

Minutes  
Meeting of the Planning Board  
Regular / Work Session  
Village/Town of Mount Kisco  
Tuesday, July 10, 2012

*Chairman Cosentino called the meeting to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York.*

**Members Present:**     **Chairman Joseph Cosentino**  
                                  **Vice Chairman Sturniolo**  
                                  **Stanley Bernstein**  
                                  **Sol Gibbons**  
                                  **Doug Hertz**  
                                  **Enrico Mareschi**  
                                  **Karen B. Schleimer**

**Members Absent:**     **Ralph Vigliotti**

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

**Public Hearing:**

**27 Radio Circle**  
**Little Garden Childcare Center**  
**PB2012-11**

**Present:** **William R. Spade, AIA – LEED AP, Sasaki & Spade**  
                  **Architects**  
                  **Mark Santora & Beatrice Santora, Owners of Little**  
                  **Garden Childcare Center**  
                  **Steven Corrigan, Realtor, Princeton Realty Group**  
                  **John R. Martabano, Property Owner**  
                  **John Collins, John Collins Engineers**

*There was no one present for the public hearing for this applicant.*

Chairman Cosentino: Since no one is here for the public hearing, I will ask the staff for their additional input since the last meeting.

Nanette Bourne: Included in your packet is a draft resolution for you to review. The input from the applicant's June 29 letter will be included in the resolution.

Chairman Cosentino: Let's go through the draft resolution item by item. Remember, this is only a draft resolution.

*At this point, Chairman Cosentino gave Mr. Spade a copy of the resolution.*

Doug Hertz: Before we get to the resolution, can we please address some of the items in the cover letter of June 29?

Chairman Cosentino: We will do the cover letter first and then the draft of the resolution.

Doug Hertz: I wanted to synopsise what was in the cover letter (*dated June 29, 2012, written by William R. Spade, AIA; Sasaki+Spade Architects for the project*) for the record. For the Lot Area, building coverage is going to be 30.8 percent and development coverage becomes 70.8 percent, so they will need an area variance, and they refer to that on Item 3. Item 2: Playground Location. The playground is in the front in the plan that we are talking about now. The third sentence reads as follows:

"The location of the structure complies with the building setback requirement of 30 feet in the front, so no variance is required for this structure."

I know that the building inspector has also made the determination in his memo of July 5, 2012, which is later on here, that he feels there is no variance required for the structure. I would like to read that:

"The technical zoning question was raised by a Board member at the last review of the application, and I wish to further clarify my response which was deliberately brief due to the lateness of the hour that night. In the supplementary regulations Sec 110-31-G(1) is comprised of a single sentence which may have made sense for whatever original purpose it may have been written, but in truth, makes no sense on any conventional application today. This was last brought up by the late Bryan Parker during a site visit the Board was making on Lexington Avenue. It was uniformly decided then that this section was faulty, and it was agreed to ignore it and have it removed from the zoning text."

This section refers to the fact that secondary buildings should not be built in front of primary buildings. It is still in the zoning code, and typically when I've seen this referred to, it gets referred to because we don't want a garage built in front of the house. If it's a detached garage, we want it built to the side or in back. Mr. Cassidy rightly makes reference to the fact that it could be misconstrued to mean that you could not have outdoor display equipment, you couldn't have signs, fountains, flagpoles, shopping corrals, gasoline pump islands, etc. Not that it is my place, mind you, because I am a Planning Board member and I don't interpret this, but I respectfully disagree that we ignore this section in all cases. I think this is not just a structure, it's a building. And we're building a building in front of another building. I think that is one of its significant impacts, and this has been one of my concerns all along. Whether it's a section of the code that we are ignoring because it is impractical or poorly written, it is my feeling that that should get referred to the Village Board for rewriting if it's a piece of code that is completely non-functional and unusable as it is today, but it reflects a concern that I have for this site plan. I wanted to make that reference because of their memo of June 29. They will be going to the Zoning Board for coverage variance, and they have talked about the bus turning radius, guiderail paving and curb details were added. I see that John Collins is here, and I know that it is under his

separate cover that a traffic data study will be submitted. I wanted to get that in before we dug into the substance of the public hearing.

Chairman Cosentino: It is still there. I don't believe we've used it. Yes, you are right. I say this with respect, Mr. Hertz, a little common sense, where the building inspector brings out the things that possibly under this code flagpoles, etc., and your thing is that it should have been changed. I agree with you on that. But, with that code, it is impossible to do anything. That was brought up by Bryan Parker. We went on a site visit, and he said, "What the hell is this doing in the code?" Mr. Parker was a very intelligent man, and I think he stayed home eight hours a day just reading the code. I respect you for bringing that up, but I think as the building inspector writes here, nothing would be allowed in the front of a building.

Doug Hertz: I appreciate that. This is the building inspector's decision, but I am bringing it up because it did dovetail into a concern that I had. If I may make a recommendation, last year we kept a running list of items that we wished the village code to look at because they were unwieldy or needed review. This can be added to that list. I don't know by what mechanism we do that now.

Nanette Bourne: It's interesting. We do have a list. It has not been acted upon. It is not moving forward.

Doug Hertz: Let's make a larger list if it is not moving forward. I hand it back to the Chairman now for discussion of the draft resolution

Chairman Cosentino: As a matter of fact, Mr. Cassidy, if we went by this, does that mean outside dining would be affected as well?

Austin Cassidy: Yes. All the examples I cited in the memo. We couldn't have gas pumps in front of a gas station.

Chairman Cosentino: This Board has approved outside dining many, many times.

Doug Hertz: It's a structure – it's building a structure in front. You can dine without a structure. You are not erecting permanent things when we do outside dining.

Austin Cassidy: I'm not sure permanency would be the features.

Doug Hertz: Thank you for that.

Vice Chairman Sturniolo: I totally understand Mr. Hertz's concern about it. Mr. Singleton, can this be alleviated until the code is changed via the ZBA? Because I am not one in favor of blessing something that is wrong, and we are getting close.

Whitney Singleton: The building inspector has opined on this topic. Whether you agree or disagree, he has made his determination. Therefore, it is a non-issue.

Austin Cassidy: Just to give the Board a little extra comfort, and Mr. Chairman was moving toward the history, it was the consensus of this Board that that should have been eliminated, but we are talking probably 13 – 15 years ago at least, and for this applicant or any

others that have come since and gone since have been penalized for the fact that it was never taken out of the code by the powers that be, whoever those powers might have benefited.

Chairman Cosentino: I would have to say that if we need to go by this, any application that I see that wants to come before this Board, we would have to deny it because it does not make sense. We are where we are. Again, the building inspector has made a determination. That we cannot change.

Vice Chairman Sturniolo: How quickly can we start to get this concern in front of the Village Board, and what is the mechanism for doing it? Who has to write what? Who has to suggest what to whom so we don't have to go through this time and time again. If the code needs to be changed, let's start it tonight. I am looking toward Mr. Singleton and Ms. Bourne for guidance as far as moving this football.

Nanette Bourne: If you want this to be before the Village Board, you need to get Jim Palmer to authorize us to put it together and send it to the Village Board. I would recommend that he authorizes this one, that we go back and do the other ones that we have set aside.

Vice Chairman Sturniolo: Is that a long, delaying process, to include everything?

Nanette Bourne: It's a process, if you recall, seven years ago.

Vice Chairman Sturniolo: And nothing has happened.

Whitney Singleton: That is not an accurate statement. When the Planning Board had staff meetings, these were some of the items that we took up, and before making the recommendation to the Village Board pursuant to 110-52 of the code; it never materialized to the point of the proposed language. So there has never been a recommendation. As far as this particular code provision goes, I think there are some counter arguments here. I don't think it could be flushed out tonight. This is something for a work session for your Board to discuss; what is appropriately in a front yard and what is appropriately not. For the purpose of tonight's meeting, the building inspector has made a determination.

Vice Chairman Sturniolo: I agree with that. I am trying to make things happen quicker than they normally happen in the stymied village hall.

Whitney Singleton: 110-52 is a procedure that allows your Board to make recommendations of the zoning changes to the Village Board.

Vice Chairman Sturniolo: To achieve that, what do we have to do?

Whitney Singleton: You need to give a written correspondence to the Village Board stating that you would like to see a particular code provision changed for the following reasons, and you can propose or not propose language. If it is a proposed change for a zoning ordinance, it gets referred to the county for its input, and then the Village Board can schedule a public hearing.

Doug Hertz: Can we request of our Board to put this on the agenda for the next work session with some suggested language from staff?

Whitney Singleton: Yes.

*At this point, Chairman Cosentino instructed the secretary to proceed with this action.*

Whitney Singleton: Mr. Cassidy and I will work on it together.

Chairman Cosentino: I think Vice Chairman Sturniolo is right. We should get this done so we don't have this problem again.

Anthony Oliveri: I have a few concerns with the site plan. There are a lot of little details from the site plan of record and the survey that are not on the site plan. I am worried if this site plan becomes the site plan of record, there are a lot of little things (that do not match). A couple of variances from the survey, there are head walls that are shown on the survey, there is a metal shed. These are not on the site plan and I want to make sure this site plan gets brought up to date, so when this is the site plan of record, all these features are on there. Right now they are not all on here. It's almost like a schematic look on the property. Everything is just not there, and it needs to be on there. If this is the site plan of record, these items need to be on there. I mentioned last time that the site plan should be based on the survey. The survey should be the base map for the site plan.

Chairman Cosentino: I don't think that is too difficult to do.

Anthony Oliveri: It needs to be done. Before anything gets approved, that really needs to happen.

Chairman Cosentino: That is not a difficult thing to do.

Doug Hertz: Mr. Oliveri, the site plan that we have in front of us differs from the survey?

Anthony Oliveri: There are a lot of little things missing. For instance, the shed that showed up on the last version is now gone again. The loading area is not labeled. The grass area along Lexington Avenue seems to be a different width from the survey. The walkways on the survey are not the same; the shapes are different. It should be the exact survey, with the improvements shown. That is not what I'm seeing. There is a stream that goes through here, but that is not shown. These things should be shown. Planting areas, easements, all this should be on there.

Chairman Cosentino: Was this brought to the attention of the applicant?

Anthony Oliveri: I brought up the fact at the last two meetings that I wanted the existing survey; I wanted the site plan based on the survey.

Doug Hertz: Are you concerned that the zoning tabulations are not accurate?

Anthony Oliveri: They did mention that they based it on the survey. I can't easily check it because of the form this is in. Usually Mr. Cassidy looks at it for zoning information. If need be, we can convert this digitally and maybe check the areas if Mr. Cassidy feels he needs us to do that.

Chairman Cosentino: We definitely need it.

*Mr. Martabano assured the Board he would enter everything onto the completed survey.*

Whitney Singleton: As Mr. Oliveri said, last time we wanted to make sure that the site plan of record was based upon the actual field survey and the existing conditions at the site. There is a shed and loading area that are not there. They show one existing loading bay when there are two in the back. There is a stoop out in the back, which does not have any railings any longer on it. There is a handicap ramp proposed, but there is no detail. There is no enclosure to the dumpster. I would echo Mr. Oliveri's points.

Chairman Cosentino: I think there was something regarding a fire lane that was not marked.

Anthony Oliveri: You are referring to the striping.

Chairman Cosentino: It could be done very quickly.

Anthony Oliveri: If it's there, it should be shown.

Chairman Cosentino: Continuing on with the resolution, and reminder that it's only a draft.

*The public hearing was kept open for ten days for written comment only.*

Chairman Cosentino: I was asked by Mr. Vigliotti to ask for a report from the traffic consultant.

John Collins: Good evening. As indicated in the cover letter and pointed out, we will be submitting information during the ten day comment period with respect to the operational characteristics of Lexington Avenue and Radio Circle as well as the parking analysis. We find no difficulty with any of it. It is in draft form right now. It will be submitted Thursday.

Chairman Cosentino: Ms. Bourne will be on top of that report for Thursday.

John Collins: I will send the information directly to Ms. Bourne. For the record, we used the exact same base information for this kind of facility that we have used in the past.

**Motion to Close Public Hearing, Keeping it Open for Written Comment for 10-Days:**

**Motion: Doug Hertz**  
**Second: Karen Schleimer**  
**Aye: Sol Gibbons**

**Aye: Enrico Mareschi**  
**Aye: Stanley Bernstein**  
**Aye: Vice Chairman Sturniolo**  
**Aye: Karen Schleimer**  
**Aye: Doug Hertz**  
**Aye: Chairman Cosentino**

Chairman Cosentino: Going through the resolution, beginning with Page One.

Karen Schleimer: On Page One, it refers to the applicant as the "lawful contract vendee." I believe they are proposed.

Whitney Singleton: I have alternative language that I can propose for that.

Karen Schleimer: On Page two, the third Whereas clause says, "112 daycare children arriving by private automobile." I think we also want to add "and bus transportation."

Nanette Bourne: I think they are arriving by automobile in the morning.

Karen Schleimer: I stand corrected.

Nanette Bourne: If you will notice on Page 3, Item 7, the landscaping plans. They combined a landscaping plan with the site plan, but it does not provide the details that we normally require in the landscaping plan. And, related to that, this is a question for the Board – surrounding the playground they have a vinyl fence. Maybe this is a personal preference, but those vinyl fences are shiny. If you are putting something in the front yard, (I would question) a shiny vinyl fence.

Chairman Cosentino: I really don't think you are going to see the fence.

Doug Hertz: We were told it would be virtually covered by landscape. I am hoping that it is.

Chairman Cosentino: I've never seen a shine on vinyl fences. It is not supposed to be seen from the road. Have we seen the landscaping plan yet?

Nanette Bourne: This is the landscaping plan, and it needs to be more of a traditional landscaping plan. Once that is submitted, I can fill in (Item #7).

Chairman Cosentino: The landscaping plan needs to be brought up to date. We were promised you are not going to see the fence, and there were to be higher trees. That is going to be important. You really want to dress it up nice.

Karen Schleimer: On Page two, the fourth Whereas clause from the bottom, it does say that the fence is surrounded by a 36-inch guardrail and a dense planting of 36" high boxwood bushes.

Whitney Singleton: The plans are still showing a six-foot fence.

Doug Hertz: The details have to all be consistent. I assume when it says 36 inches, that is starting height for these boxwoods, and then maybe we need language in there that they will be maintained in perpetuity, once matured, to a height at least the height of the enclosure.

*Discussion followed as to the length of boxwoods.*

Nanette Bourne: (Whatever it is), it should be on the landscaping plan.

Chairman Cosentino: We want it to look nice. That's very important.

Doug Hertz: We need to note in the resolution the intent to screen this area completely and that will be maintained.

Karen Schleimer: And anything that dies will be replaced.

Nanette Bourne: I will add the intent.

Doug Hertz: On items that are not in here – it is in a "whereas" that there are dedicated parking spaces that have been increased from seven to ten. I don't know how the applicant is going to provide those as dedicated on an ongoing basis. Are we going to require signage on the spaces? How are we going to make it known that those are dedicated spaces? A mechanism needs to be put in place.

Nanette Bourne: Is there a preference?

Anthony Oliveri: The site plan calls for signage. "Ten spaces reserved for daycare drop off and pick up between 7:30 AM to 9:00 AM and 3:00 PM and 5:00 PM, with signage."

Doug Hertz: With signage, are we going to specify what that signage looks like, so that's its visible and functional?

Nanette Bourne: Again, it should be on the landscaping plan.

Doug Hertz: I agree that note is there, but there is no implementation. We should see what that implementation is going to look like and make sure that it's going to be functional. Additionally, in terms of parking, I don't know how the rest of the site parks. We've often requested staff to park in the back of the building, where there is limited spaces in front. If they take the spaces directly adjacent to their ten dedicated spaces, it is going to have a negative impact on the businesses that front that space. It would be my suggestion that we request staff parking to be in the back of the building, where it has been noted that there is adequate parking, which will increase the available parking in front. That should be as a "whereas."

Chairman Cosentino: I have one concern. Not that it's going to be a problem, but we, as well as the applicant, really don't know what type of traffic is going to be there. I think there should be a mechanism built into this that if the traffic starts bottlenecking, which could never happen, but there is a possibility that it will happen. Of course, you will have to make sure that it doesn't happen and do whatever you have to do to make sure it doesn't happen. There should be a clause in this resolution. I don't believe the village should be responsible for directing traffic into the daycare center if there is an issue. Even

though it has to be done by a village officer, if this happens, you need to be responsible to pick up the cost that it's going to take to do it. This gives you an incentive to solve the back up that could possibly happen. Many times you have said (while you were before the Board) that traffic won't be a problem, but I have to guarantee the village that if there is a back up, you need to be responsible to do it.

Whitney Singleton: I'll discuss language with Nanette.

Chairman Cosentino: That will give you an incentive to work with. You will know that you cannot have the traffic backing up because you will be paying someone to correct it.

Whitney Singleton: On Condition 1: "Construction shall commence within six (6) months and be completed within one year of commencement of construction." Unless there is something specifically identified by the Board and by the applicant, I would think that the construction should commence within six months and all aspects of the resolution should be complied within a year, not just construction, because you have that other situation where there is landscaping and various little items that have not been completed, and tend not to be completed since they have no Certificate of Occupancy (C of O).

Chairman Cosentino: There could be times in the winter where we have landscaping and it's not proper to put the landscaping in.

Whitney Singleton: This gives them a year.

Nanette Bourne: This is a good change to make with all the resolutions.

Whitney Singleton: The other items were to take into consideration is that the Board has identified some very mature plantings on site. They are not reflected on this plan. I don't even believe they are reflected on the original site plan, but there are a substantial number of trees which technically is part of their official site plan. I know that recently you had some trees taken down that were quite large, without it being incorporated into the site plan. All trees and plantings should be deemed incorporated to the site plan. The only ones that are shown here are the ones that are around the vicinity of the playground area. I'm not asking them to do a tree survey of the entire property, but I think some language should be incorporated in there to protect this Board from having somebody go out and cut down several trees.

Whitney Singleton: The other item is the fact that the applicant is proposing to eliminate plantings on village property. I don't know if the Board wishes to address what is going to be done with those plantings or how they are going to be replaced.

Nanette Bourne: Mr. Oliveri had given me an additional "Whereas" about getting a permit for a curb cut, and work within the right-of-way. I will expand that to landscaping.

Anthony Oliveri: I would even expand that to say that any work within the right-of-way to conform to village standard details. Also, there is a sign that is shown for the driveway. It should be located on the property. If there is a change to the plans now, that can be updated.

*Discussion followed regarding dates and times of future meetings so the applicant will have an idea when to return. A final resolution was tentatively scheduled for the August 28 meeting, with a submission date of August 14.*

Nanette Bourne: Just a reminder to the applicant that they may call me regarding the details of the landscaping plan, etc., so we can make sure what you produce is what we're expecting.

Doug Hertz: Is it because we're only going to have four, and we are only doing one meeting this month, does it make sense since we have half the Board out? Do you have a quorum?

Chairman Cosentino: We will make a tentative meeting for the 28<sup>th</sup>.

Stanley Bernstein: You can also inform the applicant that it could be their choice to come in September, when more Board members will be in attendance. If there are only four members and there is one "nay," it will be finished.

Michael Santora: We agree.

Stanley Bernstein: The choice would be to come in September, or we could possibly make a new date. There is a certain amount of jeopardy, which you have to consider. You don't want to go through this entire process again.

Michael Santora: We would prefer that the Board be a majority attendance.

Stanley Bernstein: If you can't get a substitute date in August, you would have to opt. It's up to you.

Vice Chairman Sturniolo: Aren't we telegraphing a pre-disposed position?

Stanley Bernstein: No, it's just something that we have to put on the table because there is the possibility of large disappointment.

Vice Chairman Sturniolo: We usually announce that at the meeting and say if the applicant prefers not to have it held on this particular night, it can go to another night. This conversation is taking the tone of...

Chairman Cosentino: (to the applicant) come on the 28<sup>th</sup>.

Michael Santora: So be it.

**Special Discussion:**

**Westchester Burger  
353 North Bedford Road  
PB2019-9, 69.43-2-3  
Outdoor Dining**

**Present: Vincent Corso, Business Owner  
Michelle Bernal, General Manager, Westchester  
Burger**

Vincent Corso: We would like to apologize first to the Board, especially to Mr. Cosentino for your comments. We do appreciate wholeheartedly your welcoming us to Mount Kisco, and we do apologize for not taking the due diligence and actually getting the work that you asked us to get done in a proper fashion. With that being said, we did move ahead and actually got everything according to plan. I only have four sets of pictures, if you have not taken the opportunity to pass by the property as of yet.

Vice Chairman Sturniolo: How come you didn't show up at the first two Planning Board meetings?

Vincent Corso: It's actually one Planning Board meeting that I missed. Only one, that was the last one, and the reason for that was I had my son's little league game, and family is more important.

Vice Chairman Sturniolo: Who conveyed that information to us?

Vincent Corso: I spoke to the young lady in the Building Department Office, and I said I had that meeting, "do I need to be there?" (And she said), "No, you don't." Otherwise I would have had someone from my team here.

Vice Chairman Sturniolo: The young lady in the Building Department's office?

Vincent Corso: Nancy.

Vice Chairman Sturniolo: Continue.

Vincent Corso: You can see the planting, the garbage area, which is something that I do not think, was on the original agenda was actually taken care of as well, as well as the lighting fixtures. Mr. Cassidy is also aware of the plumbing issue that has been rectified as well. We all feel that we have made wonderful improvements to what the front of the building looked like, and what the town of Mount Kisco had to look at prior to us actually getting there when it was John's Best and 353 The Restaurant, with the pergola, etc. We are sorry that it took longer than expected. According to the plans that were agreed upon, at one of the Planning Board meetings, we did add all the shrubbery that was requested by the Planning Board. More importantly, the last thing I want to do is leave here with a bad taste. Mount Kisco has welcomed us.

Chairman Cosentino: We tried to help you out.

Vincent Corso: I want always to make sure that there are always open lines of communications.

Chairman Cosentino: We have concerns that we want to go over with you so we understand one another, and we want you to go back and make a lot of money.

Vincent Corso: Thank you very much. The other part was the code that was given to us by the Village of Mount Kisco gives us a seating capacity of 192 seats.

Chairman Cosentino: I don't know who gave you that, but it's not true. What is on the site plan is the amount of people you can have. There are 129 on the site plan, and that is what you are allowed to have. 1-2-9.

Vincent Corso: 129 and outside is additional?

Chairman Cosentino: We will talk about that tonight. We have the site plan here, so we can show Mr. Corso.

Vincent Corso: The gentleman that came in from the fire department that gave us the C of O...

Chairman Cosentino: It comes from this Board.

Doug Hertz: That is just how many people can stand legally in your building.

Michelle Bernal: So the C of O means nothing.

Austin Cassidy: There is no number on the C of O.

Doug Hertz: It's in the text where the parking spaces were tabulated.

*The last approved site plan from 353 Bedford Road was then reviewed by the Board and the applicant. Mr. Singleton confirmed the 129 seating capacity.*

Vincent Corso: We don't have 182 seats, not anywhere close to that. Is that based on the parking spaces for the building?

Doug Hertz: The 129 is based on the square footage of the building and the number of parking spaces that can be supported by it.

Chairman Cosentino: In saying that, you run a good business there. You have a large business there. Larger than 353, John's Best. You are very successful in what you are doing, and the village of Mount Kisco is proud of you for doing that. The problem is parking. You can't park to the neighbor to the right, or the neighbor to the left of you.

Vincent Corso: We actually opened up communications with Sleepy's.

Chairman Cosentino: Do you have a written agreement?

Vincent Corso: No.

Chairman Cosentino: You need a written agreement. If you give me a written agreement that is contiguous, we can work something out. Unless we have a written agreement from the neighbor saying you can park there, this Board legally cannot do anything about it, because we are telling you to park on someone else's property, which we cannot do. Also, we have been told that people were parking across the street and walking across the road. That is dangerous. We are glad you are doing the business, but this Board is looking for the safety and welfare of the people. Right now, it's not there. You need to tell us what you can do for parking. I don't know where you are going to park all these cars. They were parked in front of DaSilva's; they are

going to start construction there this week. There is no agreement with Sleepy's. We cannot tell you to park there.

Vincent Corso: I am somewhat confused. Other than the 47 spots that I have, is it my responsibility to make sure that I have more than what the people are looking for? We have a tremendous amount of clientele that live in the co-ops behind the building that is across the street from us, and being that parking is an issue, they walk.

Chairman Cosentino: That's only people. We are talking about cars. It's the cars that are parking illegally across the street and illegally to the right, illegally to the left. The problem is you are not going to have that anymore. We see a lot of cars there because of the type of business that you have. It's great. We like people to come to Mount Kisco. When you have 60 or 70 cars, where will you put them?

Vincent Corso: At the moment, all I can say is I could actually try and get a written agreement with Sleepy's next door, which actually has 25 spots.

Chairman Cosentino: That's a big help.

Vincent Corso: I will venture to contact the people across the street.

Chairman Cosentino: It has to be contiguous.

Vincent Corso: Do we need to police the lot? There are 67 cars, sorry, no more business for Westchester Burger?

Chairman Cosentino: All we are telling you is that you are very successful in what you're doing. The other businesses that were there were not. You have parking for 47 cars. When 60 and 70 cars come there, what do you do? Remember, safety and welfare for the people. What do you do with 25 more cars that cannot fit in your lot? Where do they go?

Vincent Corso: I don't know where they go. I am under the assumption that they park across the street and walk across. Apparently they have been parking in DeSilva's, and John Martabano, the owner of Sleepy's, spoke to them, and I will get some type of written letter.

Chairman Cosentino: How do we compound this problem by giving you outside seating if more people come?

Vincent Corso: The 48 parking spaces that are there denote 129 people? Is that the formula?

Austin Cassidy: The requirement based on the number of seats on the site plan of record actually translates to a slightly lesser number of parking spaces. You actually have 48 on the site. Rather than dance around this, the real question is, what is your total seat count when you add your outdoor dining?

Vincent Corso: That brings us to 154 seats, having the addition of 13 tables, not 10.

Austin Cassidy: Then you need to appreciate restaurants explaining ---

---- on the basis of 129 seats. Its unplanned spaces to support that, in fact, there are one or two more spaces out in the field that are actually there ----- . No matter how you slice it, the quantity of outdoor dining puts you beyond your ability to ----- to support that - ----- . That is what the Board is trying to ----- .

Vincent Corso: With the type of volume we do at the restaurant, because of our check averages, which actually is another reason why we are so successful, people could actually go out and have a quality meal without having to spend a tremendous amount of money, which is a big part of our success, we rotate tremendously. The turnover at a table at the restaurant is 22 minutes. So, in 22 minutes a table of four is in and out of the restaurant. I don't know if that constitutes four Board members coming in with four cars meeting for lunch. I will get you out of there in 22 minutes; there is now four spots open.

Chairman Cosentino: Then why is there an abundance of cars parked all over? Is the 22 minutes not working?

Vincent Corso: It's working.

Chairman Cosentino: Why is there an abundance of cars?

Vincent Corso: Instead of four people getting together in one car, there are four people meeting there coming with four different cars.

Chairman Cosentino: That is a possibility. But, a few weeks ago, you know it, and you're the manager and you should know it, the cars were parked all over. Now that you can't park the cars all over, and you need to use your lot – it's not like you're in the village here where you could use the meters or the street at night, you have no street there that you can use. You have no neighbors now that you can use. Where can you park the cars where the village can feel it would be safe without people, especially children, running across the street?

Austin Cassidy: There are only two answers to that, the left side and the right side. You can't go to the rear, and you can't go to the front, and it has to be abutting. And we know it's not going to be the property to the immediate south, there is actually construction work going on. The property to the right that we've identified, that you're working on getting an agreement going, be that as it may, are you finding during this kind of weather that there are a lot of empty seats inside?

Vincent Corso: The majority of our business, as with every restaurant, is Friday, Saturday and Sunday. Again, we cater to a tremendous amount of families, so the majority of our business begins at 5 and ends at 8:30. Restaurants usually close at 10:00. We've never decided to entertain the bar business, etc.

Austin Cassidy: Are you finding a lot of empty seats inside this time of year?

Michelle Bernal: When we had the outside; yes, we did. Not a lot.

Austin Cassidy: But there are notable vacancies on the inside, people are opting to the outside?

Michelle Bernal: Yes.

Vincent Corso: It's not that we don't use the outside when there is excess. If someone is coming in and saying, can we sit outside, that table is not being used in the dining room because they are sitting outside.

Vice Chairman Sturniolo: It becomes an enforcement issue. We are not going to trade off not seating people on the inside; therefore you can increase the outside.

Austin Cassidy: You have 154 seats and the place has parking on the right for 129 seats, we may in fact have a couple of spaces extra for a little wiggle room. Having said that, with 154 seats, if a percentage of that number is vacant because people are operating and going outside, how many seats are actively being used at peak?

Vincent Corso: Honestly, we hope all of them. That is what we strive for. As of right now, the way it's working, with the weather being nice, for me to give you a determination...

Austin Cassidy: Logically, we cannot keep varying the circumstances.

Vincent Corso: We have to vary the circumstances because if it's raining everyday, we are not using the ten tables outside.

Austin Cassidy: We are talking about peak demand.

Vincent Corso: With peak demand, we are using 154 seats.

Austin Cassidy: Case in point, you don't have enough parking to support it. That is what the Planning Board is talking about.

Vincent Corso: Prior to going back to one of the Planning Board meetings that we all agreed upon; okay, in the meantime, we'll actually agree to what was there, what was grandfathered in was the ten tables that John's Best and 353 had for 25 years, am I to assume that they never had the issue?

Austin Cassidy: They never had the issue because they never enjoyed the degree of success that your business is enjoying here. You are not only maximizing the interior but you're maximizing the exterior as well at peak. In the past, people have opted in the nice weather instead of sitting inside, to sit outside. It was just an alternative, so the parking demand did not get pushed that hard.

Vincent Corso: So the only way to entertain it is to make sure that we actually have, according to the parking lot at Sleepy's, available to us with a written consent from them saying that we could use it during our peak hours, which is dinnertime.

Austin Cassidy: That is one of the elements. There may be a recipe needed here to find the middle solution to succeed for everybody.

Doug Hertz: Whatever restaurants have done, when they don't have parking on site, they provide valet parking.

Michelle Bernal: We know from the past, (with valet parking) some

people won't come to us with their children because they think it's too fancy. We thought about that.

Doug Hertz: I am saying that this is a solution when you don't have contiguous parking.

Vincent Corso: It still has to come to actually having some type of a guarantee. If I have valet parking, and I have a verbal agreement with the tenant across the street, that still doesn't work.

Doug Hertz: You need more than a verbal agreement.

Vincent Corso: But it has to be contiguous.

Doug Hertz: You are jumping across multiple thought lines. If it's contiguous, you do not have to valet park. What I said was that there are other restaurateurs in the village who do not have contiguous parking, who have done valet parking as a way to deal with that issue. If it's contiguous, you obviously don't need a valet to do it.

Vincent Corso: Where is the valet parking the cars?

Anthony Oliveri: With valet you can stack the cars tighter in the lot.

Vincent Corso: So that means none of these diners that come to the restaurant would be allowed to park your own car?

Doug Hertz: We are just mentioning that there are other solutions available.

Whitney Singleton: I think there is a misunderstanding as to what the obligations are under the code - to provide off-street parking on your site for your use. You have no authority to park on other people's property under our code without the permission of this Board and without the consent of the property owner.

Vincent Corso: If I just may interrupt, I am not giving anyone permission to park anywhere other than my lot. What people choose to do on their own...

Whitney Singleton: That is a problem from the Board's perspective, because you are clearly not able to self-sustain. You have to have people trespassing in order to come to your restaurant. But the point I'm making is that the code says that you have to satisfy all the parking on your lot, however, there is a provision, which says:

*All street-parking facilities shall be provided on the ----- premises with the structure or land use they serve, except that off street parking spaces required for structures remaining on two adjoining lots may be provided in a single common facility on one or both said lots.*

So if you have an agreement with an adjoining property owner to utilize their spaces in an off-peak time and the Board determines that your peak hours are substantially different from the neighboring property owner's peak hours, they essentially don't count those spaces. But right now, without an agreement, they can't do that.

Vincent Corso: In essence, my solution to the problem is to show up

here with a letter from Sleepy's, I have an additional 25 spots and a warrant 154 seats, and we're good.

Whitney Singleton: I don't mean to speak for the Board, but I don't think they want to penalize you in being able to utilize outdoor seating, but without additional provisions for security being in place for adjoining property owner's use, perhaps to the extent that this Board would authorize outdoor dining, it may have to come at the expense of some indoor dining. So if the weather is bad, you have your maximum seating inside. If the weather is nice, you can take some of the seating inside and move it outside or replace some indoor seating with some outdoor seating when you are capped at a certain number.

Austin Cassidy: I was working on a recipe concept. The situation I have is just putting more demand based on the popularity issues than the property can support. With having outdoor dining, which is an amenity above and beyond which has no parking to support it whatsoever, only makes it ten times worse.

Vincent Corso: Again, as Chairman Cosentino said earlier, is also a concern of ours, making sure that we actually have enough spaces. I will work diligently to get that letter for you and drop it off at the building department and see if we can actually move forward here.

Vice Chairman Sturniolo: Mr. Cassidy, pretend there was an agreement with Sleepy's for 25 spaces and they were counted in, where would that bring him?

Austin Cassidy: 25 would equate to 75 seats.

Vice Chairman Sturniolo: (What) if Sleepy's changed from selling mattresses to another venue, and they would want to have their parking back to service their own personal needs?

Austin Cassidy: He would be up the creek for that formula.

Doug Hertz: The other part of that is that they may have 25 spaces, but we may not be able to count 25 spaces. We have to look at their minimum need when the lots are in use.

Vincent Corso: For lunch, unfortunately, I have too many spots. The problem for me is dinner, Friday, Saturday and Sunday.

Stanley Bernstein: Everything that Mr. Singleton said was exactly what I was going to say. Thank you.

Karen Schleimer: When we get to the point where you have some sort of agreement in place, we may also need information like real numbers on peak usage and things like that just to confirm that it works.

Stanley Bernstein: You need contiguous space, and I do believe that the 333 parking lot is abutting their backyard. There may be vegetation in between, but it's abutting their backyard legally. There is a possibility of valet parking in that situation. Not necessarily valet parking, as you understand it, making it expensive.

Chairman Cosentino: It may put 333 in a site plan violation, because

we are taking parking spaces away.

Stanley Bernstein: They are agreeing to give.

Austin Cassidy: I think you might have alternate discussions.

Vincent Corso: The practical solution is Sleepy's, so we'll work on that.

Sol Gibbons: There is one thing about traffic going in and then out, the only people to lose are you. You are losing a customer. But, people parking across the street and walking across the street is absolutely a no-no. As far as I'm concerned, the parking is a problem, and you have to come up with some kind of a solution.

Michelle Bernal: How do we stop people from parking across the street?

Austin Cassidy: You cannot endorse or encourage it or direct it.

Vincent Corso: We don't.

Austin Cassidy: I heard you say earlier, which was an interesting concept, was that a significant number of your clientele are coming from the condos up on the ridge, you are saying that they are parking on their own across the way and just walking across?

Vincent Corso: Yes, on a nice day.

Michelle Bernal: Can we put a crosswalk? I know we don't have permission to park across there.

Chairman Cosentino: It's a state road and we don't have jurisdiction.

Vice Chairman Sturniolo: The idea is that you should encourage parking there.

Michelle Bernal: We don't.

Doug Hertz: Assuming that you get an agreement, you are going to have to put up a sign that says, "Overflow parking." People are going to want to park as close as they can. Who would want to park across the street and walk if you have space right next to you? If it were well-marked and well signed, that when you drove into the parking lot, it wouldn't take very long for that to be functional.

Vice Chairman Sturniolo: Because there is an easement agreement between your property and Sleepy's to go back and forth, that does not define it as having parking. It is the ability to go through back and forth, not definitively stating that you also have parking along with Sleepy's. That road attached there is only to go in and out, not to park.

Vincent Corso: As soon as we got the letter we went over to Sleepy's, and whatever barricade they put up they removed, and they opened that up.

Doug Hertz: I would like to go back to where we started originally, which was landscaping. There was an approved landscaping plan for

what the place used to be and it's radically, radically different. You tore out everything and you put in a little. The intent of that original landscaping had purpose, and what is there now isn't even (close).

Vincent Corso: I don't know if anyone has a copy of the plans here, but the landscaping plan was part of the addition that was required. The front with the dogwood was required as well, and these potted plants were added in which were up in the front. That is what was on the plan that was approved.

Doug Hertz: I see that. For me, this is a joke.

Vincent Corso: I could have sworn this was a joke. This is what it looked like prior to us taking over. I think it is night and day, but we are talking about personal opinions. This is what was approved by the Village of Mount Kisco, and I think it looks much better now. Again, that is just I speaking. The terminology is a little strong with the wording here.

Doug Hertz: Let me go back for a second here.

Vincent Corso: I don't like my restaurant to be called a joke.

Doug Hertz: I'm not calling your restaurant a joke. I'm calling the landscaping a joke. There is a landscaping plan that was designed for the entire road, and we have requested and required every applicant whether it was before you, across the street from you, down the street from you to comply with it. This does not comply with it.

Michelle Bernal: What were those plans drawn up for, then?

Vice Chairman Sturniolo: To further amplify what Mr. Hertz just said, if you start with green space area on Route 117 coming up northbound, on the right hand side is dedicated green space by the Guard Hill Manor. On the left hand side of the road is dedicated green space when the building on the corner of Barker Street and 117 was built; there were intentionally designed landscaping plans to promote that green growth property. When Appleby's came forward that was also part of a green space corridor that we, the Planning Board, wanted to see continued northbound. The same thing happened to the right hand side, where the former Patent Trader building used to be, and it continues into the Kinkos and Staples parking lot area where there was green space. When the Toyota dealership changed the façade of their building, we insisted on a furtherization of continuing this green space corridor. This is exactly what Mr. Hertz is referring to.

Vincent Corso: I understand. I was at that Planning Board meeting when that was expressed. With the young lady's help and the landscaper architect, together they said, "Vincent, this is what you need to do." Okay. That's what I did. I only did what I was told to do. If I needed to do more, I would have done more. If I needed to do less, I would have done less.

Vice Chairman Sturniolo: When the previous owners had the building, you could hardly see the front of the building, and surely you could not see your neon sign because it was heavily landscaped. That is what we are talking about. Right now it looks like *Little House on the Prairie*.

Doug Hertz: What we see at the front of your building is a huge expanse of brick. We see your terrace. We are trying to create a green swath down the street. Now, what we see is building and pavement. Next to pavement we see brick face. Across the street is bermed.

Michelle Bernal: This is what you see from across the street.

Doug Hertz: Which is nothing anywhere near as dense as all...?

Michelle Bernal: Well, it has to grow. We just got in here and the weather has not been the greatest either. We planted all this grass, look how big it is.

Doug Hertz: When I look at your photos, I see huge areas that have nothing planted in them, they are not even close.

Michelle Bernal: Look at this side; this is where people walk on. They are walking up the sidewalk, and that's what they see. Here you go. I'll throw them right back at you like you did to me.

Vice Chairman Sturniolo: This is not downtown White Plains.

Doug Hertz: I didn't throw anything at you, and if you're going to do that, we can stop the discussion.

Vincent Corso: And the back...

Doug Hertz: I'm not really talking about the back right now. I'm talking about what you see. I'm talking about the corridor down 117.

Vincent Corso: But this is what people see when they drive by.

Doug Hertz: And if I threw anything at you, but that didn't happen at this table.

Nanette Bourne: May I make a recommendation that we go out and look at what is planted there compared to what is on the landscaping plan? And, where there are opportunities – either it complies or it doesn't, and if it doesn't then we'll have to, and if there are areas where it could be enhanced so that it gives it a more lush feeling, we can come back at the August meeting.

Doug Hertz: I won't be at the August meeting, but yes.

Vincent Corso: My father in law is a landscaper. We went out of our way to put a garden there with fresh tomatoes and basil. We have no issues.

Doug Hertz: I know exactly what was there.

Vincent Corso: That is what 353 were.

Vice Chairman Sturniolo: Before the tables were there and before the grapevines were green and before the planting boxes were along the perimeter.

Stanley Bernstein: Yes, but there were trees in the front.

Vincent Corso: We just added two beautiful 8-foot dogwoods.

Vice Chairman Sturniolo: Right now, the front to me looks like it could be a parking area. All you see is pavement and the façade of the building.

Doug Hertz: Maybe in five years it will look like something.

Michelle Bernal: We will get there. If you see all of the rest of our businesses, we do top notch business.

Vincent Corso: White Plains doesn't give us the opportunity to do any planting, but the Rye Brook location is beautiful. You could look at the pictures online. We do all of the landscaping ourselves. Beautiful maples – it only helps us to make the restaurant look good. It only hurts us if it's not going to.

Vice Chairman Sturniolo: Don't hurt yourself by keeping this approach up.

Vincent Corso: So we will leave it for August?

Nanette Bourne: We will be in touch with you.

Vincent Corso: Thank you.

Jillian McNanee: I just watched that whole thing, and there are a lot of things – if they got permission from next door, and they get outdoor seating but then they kept –

Chairman Cosentino: Do you represent the company, or do you just work there?

Jillian McNanee: I just work there.

Chairman Cosentino: He knows what he has to do.

Jillian McNanee: Okay.

Chairman Cosentino: Thank you.

**Correspondence:**

- New York State Conference Planning and Zoning Summer Schools 2012 – Schedule and Application

Chairman Cosentino: I think we ought to go as a group. I think its better. If you feel that you want to go to this, I will talk to Mr. Palmer.

Whitney Singleton: Mr. Palmer has already indicated that the village will obviously pay for it.

- New York Metropolitan Transportation Council dated June 29, 2012.
- Minutes of Mount Kisco Beautification Committee dated June 6, 2012.

As there was no further business to be discussed by the Planning

Board, on a motion by Vice Chairman Sturniolo seconded by Mr. Bernstein, the meeting was adjourned at 9:35 PM.

Respectfully submitted,

Stanley Bernstein,  
Recording Secretary

dm