

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Tuesday, March 8, 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
Sol Gibbons
Doug Hertz
Anthony Sturniolo
Ralph Vigliotti

Members Absent: Stanley Bernstein

Staff Present: Anthony Oliveri
Whitney Singleton
Austin Cassidy

Staff Absent: Nanette Bourne

FORMAL APPLICATION:

**Gallin Design Studio
(Canine Kindergarten)
333 North Bedford Road
PB2011 – 1**

Present: Michael Gallin, AIA, Gallin Design Studio
Elissa Cohen, Partner, Canine Kindergarten

Recused: Doug Hertz

Michael Gallin: Since we were here last and spoke about this at a conceptual level, we have provided some additional information. The application has not changed in terms of its conception, but we have added some details and supplemental material regarding parking. We provided a letter regarding traffic, which stated in a narrative how this use fits into the cap that was previously proposed on the site. The parking analysis that we provided showed how the concurrent operation of the uses on the property at different hours impacted the parking to demonstrate that we will have adequate parking even at the peak hours. In terms of supplemental material on the application itself, we made some modifications. The most pertinent, from a planning standpoint, is that previously this area where the dogs would be outside had shown pulling out the asphalt. The operators have advised us that they would prefer to keep the asphalt in that it makes the clean-up easier and it's a better surface for them to utilize. We are proposing that all that asphalt remains. The other change that was brought up at the conceptual was a request that we enclose the dumpster with a concrete block dumpster enclosure, which is something the town is looking to implement across all of its sites. We have taken the standard detail and shown that at that location.

David Stolman: We looked at the parking analysis and we find that to be satisfactory. It shows that there are 799 parking spaces that would be provided, and the maximum usage would be 796 during the weekday, 10:30 A.M. The traffic analysis that was submitted is from May 2010 with a little bit of updating. That skips over the application for the 19 lanes. Does it leapfrog over that? In the late summer, there was the application made for the 19 lanes of bowling and some traffic analysis was submitted as part of that to show that things would be satisfactory. That is what I think should be built on, instead of going back to May and building on May. It is important that this get referred to the Westchester County Planning Department. Austin, do you have any idea whether that has been done yet?

Austin Cassidy: I would say that it is probably a pretty good guesstimate that it has not happened yet.

David Stolman: Do you want to take care of that?

Austin Cassidy: Yes. It would get referred now that it is a formal application.

David Stolman: That needs to take place. The last item, minor, has to do with the refuse enclosure. In terms of the aesthetics it says 8" concrete block walls.

Michael Gallin: The outside will have a stucco finish.

David Stolman: Please state that on there.

Michael Gallin: Yes.

Chairman Cosentino: Please supply me with the count for the A.M. on the athletic club.

Michael Gallin: I will look it up and get back to you.

Anthony Oliveri: If you did not submit a full-size set of plans, please do so. There were some specs on the concrete and walkways. You need to show footings going across the garbage enclosure and the stucco finish. You need to put a note on the plan regarding how dog waste is going to be handled in the outside area. We will need a photometric lighting plan.

Michael Gallin: The pole lights are existing, so the only lights we are adding are a few small lights at door entrances.

Anthony Oliveri: There is no outside lighting on the side yard area for the dogs?

Michael Gallin: No.

Anthony Oliveri: Please show the specs on the type of light at the door. You don't have that on here.

Michael Gallin: We don't have the exact fixture; we can provide that. We gave a spec on the wattage for the bulb.

Anthony Oliveri: They will want to see that they are full cover.

Whitney Singleton: Are you comfortable with the use that is being set forth in the application?

Austin Cassidy: Yes.

Whitney Singleton: Historically, since I was not involved in prior applications on this, the ----- requirements are being distributed across three different districts in three different towns. Is that the way you've historically dealt with this?

David Stolman: I believe so.

Whitney Singleton: Even though they are separate ----- in separate towns, we are still counting that ----- coverage.

David Stolman: Yes.

Ralph Vigliotti: It appears as though the fencing for the play area for the dogs is chain link.

Michael Gallin: It was. We were just requested by the operator to switch that to a vinyl fence. The configuration will remain the same.

Ralph Vigliotti: How many dogs are you anticipating to be in the play area at any given time?

Elissa Cohen: Roughly, probably 20. We do not take all the dogs out at the same time. We will have up to 50 dogs total. This will not be a chain link fence at all. It's solid; you can't see through it, which is one of the reasons we did not want a chain-link, because we do want privacy.

Chairman Cosentino: When you say solid vinyl, it's not a colored chain link fence with the slots in it? A decorative, solid, vinyl fence?

Elissa Cohen: Yes. The dogs can't see through it at all.

Ralph Vigliotti: We are looking at compatible uses. You are going to have children going by there to go to the soccer field.

At this point, Mr. Gallin showed detail of the fence.

Ralph Vigliotti: What is the employee count on a typical day?

Elissa Cohen: Roughly seven to eight people during the day, the night would be less.

Ralph Vigliotti: The parking that you are showing here, which is really alongside of the facility, will accommodate the employees and perhaps some families who are dropping off dogs. You will rely on the general parking for drop off.

Elissa Cohen: Yes, and we are also going to have drop off spots. People come and drop off for two minutes and they're gone. We will have two spots right in front of the door where they can pull up.

Ralph Vigliotti: Is that going to be required? My concern is the folks using the other facilities – bowling alley, Saw Mill East. I don't want folks interacting with the dogs are they are getting in and out of cars in the parking lot. Will the drop off be a requirement?

Elissa Cohen: They are all on leash. All the dogs that come to us have to go through an interview process. They are all friendly, well-socialized, not aggressive, otherwise they would not work in our environment, because it's cage-free. We are not going to say that the person has to pull up right in front of the door and we get the dog out, but if not there is parking over here which is well-away from where everything else is going to be.

Ralph Vigliotti: I would recommend that the employees park in the general lot to accommodate those that are dropping off dogs, so they are not interacting with the general public.

Michael Gallin: That is a good business plan anyway.

Elissa Cohen: I agree. But we do have their spots on these sides.

Ralph Vigliotti: If the employees are going to take up the seven to nine spots, then the general public that is going to use this facility is going to be in the general lot. That could cause some issues.

Elissa Cohen: We might only have two to three people parking at any given time dropping off dogs. They are there for five minutes, and then they're gone.

Ralph Vigliotti: We had traffic and parking study done in May of last year. Now that Saw Mill East is in place, I think that needs to be updated. That will really show us exactly what the count is. I don't want you to bear that cost. It should be Diamond Properties. If Saw Mill East is in place as of February 1, and there are literally hundreds of cars coming in and out now. That will give us an up to date traffic and parking count – more traffic than parking. We are always waiting for the next tenant to come in for us to determine. A lot has happened since May of last year.

David Stolman: There was some analysis done in the late summer or early fall. I don't think the original approval you granted had you getting new counts after every tenant. You have not been getting counts after every tenant.

Ralph Vigliotti: I don't want to be pejorative, but these are major tenants. Canine Kindergarten is not a major tenant.

David Stolman: Is Saw Mill East fully occupied yet?

Chairman Cosentino: No. The pools haven't been open yet.

David Stolman: A fair thing to do is have John Collins do some spot checks of counts.

Ralph Vigliotti: I would rather us do it and charge it to Diamond Properties. The issue at hand is that soon enough the pool is going to open. That will certainly increase the attendance there. At 9:30 in the morning, there are 150 cars there, which were not there prior to

January 1. That is a completely different traffic count. Things have changed. I'm not saying this application triggers a new traffic count, but at some point, something has to trigger a new parking count.

Michael Gallin: We still have a significant vacant space in the building. That is the space just to the north of MKAC. There are potential tenants interested in that space, clearly whatever happens in that will contribute to the ultimate traffic loads.

Ralph Vigliotti: What happened at Saw Mill East has significantly increased the traffic flow.

Michael Gallin: My point is that it seems like that application would be more tied to doing the count. I'm not sure if the impact of this small tenant should be tied to the traffic count as opposed to a larger connection.

Ralph Vigliotti: I'm not trying to hold you up. I would like this point on the record because we have a traffic count that goes back to May, and a lot has changed since then. (Canine Kindergarten) impact is insignificant compared to Saw Mill East. At what point do you say, "Now we need a new one"?

Michael Gallin: Understood. I would also like you to note the parallel parking in front for the drop off. We did not include that in the parking counts, so there are actually two additional spaces that we did not take credit for, because we wanted them to be those turn-over spaces.

David Stolman: Will they be signed as such? If it is supposed to be a drop-off area, and you don't want people parking there, then you have to put a sign there.

Michael Gallin: We will do that.

Whitney Singleton: Would you like to have the analysis of the traffic done independent of the applicant's consultant?

Ralph Vigliotti: If the members of the Board are in agreement.

Whitney Singleton: We have various escrow accounts. Do you want it as part of this smaller application, or do you want it as a condition precedent to the next large application?

Ralph Vigliotti: Certainly not this application. We should know where we stand right now with traffic as we move forward.

David Stolman: As soon as the pool is in?

Ralph Vigliotti: They are not moving very quickly on the pool.

Michael Gallin: The Department of Health is the deterrent there.

Ralph Vigliotti: The traffic at Saw Mill East is completely different. I am a member, and I've waited three lights to get out. Things have changed.

David Stolman: When the pool goes in or the next significant traffic generator. We are happy to do that analysis for you.

Michael Gallin: I would recommend Mr. Diamond be part of those conversations, so maybe we can visit it again at the next meeting and hash out some of the logistics about when it gets done.

Chairman Cosentino: We will put it on for the March 22.

Austin Cassidy: How are we envisioning the general maintenance of the play area in wintertime?

Elissa Cohen: The dogs like to play in the snow.

Austin Cassidy: I understand. Give it some thought and make sure that you have that well thought out. I think it is appropriate with this enclosure from a safety standpoint; there should be a double-leaf at the parking area, so as the fire department could get closer access to the building on that side. Also, now that the health club is there, there is more action on the southern end of the building. There is a lot more crisscross traffic occurring at that first floor intersection when you come down Ice House Road and arrive on the property. We should look at that as a four-way stop. Particularly when snow is piled there, there is no sight line. There are two stops there now.

Vice Chairman Sturniolo: To recap, the parking analysis appears to be satisfactory. We need to factor the 19 bowling lanes in the traffic analysis, and it needs to be modified after the next significant tenant come in or when the pool opens up. It needs to be referred to the Westchester County Planning Board. There was a question about the trash enclosure, and we are going to add 15-minute parking loading/non-loading signs, plus the other issues that Austin just raised a moment ago.

Chairman Cosentino: Will you be installing exhaust fans on the roof?

Michael Gallin: No. There will be new HVAC equipment on the standard roof.

Chairman Cosentino: This is going before the Architectural Review Board?

Michael Gallin: Yes. Does this require a Public Hearing?

David Stolman: Yes.

Chairman Cosentino: You can set the public hearing tonight for April 12th.

Austin Cassidy: With the Public Hearing coming up on the 12th of April, what are we discussing at the next meeting?

Chairman Cosentino: He wanted to hash over things with Mr. Diamond.

Michael Gallin: In terms of discussion of when the counts get done, and who does the counts and how that gets paid for, I am sure Mr. Diamond wants to be part of that conversation. I'm not sure it needs to be tied to this meeting date.

Conceptual Application:

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

**Present: Ed Delaney, Engineer, Bibbo Associates
David Abelow, Abelow Sherman Architects**

Ed Delaney: On Sarles Street we have a 25.98-acre parcel owned by our clients, Debbie and Glen August, who wish to construct an indoor tennis pavilion to add on to the end of their building. We have submitted the site plan to you.

Chairman Cosentino: There is approximately 12,000 square feet of total land disturbance.

Ed Delaney: Yes. We understand some of the obvious concerns when a structure like this is built: steep slopes, drainage, storm water, lighting, visual, blasting. We have set this into the hillside. To the north on Sarles Street is the water tower, a vacant piece of property, Chase and the Stockridge Family here. To give you a better visualization, we have provided an aerial. This is the entrance from Sarles Street past the pond and their other tennis court. We are approximately 400 feet to the nearest house, 420 to this, and about 85 feet in elevation.

Chairman Cosentino: How many feet from the tower?

Ed Delaney: 600-700. On this particular design, they provided for no lighting on this side at all. There are no windows, no lighting, nothing here. In order to address some of the drainage issues, because we are greater than 5,000 square feet of disturbance, we are on the watershed and we are east of Hudson, we have to file with Department of Environmental Conservation, a storm water pollution protection plan and go through the town engineers to get their approval. In order to address the drainage, I have asked my guys not to take the easy route out here and just dispose of – here is your high point – and our drainage will go out the Sarles Street way. We will have what we consider a limited visual, although there could be some creative planting of pine trees, etc. As you can see from this aerial, this is hardwood. We were out there recently approaching some of the owners, and we took some pictures. There was one gentleman who allowed us on his property and you can now see the corner of that patio. Although the roof line of the new pavilion will be about six to eight feet below this roof line. There will be a very limited winter view up here, but I think with a good landscape plan we can mitigate that.

David Abelow: It is appropriate to point out that there is a natural ridge line here, so taller trees – maybe 18 to 24 feet – planted closer to the building at the brow of the ridge would make a permanent screen year round. That would resolve any of those site line issues.

Vice Chairman Sturniolo: Sometimes you refer to it as a tennis court and other times a pavilion. What is the difference?

David Abelow: Mr. Delaney was pointing to this existing open-air tennis court. We are proposing an enclosed building, which he is referring to as a pavilion.

Vice Chairman Sturniolo: How many people can that accommodate?

David Abelow: It is a regulation tennis court. It could be for doubles. It is one court in a single roof enclosure.

Vice Chairman Sturniolo: Four people would be playing at the maximum?

David Abelow: Yes. Because of how it is going to the existing sunroom of this house, there could be people sitting outside of the court observing.

Vice Chairman Sturniolo: Are there restroom facilities in the new proposed construction?

David Abelow: We are planning to put in a half-bath. It is not a health club. It's a home. Anyone who plays and wants to shower often goes into the house. There are plenty of bathrooms there.

Ed Delaney: That is why the health department is not concerned with that.

Vice Chairman Sturniolo: Where is the septic field?

Ed Delaney: Great question. When we looked around for this 1920's type set up, we know the water supply was down here. They are smart enough not to go near their water supply. We believe it is either here or here. We have not discovered it yet. There are no records.

Chairman Cosentino: I think the house coming up is on its own. One has a pit; there are no fields.

Ed Delaney: We have not had to answer that question like I normally do as an engineer. We know there is no increase in sewage flows. We know the septic tanks are on the property. We have not identified how big they are, but we don't think that is important yet.

David Abelow: The assumption also was because there was alteration work done on the house several years ago, and there was proper Board of Health approval.

Vice Chairman Sturniolo: Then there should be some type of documentation then.

David Abelow: We have not gone to the county yet.

Vice Chairman Sturniolo: To find out where the septic fields are located?

Ed Delaney: It is hard for them to find in their records.

Chairman Cosentino: Whoever pumps it out would know.

Ed Delaney: They know where the tank is, not necessarily where the system is. It was not too uncommon for them to run lines.

Anthony Oliveri: The concern would be to keep a 20-foot distance.

Ed Delaney: We know the sewer line leaves the building in the front, and that is all we really had to know at that point.

Anthony Oliveri: If you get any record of its location, please submit it to us.

Whitney Singleton: Isn't there a new requirement that when you're proposing more than 1,000 feet addition?

Ed Delaney: That is for habitable space. This does not count as that.

Whitney Singleton: That could not be converted to dwelling space?

Ed Delaney: That is correct. The County has a new regulation right now, if you go over 1,000 square feet of habitable space, you have to put a new system in.

Whitney Singleton: The County is not going to regard that as habitable space.

Vice Chairman Sturniolo: Does your client ever intend to hold any type of tennis tournaments?

David Abelow: It is purely for private enjoyment. Clearly they are tennis enthusiasts. I believe Mrs. August is serious U.S.T.A. I don't know what her ranking is. If she plays any kinds of matches, someone on her circuit would come and play, but it wouldn't be a round-robin of people. No hosting of events; no shows. They have made that very clear.

Anthony Oliveri: I anticipate you will have your storm water pollution protection plan for the formal application. To get an approval, it would have to be reviewed at this point. Mr. Econum will sign off on the Notice of Intent when you get to that point.

Ed Delaney: Thank you very much.

Discussion followed regarding formal application procedures.

Formal Application

**Kisco Avenue Business Center, LLC
185 Kisco Avenue
PB2010-19**

**Present: Gregory J. McWilliams, A.I.A., Architect for Mr.
Beldotti
Anthony P. Beldotti, Property Owner**

Gregory McWilliams: We were last here on January 11, 2011 proposing some minor parking lot changes for 185 Kisco Avenue. For comparison, this is the site plan that was approved ten years ago, and is the site plan that is there today. When we were here two months ago, we proposed nine new parking spots. Comments were made by the Board regarding increase in pervious area. There was not very much, but there was some. It is basically re-striping, a one-way instead of a two-way, etc. There was some additional pervious area. Also, it was pointed out that we could not increase or change the compact cars that were previously approved. Also, this Board suggested looking into the net gain of impervious area, substituting some green space or pervious area where blacktop is presently. With that in mind, we took that all to heart and revised our plan. We are seeking seven additional spots now instead of nine – going from 118 to 125. The compact parking is exactly as it was – 34 spots. We are not increasing that at all. We found some areas where we can take away the blacktop and put back either mulched areas because we do have some new planting or a Long Island type gravel, which we have in these medians right now. They are on a pervious type soil and will act as a pervious type median. We then contacted the regional director involved in this and they thought the impact of what we are doing would not necessitate a storm water pollution protection plan application, and they could probably, basically approve it. We wrote them a letter along with our CAD drawing and they checked with their legal department. Because this is in a designated Main Street area, it is required by law that we do the application. We have since done that. This is, in fact the same site plan with a few differences, which have been done over the last week in response to the storm water pollution protection plan. We have the calculations for one year, 24-hour storm which is 3.5 inches of rain. Those calculations are on the drawing along with an erosion control detail. These were requested by DEP. Other than that, it is the same site plan submitted a few weeks ago. We have not received feedback from DEP yet. We are here to update you, and have since submitted a formal application.

Chairman Cosentino: What is the reason you spending so much money for seven parking spaces?

Anthony Beldotti: There is a tenancy issue. We are not sure our tenant mix will remain as it is. We are concerned about The Journal News, which we have in two locations – here and Yorktown. The newspaper industry is having problems. The home delivery industry is having problems. We need to look forward. We know there may be a tenant that is going to come along in the future that we cannot fit in the numbers we have now. We have designated exactly what we can use this property for. I am not the type of owner is going to pass something by. I have spots that I would like to get a use for that is other than warehouse. I cannot get it unless I get additional parking. I would rather do it sooner than later.

Gregory McWilliams: These are relatively easy spots to attain. The overall primary blacktop that was here when Mr. Beldotti bought the property was not necessarily the most efficient. We feel we have increased the efficiency some, and feel this further increases the efficiency.

Chairman Cosentino: You did a beautiful job with the building.

Vice Chairman Sturniolo: Do the local delivery people who deliver the paper to all of us here in Mount Kisco come into that facility in the early morning hours?

Anthony Beldotti: The tractor trailers come in about 11 or 12 midnight, and drop off all the papers. Then, there are four or five people who separate the papers into routes. At 3:30 or 4:00 A.M., the delivery people arrive, collect their papers and they are on their way by 6 A.M.

Vice Chairman Sturniolo: The same thing happens simultaneously in Yorktown?

Anthony Beldotti: Yes. They deliver more papers in Yorktown, including the Wall Street Journal, New York Post, etc. They are a firm that is hired by Journal News. They are an outside firm from Delaware.

Chairman Cosentino: You own the firm in Yorktown?

Anthony Beldotti: Yes. The Journal News rents that facility.

Vice Chairman Sturniolo: Even though that facility will handle other papers besides the Journal News.

Anthony Beldotti: Yes.

Vice Chairman Sturniolo: Thank you.

Doug Hertz: Please walk us through the additional plantings.

Gregory McWilliams: This area was originally a loading dock. We had three loading spaces originally, we reduced it to two because with the use that we have here we really don't need a third, and we are not required to have it. We added some planting to that. We matched basically an evergreen shrub that is there now. Here, where the island is with the dumpster, we have adjusted that island ever so slightly. There are two existing white pines there now. They are not in the best shape, but we would probably relocate them slightly because we are doing some curb work there. Here, it is paved along here and there is an outside metal stair. We are taking out the blacktop around that, putting in the gravel and mulch and planting one decorative tree there that matches these along here. In the space we are adding right here we are putting a little row of boxwoods, and added another white pine tree over here.

Doug Hertz: Thank you.

Anthony Oliveri: Per my memo, you need to include some details on the refuse enclosure. You have an 18' aisle on the south side of the building, and the minimum is 24'.

Gregory McWilliams: This spot misses that and the dimensions taken starts it's way around in the one-way.

Anthony Oliveri: Show that you have the 24' aisle there. Along the back, the compact cars are now at 60°, the original plan had 45° parking. The minimal aisle width is 60°, 18'. You have 17'. Also, you are making a change to compact car parking arrangement. Is it

permissible to make that change in the site plan and put back compact car parking?

Austin Cassidy: I think you went to the Zoning Board of Appeals ten years ago on that point. I will look at the history.

Anthony Oliveri: Also, you need to provide water quality (treatment) for the added impervious area.

Gregory McWilliams: The net loss is actually 219 square feet less. The Department of Environmental Protection wants to see the calculation of 3.5 inches times the total square footage, either in cubic feet or gallons and show the difference between the two. We have decidedly less with the proposal.

Anthony Oliveri: So the water quality is provided by the pervious area that they are going to accept?

Gregory McWilliams: Yes.

Anthony Oliveri: This plan shows pathways in the front of the building. Those were not on the original site plan. Did you include those areas?

Gregory McWilliams: The original one shows an angled ramp, which was never put in, and at the time Mr. Beldotti was going to put an elevator. The tenancy was such that it was not really required. That was never put in. He did put a little one along here that gets to the utility room.

Anthony Oliveri: Right now you have two long pathways.

Gregory McWilliams: That was always there.

Anthony Oliveri: My point is, if it was not on the original approved site plan, the plan that you submitted as an approved site plan, and that impervious area was not accounted for then, it has to be accounted for now, and you may not have a net increase. That is something you need to look at. In particular, this path on the south side was never on the approved plan and is now there, how did it get there?

Anthony Beldotti: This one was filed with the tenancies that went in the front of this building.

Anthony Oliveri: So the site plan amendment was filed at the time?

Anthony Beldotti: Yes.

Anthony Oliveri: You need to show that they were filed before they were done.

Anthony Beldotti: We can back that up.

Anthony Oliveri: We need to see that it was somewhere, somehow put on the site plan that was approved. It should be legalized now both here and with the DEP. You mentioned you are putting gravel around that stair in the back?

Anthony Beldotti: Yes. We are taking out the paving. That is an open metal grade stair.

Anthony Oliveri: The plan does not allocate a snow stockpile area that is in the current code. It is up to the Board how you may handle snow. Also, there is no mention to change the lighting, which is also up to the Board, whether or not they want it brought up to the current guidelines.

Anthony Beldotti: We are not changing the lighting.

Chairman Cosentino: The lighting was pretty bright there, actually.

Discussion followed regarding dates, changes and procedures. As this is not a "public hearing" matter, it was agreed submission was for March 22, 2011, and Kisco Avenue Business Center, PB2010-19, will appear before the Board again on April 12.

Continuing Review

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

Austin Cassidy: For the purpose of record you have in your possession a memo from staff. The issue at hand is that this particular proposal is multi-faceted. It is quite novel for the community and some of its elements and has certain degrees of clear uniqueness that it is not readily align-able with parking requirements that sit in village code. The village code therefore provides in that scenario, that the Planning Board is duly empowered by the village code to be the determining body for the parking needs for that particular proposal. It is the consensus of staff that the Planning Board be the determining body. This is a to be determined parking issue.

Doug Hertz: I think it would be helpful if we get an understand of the various usages and types of parking that would be appropriate for those uses and the time overlap of how the various uses interplay with each other. It's sort of a complex analysis, but if that can be laid out by staff, we would have a better understanding of how to proceed.

Austin Cassidy: Anticipating the Board's desire for such an analysis, both the planner and the architect for the applicant are more than prepared to work rapidly and diligently to get that before you, hopefully in time for your March 22 meeting.

Doug Hertz: As one Board member, I think that will be very useful.

Chairman Cosentino: That is what we need, and I think we should proceed with that.

A continuing review of KH Realty, II, LLC, 130-132 Main Street, PB2011-2 will be placed on the agenda for March 22.

Doug Hertz: It might also be interesting, even though this is a unique situation, who knows what it could spur in the hearts and minds of others? I've thought about how unique the situation really is. I am curious if staff could have a comment on that.

Whitney Singleton: As opposed to this application, in a generic sense, generally speaking, restaurant (as opposed to food retail) parking requirements are normally dictated by the seating capacity within the restaurant.

Austin Cassidy: That is correct, and/or square footage, whichever generates a greater number. Nine times out of ten it's the seating.

Whitney Singleton: Outdoor dining entitlement, which historically by your board does not have a parking requirement associated with it because it's seasonal, does not tie itself – you are only entitled to have outdoor, one-third what you have indoor. We say that kind of loosely. Technically, what the code says is that you are entitled to have one third the number of tables, not seating capacity, tables, outside that you have inside. Theoretically you can put a lot of two-seater tables inside a restaurant and outdoors put a couple of 10-seater tables outside, and theoretically you could have more seating outside than inside. It is something that should be considered to be changed.

Chairman Cosentino: I think it should be changed.

The Board is all in agreement.

Vice Chairman Sturniolo: We have gotten stuck in that "loop" so many times with various restaurants.

Doug Hertz: That would be a language thing we would recommend to the Village Board.

Whitney Singleton: The other thing to be given some consideration, again, not specific to this application but just to the concept, I asked Austin historically how this evolved, to having outdoor seating without a parking requirement. Where is that in the code? He properly pointed out that it is not in the code. It is just how it has evolved in the village. The Planning Board has not attributed a parking requirement, even though you could, due to the seasonal nature. Given the fact that certain places are looking to put wind barriers up, heaters in, covers, etc., their outdoor dining area, you might reach a certain threshold of outdoor dining where the parking consideration should be given. Not in conjunction, per se with this application, but since we started looking at this application we were going through some of the internal inconsistencies because this application has made us think about outdoor dining in an entirely new light.

Chairman Cosentino: With all the restaurants going in this village, we really have to do something with the seating and the count. I would suggest implementing it immediately and not wait.

Vice Chairman Sturniolo: What does the Planning Board have to do then?

Whitney Singleton: There is a provision in Chapter 110 that will ask for recommendations for zoning changes directly by the Planning Board. If you are going to do that, we should have something drafted and reviewed by your board before it gets sent to the village.

Chairman Cosentino: When applicants come in to renew their outside seating, do they now go under the new basic code that we are changing? Is there such a thing as "grandfathered" in?

Whitney Singleton: You have to differentiate the different types of applications. We have sidewalk cafes, which up to ascertain numbers are approved by the village manager. We have private dining areas, which up to a certain capacity are approved by the building inspector, and then we have private dining areas which, once they are over ten are approved by your board. When your board approves them, they don't have seasonal renewals. When the village manager approves them, they do have seasonal renewals.

Chairman Cosentino: When the village manager approves something, does he go by table or people?

Austin Cassidy: You're asking if in the last ten years, someone gets an annual license and has not parking requirement; suddenly there is a parking requirement the following year, does that person have to comply with that for that new approval?

Chairman Cosentino: Yes.

Austin Cassidy: On private property it is a zoning issue. It speaks to a legal and non-complying element. Counsel can speak to rights going with licenses.

Chairman Cosentino: That is defeating our purpose right now.

Whitney Singleton: I do not want to answer 100% definite, but generally you do not have vestiture to a right which expires within a period of time. This means that any rights that you have associated with that permit expired with the permit.

Chairman Cosentino: Thank you that answers my question.

Whitney Singleton: Think of both good and bad consequence with that. It will be a hardship for many people that have dining capacities that are no longer going to be able to have it and they've made an investment in their outdoor dining area.

Austin Cassidy: You would adopt parking regulations for outdoor cafes that would essentially for the most part, in this town, eliminate all of them. Is it going to be exclusive to the downtown?

Whitney Singleton: No. It is not going to wipe out CD 1 and CD 2. Most of the places that are in the CD 2 that have outdoor dining have parking.

Austin Cassidy: Look at 222 Main Street. It is under parked now, by covering.

Chairman Cosentino: Leave the parking out, change it from tables to people, and that makes the difference. We will discuss this more after we see the draft.

Correspondence:

- Letter from Scott Blakeley to Peter Tighe dated February 15, 2011 re 681 Main Street
- Letter from Timothy Idoni, County Clerk, to Mount Kisco Planning Board dated February 10, 2011 re 330 Spring Street.

As there was no further business to be discussed by the Planning Board, on a motion by Vice Chairman Sturniolo seconded by Mr. Vigliotti, the meeting was adjourned at 9:15 P.M.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm