: So be it.

Nanette Bourne: Bellizzi is private, and that's planning.

Chairman Cosentino: He went from sidewalk to private. He was here before us.

Whitney Singleton: I have a difference of opinion. I think that is a sidewalk café.

Chairman Cosentino: It should have been said when he came in.

Chairman Cosentino: When Mr. Palmer issues an outside permit for dining, what does he look for?

Austin Cassidy: I have no clue. The prior managers always sent the renewals down to my office for physical examination and a recommendation.

Chairman Cosentino: Is that done now?

Austin Cassidy: No.

Ralph Vigliotti: That is the way it should be.

Whitney Singleton: The code requires him to make sure there is a minimum passable width of six feet, that there are barriers between the public sidewalk and the private dining area, and that there are flower boxes and certain other things which we have not even discussed yet. There is a list of items that whether you're an outdoor dining area or sidewalk café, you are required to meet those certain elements.

Chairman Cosentino: I am getting the feeling that I need to make a decision here, and I don't know what one staff member does when he inspects premises and what the other staff member does when he inspects premises. Who does what and where is very confusing.

Vice Chairman Sturniolo: Which is my point - to centralize it with one approval party.

Chairman Cosentino: But you have to centralize it with the right, qualified people to do the job.

Vice Chairman Sturniolo: The right people are talking.

Chairman Cosentino: I am not going to take the responsibility of issuing a permit that has to be inspected by the Building Department. That is a liability on our part, and I will not do it.

Vice Chairman Sturniolo: The Planning Board could ask the building inspector; "We have X, Y and Z in front of us. Please take a look at it and give us a detailed list of your observations so we can make a proper decision predicated on your input."

Chairman Cosentino: I'm not going to second guess the building inspector.

Stanley Bernstein: We do that in every application. We ask the building inspector to make a report.

Vice Chairman Sturniolo: Or Anthony, Nanette or anyone. We take advice from our staff.

Chairman Cosentino: Is anybody on this Board willing to inspect a renewal for a café and take the responsibility and liability?

Ralph Vigliotti: In a timely manner. That's key.

Stanley Bernstein: Yes, I would. But furthermore, we ask Mr. Cassidy to come back with a report on every application regardless if it's outdoor dining or not.

Vice Chairman Sturniolo: We ask Mr. Oliveri to look at engineering issues based on an application. Then we evaluate. Our job is to evaluate the input from the various professional staff members and then make a decision. Not for us to go out and do percolation tests on our own and make a determination.

Chairman Cosentino: I do not have the knowledge that a building inspector has.

Vice Chairman Sturniolo: We are not suggesting you or the Planning Board has to inspect the site. We are asking the staff people to inspect it based on our direction. Then the decision, like any other application we make here, is based on the input of the professional staff.

Doug Hertz: Clearly there is heated disagreement here. The question of "sidewalk" came up in outdoor dining. A sidewalk cafe is also in "B" by this definition of outdoor dining area.

Whitney Singleton: Correct. It's a subsection.

Doug Hertz: So they are not exclusive.

Whitney Singleton: Do you want to tell me what your preference is for who issues permits for a sidewalk café?

Chairman Cosentino: I need to leave it aside and study this.

Ralph Vigliotti: It comes down to new permits vs. renewal permits, so there are two separate issues.

Doug Hertz: Two distinct things: jurisdiction for who does the original permits, and the other is renewals. Right now original permits are broken up in three different authorities, renewals seem to go back to two authorities at the moment.

Whitney Singleton: With regard to terms and conditions, Tony has proposed a section that requires the consent of the property owner. I don't know that that is not already covered. Right now, it is the establishment that comes in to get the permit, and this would require that it only be issued to the owner or the tenant of the building occupied. I think that is implicit in what we do, but I could be wrong. That is going to then require the applicant to demonstrate that he has a lease for the premises, or that they are the owner. If you want me to put that in, I can put it in. I don't see it as harmful.

Chairman Cosentino: I don't either.

Whitney Singleton: The next one that Tony proposed putting is an insurance requirement. I do not recall which town that came from. I don't believe that is necessary. We already have an insurance requirement in our code as it is. As you can see, we require it only for sidewalk cafés because the sidewalk cafés involve public property. If something is being done in the rear of Conte's Fish Market, we do not require a new insurance certificate indemnifying the village. I think we are actually covered pretty well on that, and my recommendation would be to not include that section. Is that the consensus of your board, since it's already covered?

Chairman Cosentino: Yes.

Whitney Singleton: The clear path that Vice Chairman Sturniolo is proposing, in addition to what our code contains, in addition to the minimum six foot clearance on the sidewalk, that there also be a provision for the ADA. While we do not currently have something for the ADA, I have already incorporated something in the proposed draft.

Ralph Vigliotti: "There shall be a minimum of six feet of clear distance," which is fine, "or 50% of the sidewalk width." If the sidewalk is six feet wide, it is whichever is greater?

Whitney Singleton: Yes. But then you get into "free of all obstructions." I am proposing to put in that parenthetical there, "the minimum distance shall be measured from the portion of the sidewalk café or outdoor dining frontage which is nearest either the curb line or the nearest obstruction." I am proposing to put in, "trees, meters, plants," because sometimes there may be six feet to the curb, but then there is a huge tree and you can't get buy. Next is furnishings. Vice Chairman Sturniolo proposed adding to the term "furnishings," hanging baskets. I think that is entirely fine. I am proposing to put in "all furnishings of an outdoor dining area shall either be removed from the outdoor dining area or stored in an approved manner when the outdoor dining area is not in operation. All furnishings of a sidewalk café shall be removed from the sidewalk and stored in an approved manner. One requires an approval, and approval means how it is going to be stored overnight if it's on private property, the other requires its removal.

Nanette Bourne: In the case of 130/132 next door.

Whitney Singleton: The Planning Board can authorize how it is to be stored.

Nanette Bourne: That was an issue in reviewing this. You didn't want to ask them how they remove it from the roof.

Whitney Singleton: They will not be a sidewalk café. They will be an outdoor dining area, under the first portion. "All furnishings of an outdoor dining area shall either be removed or." The difference in the two sentences is the word "or." In the second sentence, it's "and." "...or stored in an approved manner." So, the Planning Board, as part of their approval process can say, "In this particular site, we don't mind if you leave X, Y and Z, but we want that removed." It gives you the ability to make sure you don't have things sitting overnight on the sidewalk, yet, giving you the flexibility that if someone has a lot of plantings and other things, it doesn't have to be removed completely

on private property - whatever you approve. Moving along – setback. Vice Chairman Sturniolo is proposing that the outdoor dining be subject to setbacks. Obviously on a sidewalk café that cannot work because you're already on public property. On private property, I guess it's up to you. Right now, a lot of private dining goes pretty close to property lines. I will give you some examples. Right now the outdoor dining at Lexington Square Café goes right up to their property line. I don't know what the setbacks are at Lexington Square. This presents no issue at Mardino's. This would probably present an issue at Village Social.

Austin Cassidy: Also, Conte's.

Whitney Singleton: I think that would be problematic because of the nature of Mount Kisco. If we were talking about North Salem, it would be a different story. I would appreciate if you could give me some direction on that. The next one I think is an excellent idea, and I've incorporated it somewhere else. Whether its to the building inspector, Mr. Palmer or the Planning Board, the plan should be part of the approval. I have put it under the section Design Guidelines. *"All items to be placed on the sidewalk or private property in conjunction with outdoor dining or sidewalk café shall be accurately depicted on a plan approved by the permitting authority and absolutely no advertising of products or brands on any barriers, umbrellas or furnishings shall be permitted."*

Stanley Bernstein: I think it adds a little bit of charm and would dress up the sidewalk rather than a plain bleak umbrella.

Whitney Singleton: I am not suggesting a plain umbrella, but if you feel as though having something like that would be helpful, that is fine, but you're not going to be able to get into the minutia.

Stanley Bernstein: Any commercial supplier to that café could put out an umbrella with a name on it. It doesn't have to have any explanations or selling points. Having all the same, colorful umbrellas adds a little charm to the sidewalk. It's not a sticking point.

Whitney Singleton: Mr. Cassidy, are you aware of something that is in the code that prevents this?

Austin Cassidy: To my recollection, there was not supposed to be any advertising with a degree of uniformity and harmony.

Nanette Bourne: The advertising here was the base wall.

Whitney Singleton: I have provided you with language that I saw elsewhere. No one told me to put this in. I was of the impression that you probably would not like to have advertising. It is talking about advertising of products or brands. By saying "products or brands," that does not preclude someone from putting a store umbrella out. Provision needs to be made to either keep it out or permit it.

Chairman Cosentino: I don't know if I want to see liquor advertisement out there.

Whitney Singleton: I will put that in some highlighted language that can be dropped in or deleted. Everything has been addressed in Mr. Gibbons' memo, except for the last paragraph, which I incorporated

already. Under waste receptacles, Vice Chairman Sturniolo has proposed to include a provision that "*outdoor dining areas, the public property on which they are located and the surrounding area shall be kept free of litter and debris.*" We already have that in the code, but I prefer that language.

Stanley Bernstein: I would like the Board to consider putting in "next to trash receptacle" a recycling bin of the same size, color and formation.

Whitney Singleton: On a sidewalk café I can see that being valuable.

Stanley Bernstein: I have looked through all the other towns and they all have it.

Whitney Singleton: I don't see how it would be of any purpose in an outdoor dining area. The waiters are all picking it up, but I can see it on a sidewalk café.

Doug Hertz: On "I," the next one, Vice Chairman Sturniolo is proposing the language "The installation, use or maintenance of radios, speakers, televisions or like apparatus and live entertainment shall be prohibited in sidewalk cafes or outdoor dining areas." Can we just say "sound amplification or live entertainment?" I think that is what we are trying to get to.

Austin Cassidy: To be a little more comprehensive, audio visual transmissions. There is a lot of visual showing up outdoors now.

Whitney Singleton: Why don't we take our existing definition which reads, "Musical instruments or sound reproduction devices shall not be operated or used within a sidewalk café or outdoor dining area for any purpose." You can say "musical instruments, sound reproduction or amplification and video devices," and leave it as that.

Doug Hertz: Sounds like it covers it.

Stanley Bernstein: Also, you should say, "Nor be allowed to transmit through open doors from the inside." I really would like to see something in there saying, "No outdoor dining permitted adjacent to a cabaret."

Austin Cassidy: Do you mean in conjunction with a cabaret?

Stanley Bernstein: Yes.

Austin Cassidy: We have a lot of that already. Fab, Mango.

Stanley Bernstein: All they have to do is open their doors, and there is no way to police that.

Whitney Singleton: I just put in, "nor shall any indoor music or video be detectable from the outside." If it's a problem, it will be enforced. If there is some ambient noise that is carrying outside to the outdoor café and it's not problematic for the adjoining properties...

Stanley Bernstein: It's problematic for me because the open door conditions the outside.

Whitney Singleton: That is a different issue.

Stanley Bernstein: But they are doing it because of the music. If there was no music inside, they would not be opening the doors.

Whitney Singleton: We are getting into a policing issue.

Stanley Bernstein: You know it's not going to be policed.

Whitney Singleton: If you want to make a condition of having a outdoor dining that you can have no noise inside, we can do that.

Austin Cassidy: Then it would have to be policed because you would not get a cabaret license.

Whitney Singleton: It has nothing to do with a cabaret license. Most restaurants have music inside. Not to be dismissive, but what I see in some of these codes is that it simply says no outdoor music, and it cannot be heard from any adjoining property. If you have that kind of language in there, you know that the noise is going to carry a little bit. If it's a problem, there is a mechanism for enforcement. For next time, what do you want me to do with regard to provisions for parking? What would be somebody's entitlement to get an outdoor dining permit and/or a sidewalk café where they are non-compliant with regard to parking?

Ralph Vigliotti: I think we need to save that. We need further discussion on that, and it's not going to take three minutes.

Vice Chairman Sturniolo: Please refer to the minutes of May 24, Page 25, Lines 13-16 and then Lines 42-43. I expected CVS to be on this agenda as per the minutes.

Ralph Vigliotti: Good point.

Chairman Cosentino: You have to have a reason, a violation to have them come before this Board. We are accumulating the information that we need to bring before this Board. We were not prepared to bring that information to this meeting.

Vice Chairman Sturniolo: Do we need anything further than photographs that you took; the memo from the Building Inspector?

Chairman Cosentino: I am leaving that up to counsel and the building inspector. They are putting the packets together.

Vice Chairman Sturniolo: Was this discussed?

Whitney Singleton: Yes, and I will elaborate on it. The purpose of the Planning Board is not to be a prosecutorial agency. As we discussed earlier, the purpose of the Planning Board is to plan. If there is a violation of their site plan or a deviation from their site plan, it is incumbent upon Mr. Cassidy to prosecute it. Mr. Cassidy, in consultation with myself and Chairman Cosentino, agreed that he would go out to the site and undertake a comprehensive review of what is there and undertake a comprehensive review of the series of site plans which I believe he has already done to determine whether

he deems there to be violations of the site plan. It is not for us to say just because it does not look pleasing, that constitutes a violation. Mr. Cassidy spent some time with the previous files and Chairman Cosentino and I went through it with him. He was going to go out and do a physical inspection of the site.

Austin Cassidy: The memo that I had generated two years ago to the Board seems to be still holding true as to deviation. The first thing to do was to establish what was the site plan of record. The goal was to get the application and all the variations of it going on for a number of years, to get a site plan that we could then work on. It has been a question of putting together a patchwork quilt of site plans that go back as far as SafeWay. Some of them overlap and blend to each other, and then establish what is the governing site plan, which speaks to that site. It turns out to be Nat West.

Whitney Singleton: As a point of clarification, I advised Mr. Cassidy and Chairman Cosentino prior to the last meeting, and Chairman Cosentino's request to have it on the agenda was more a request of frustration on his part than it was as a result of collaboration. I have been uniform on this position. You cannot just haul someone in and brow beat them because you don't like the way their site looks. If there is a violation, prosecute it.

Ralph Vigliotti: We do not necessarily have to call the owner of the site in. We could call to review the site plan without the owner being here.

Chairman Cosentino: This item was not on the agenda for discussion tonight.

Vice Chairman Sturniolo: When do you think we will get this packaged information together so we can proceed forward?

Austin Cassidy: Counsel and I have discussed this and as soon as a degree of comfort is reached where we can place this on without placing the Board in any liable position, we will do so. Hopefully, the next agenda.

Whitney Singleton: As far as I'm concerned, if Mr. Cassidy has a question for me as to what the zoning provides or what my interpretation is of a particular provision, that is fine, but I am not going to tell you what are violations and what are not violations of the site plan. That is Mr. Cassidy's job.

Vice Chairman Sturniolo: I am not suggesting that. I am just reading the minutes and wondering why again, something is missing.

Chairman Cosentino: It's not missing. I did not put it on the agenda.

Whitney Singleton: Harkening back to one other item I saw in some other communities regarding outdoor dining that they have periods of time which they may begin and by which they must end. That seems arbitrary to the nice weather, but at the same time with people putting in heaters, air conditions and plastic walls and ceilings, I don't know if that is something you'd like to see in there.

Ralph Vigliotti: No.

Whitney Singleton: They get a permit for a year and whether it's January 1, June 1 or December 30, they can have open?

Ralph Vigliotti: I think it should be a seasonal permit.

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 10:00 P.M.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm