

Minutes
Meeting of the Planning Board
Regular / Work Session
Village/Town of Mount Kisco
Tuesday, June 12, 2012

Chairman Cosentino called the meeting to order at 8:05 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
Ralph Vigliotti

Members Absent: Karen B. Schleimer

Staff Present: Whitney Singleton
Nanette Bourne
Austin Cassidy
Anthony Oliveri

ACCEPTANCE OF MINUTES:

May 8, 2012

Motion: Stanley Bernstein
Second: Sol Gibbons
Aye: Vice Chairman Sturniolo
Aye: Doug Hertz
Aye: Enrico Mareschi
Aye: Doug Hertz
Aye: Stanley Bernstein
Aye: Chairman Cosentino

Continuing Review:

**27 Radio Circle
Little Garden Childcare Center
PB2012-11
Site Plan Approval
Special Use Permit 80-64-1-2**

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

William R. Spade: We submitted a memo and supporting documents for responses to the comments and memos that we received from your professionals as well as Mr. Vigliotti. I will go through those responses. We made some revisions to the site plan. We have relocated that to an original proposal, the bus drop off point, which is

by the second entrance along Radio Circle. While keeping the proposed new curb cut, this allows a bus to pass through along the face of the building, get passed the existing curb cut where it would stop, drop off children and pick up children that way, eliminating any potential back up or queuing for cars coming into those curb cuts. We think that location for bus drop off and pick up would work fine, and cars coming in and out to the reserved parking spaces would not be constricted by that location. We have also retained the one-way drive portion in front of the childcare center, so that any vehicles coming into the new curb cut are only coming in and proceeding south along the driveway. Other site plan related changes include reconfiguring the parking and showing reserved parking spaces that are compliant with the village's code for visitor spaces. We have also identified the aisle between the handicapped spaces as a divide. We have added signage that was requested by Mr. Oliveri and provided details for the driveway apron and the asphalt paving section as requested.

The next item was the playground location, which has obviously been one item of particular focus here. We continue to believe that the playground in the front is the best location. I've identified several supporting factors for that. Among them is from a safety and monitoring affective, given that the front of the operation is at the front of the building. We believe that is the best place for a playground area. Any location in the rear would cause substantial loss of parking, it would put the playground in the vicinity of the dumpster, which is obviously an unsanitary situation, and would be substantially difficult to monitor and configure with regard to the existing tenant that is in the back part of the building. We believe for those functional reasons, the playground in the front is the correct location. I think the substantial objection to the playground in the front was that it is of a different character than possibly Radio Circle Drive and the other kinds of uses along the front of Radio Circle. I have provided photographs of adjacent front landscapes of properties; for instance, the property immediately adjacent on the other side has a berm and substantial landscaping there. Therefore, providing landscaping and that kind of visual barrier with this playground is somewhat in keeping with the way that the adjacent property is presently improved. As you drive further up Radio Circle, particularly noted is the Mount Kisco Day Care Facility, which has a very unattractive, I think, solution to their situation. They have a drainage swale right along Radio Circle with a split rail fence in front of it. That drainage swale is dry, and behind that is chain-link fence, then their parking area. I think as unattractive solutions go, that is about as bad as you can get. Yet, that is part of the character of Radio Circle. I think our proposal with landscaping, a short fence, green space and a playground is an attractive solution that we believe is not out of character with the rest of Radio Circle Drive and the other uses there.

Chairman Cosentino: How high is the equipment going to be on the playground in the front? Is it going to be over the fence?

William R. Spade: We provided a picture of the proposed playground. Yes, the tallest aspect of it is probably six feet tall, and the fence is four feet tall. You will see the playground structure above there.

Chairman Cosentino: Is there only one piece of equipment?

William R. Spade: Yes, it's a single unit.

Chairman Cosentino: And if that piece had to be eliminated, could it?

Michael Santora: No, it's a major attraction.

Beatrice Santora: With the landscaping in front it would probably be hidden at that point.

Chairman Cosentino: It could be hidden with trees; if it had to be: with trees?

Michael Santora: Yes. That is what our plan is. We will have at least six-foot tall trees.

Ralph Vigliotti: The top of the roof to the grade level is only six feet?

William R. Spade: I'm sorry; I forget there were roof elements on top. Six feet to that rail section, and then those roofs above are probably another four feet - so, maybe ten feet to the top.

Michael Santora: We wanted to keep that rustic look, so they are not plastic. Our idea here is to keep the kids as close to the ground as possible for safety reasons, with the type of mulch that we have to put down. The higher they are, the more mulch protection we have to put on the ground. We do not want the kids too high off the ground.

Vice Chairman Sturniolo: What is the purpose of the four-foot fence?

William R. Spade: We need to have a security separation of the playground area from the surrounding area. The state requires a four-foot high minimum fence enclosing the playground area for security.

Vice Chairman Sturniolo: What are you providing for security for the distance between the fence and up to ten feet?

William R. Spade: Why are you asking that?

Vice Chairman Sturniolo: Because I'm curious.

Chairman Cosentino: I don't understand the question.

William R. Spade: There is nothing we need to protect above the four feet. Is there something you are thinking we need to protect from of the ten feet?

Vice Chairman Sturniolo: Could somebody be up there playing?

William R. Spade: The playground is well inside of that fencing. It is nowhere near the fencing.

Beatrice Santora: There has to be a certain distance from that or any other structures.

Vice Chairman Sturniolo: Could someone be playing up at that ten-foot height?

Michael Santora: No.

Vice Chairman Sturniolo: Thank you.

Ralph Vigliotti: How high is the platform off the ground? It looks like three or four feet.

William R. Spade: Yes.

Ralph Vigliotti: And above that is the platform, and then you having the roof structure, which brings you up to ten feet.

William R. Spade: Yes.

Ralph Vigliotti: Is the roof structure an important component?

Beatrice Santora: Yes, for shading and aesthetics.

William R. Spade: The next item in the response memo was site lighting. We provided a diagram that was done previously by the property owner of the photo metrics of the site. There is lighting all around the building, including this corner space, and I indicate the lighting that is mounted to the building on our site plan diagram. We have provided traffic data. We submitted it at an earlier meeting and at the last meeting there was some question about recalling the traffic data, so we resubmitted that. That traffic data particularly indicated the peak arrival done by 15-minute periods, which had a total vehicle count of 21 vehicles arriving in that 15-minute period. That seven-minute turnaround is what led us to ten reserved parking spaces being a sufficient number of parking spaces to address that peak period. Obviously, that is a peak period based on full occupancy of the facility. So, really, the ten reserved spaces are even more than sufficient for the operation of the property.

Vice Chairman Sturniolo: Who did the traffic and parking study for you?

William R. Spade: The owner put together the data.

Michael Santora: The data was coming off the New York State website, published in 2010 data of traffic along Lexington Avenue. There was no traffic study on the state website for Radio Circle, but there is on Lexington Avenue, so he used that as a basis. There is a whole formula. You plug in your capacity to the formula, and you get the number of spaces.

Vice Chairman Sturniolo: Did you have those numbers verified by a professional in the parking and traffic study business?

Michael Santora: I did not. It is off the State site.

William R. Spade: The next item on our site was a site survey. We had previously submitted a site survey. The owner had an engineering plan done in 2005. Going on from there, the next set of responses are regarding Mr. Vigliotti's memo. The first item was about the existing 12-inch caliper tree. That tree is to remain and will be protected during the construction phase. We value that tree, so that is an important element. The second item was a suggestion about relocating the curb cut further to the west, which would necessitate the location of the playground to the rear of the building, and again we believe the playground is best located in the front. Further, the property slopes up further west, so a curb cut further west would lead to some other

grading conditions that would be more challenging. We do think that where the curb cut comes in on the property is a good location for that curb cut related to the front entrance of the building and the parking. Also, its distance from the existing curb cut is sufficient distance for spread between two curb cuts. From there, Mr. Vigliotti raised a question about the lease terms of the other tenants on the property. All of the tenants are either under long terms leases or in the process of renewing long terms leases. So, we believe, and Mr. Martabano can confirm, that the existing tenancy is going to remain for a long period of time. The next item was about the parking utilization. Mr. Cassidy had done a parking utilization study that indicated that based on the staggered occupancies of the other tenants, particularly the church that occupies the far eastern portion of the building, that there is excess parking on the property in non-church use hours. The church, obviously, is there on Sunday morning and Wednesday evening. All other times there are no utilization by the church, except for maybe a couple of spaces. Just by my own visual awareness, I've been at this property numerous times at all hours of the day and have never seen more than 50 percent of the spaces being utilized.

Chairman Cosentino: What is the amount of years on the lease on the church?

John R. Martabano: The lease is a ten-year lease and they are five years into it with a five-year option. They are very good tenants and they have no inclination to leave. We are very happy about that.

William R. Spade: The next item is the dedicated spaces for the childcare center. We are proposing ten, we re-configured that presently there are 14 spaces in that stretch of spaces. Two are for handicapped utilization; the remaining 12 are roughly 8'6" wide spaces as they are presently striped. We are proposing to re-stripe those, retaining the two handicapped spaces, and that will leave us ten 9'- 6" wide spaces as required for visitor spaces along with a walk aisle at one point for pedestrians. Our traffic study showed that the ten spaces would be sufficient for the maximum peak period utilization of drop off.

Ralph Vigliotti: Does the ten include the two handicapped?

William R. Spade: No. It's ten plus two. There is an existing ramp that goes to those two handicapped spaces and we want to retain those. The next item is the location of the play area, and I think we identified beliefs and reasons for the front location previously. The next item was a question about the proposed playground fence. As we delineated on the site plan, it will be a chain-link fence with a metal guardrail around it with landscaping that will screen all of that fencing.

Chairman Cosentino: When you say metal guardrail, is this something that is in concrete?

William R. Spade: Correct.

Ralph Vigliotti: Are you proposing a 36" high Boxwood? You are proposing 36 inches, you have a four-foot fence and you have the playground. It will take several years for any kind of foliage to block all that.

Beatrice Santora: We have been exploring that. We've looked at 6 foot Arborvitae, the deer is there, so we need something that is evergreen. We have taken the growth into consideration. Boxwoods grow at a very slow rate, so we've eliminated that.

Chairman Cosentino: You might want to consider pear trees.

Vice Chairman Sturniolo: They are in front of TJ Maxx.

William R. Spade: Our intent is to have a vegetated barrier screening so you're not looking at the guardrail. The playground structure is well inside this fence. So someone standing at four feet will see well into the playground with a four-foot high fence. The last item on Mr. Vigliotti's memo was about the engineering review of the ingress and egress, and that is next in terms of my response memo. With regard to Mr. Oliveri's memo, the first item was the New York City Department of Environmental Protection that is being submitted. I do not have a response from them, but we are making every effort to get a response from them. The second item is the development coverage for the playground. It is my belief and Mr. Cassidy and I still have not come to the same conclusion that the playground structure surface area should not be counted as part of development coverage. I detail here that it represents 8 percent of the total site area. It is a very minor element in the total site area, and it is pervious. It does not act in any way to channel water or anything like that. In a sense, it is still acting as the existing grass area that it currently is.

Vice Chairman Sturniolo: Why do you disagree that it should be considered development coverage?

William R. Spade: Your development coverage definition explicitly lists specific items, and a playground area is not listed as a specific item, nor is anything like a pervious playground surface area. I believe your development coverage is intended to deal with impervious surface areas, and that's the kind of items that are listed in developing coverage.

Vice Chairman Sturniolo: So, you're disagreeing with the Building Inspector because you are viewing it as a separate entity from the development coverage of the entire operation?

William R. Spade: I'm not sure if I'd say it that way.

Austin Cassidy: We have a posture on this. This is an open question, so I think we can say that we have yet to come to a unified determination one way or the other as to how that is being viewed, because first of all, it keeps moving around. We are waiting on that one question. It's a 7/10th of a percent increase, and I believe that would also pick up that small area that you're opening up within the green space in your curb cut area.

Chairman Cosentino: You and the building inspector have to have a dialogue on that.

William R. Spade: Yes (that does fall within the 7/10ths) because a very small portion of that is on this property.

Doug Hertz: We have had applications here that did not include playgrounds, but looked at parking space with pervious pavers. Certainly that was development coverage. So, the pervious/impervious aspect to it does not seem to be a defining component. Clearly parking spaces that use pervious pavers are still development coverage, and have been in multiple sites around the village.

William R. Spade: The next item on Mr. Oliver's memo is on parking counts. We covered that with regard to Mr. Cassidy's analysis. The next item was the two proposed parking spaces. In reconfiguring the 14 current down to 12, I added two parking spaces in the rear parking area and now show the dimensions for those and show that the aisle that remains is still sufficient for passage per code in that parking area. The aisle for the two handicapped spaces is to be eight feet wide, and that is labeled as such. Drop curbs presently exist for the handicapped access. Mr. Oliveri requested that we add a "no right turn" sign which we have shown on the site plan and requested the details in terms of walkway curbs, driveway apron and asphalt pavement with details for the asphalt pavement in the driveway apron, and those will be in the final format to the site plan. Lastly, in terms of the memos, there is Mr. Cassidy's memo on various items. There were three prior ones that were commentary, and the fourth item was about the new curb cut, which is reflected on the site plan. The fifth item was about the development coverage; whether the playground counted to development coverage, we have discussed that. The last item was the landscaping around the playground fence, and we discussed that the plan had showed 36" high, but we are talking about doing more than that. Lastly, the item that includes and hopes that we can accomplish tonight is the scheduling of a public hearing. There is timing that is very critical to this application to have any prayer that they could open for this fall. If they cannot open by September, they are done for the year. There is no use opening a childcare facility after September. We are very anxious to get onto the public hearing and think that any other remaining items that we still need to address, we can do in that process.

Vice Chairman Sturniolo: The last time we were together we requested a site plan and an analysis of putting the playground in the back of the property. In reading your letter, you basically said, "no," you are not going to go through it for whatever reasons. Now you are talking about trying to open up in September. It sounds to me that you are forcing the Planning Board to adapt to your schedule because of your financial needs as opposed to our schedule, which is the careful analysis of the health, safety and welfare of all the children that are going to be in this facility. Granted, the results may come out differently or they may come out the same, but I as one member need to feel that I have covered all bases in reviewing all the aspects. What is missing is the details analysis in the back of the property. What is missing is a parking traffic study analysis by a professional in the front of the parking area. I want to cover all bases for me before I vote on this, because I am very concerned about the liability of the village, the Planning Board and everyone else. I have driven by the site starting with coming around the corner from the post office. With no traffic in front of me, easily I could hit 50 miles per hour and come to a safe stop at the traffic light. I waited and waited and waited a few more times and did another drive through where there were cars in front of me going slower, and I was going by at 40 or 45 miles an hour. I

personally need to be absolutely convinced that what you're saying is the best safety approach to putting a child day care center facility this close to traffic. I do not understand why you unequivocally decided to dismiss the request the Planning Board made at its last meeting to do a study about moving the playground in the rear. You stated certain reasons – New York State says this, New York State says that – but I still need to see it in the back, and I still need to see a careful parking, health, safety, welfare traffic analysis of the entire operation. I wish that what was going to be presented tonight, but unfortunately it's not.

Beatrice Santora: As far as the playground in the back, with all due respect, he was talking in terms of timing. Ideally we would like to open in September.

Vice Chairman Sturniolo: Maybe you should have come to the Planning Board in January. You cannot take your financial burden and make us a partner of it.

Beatrice Santora: I don't intend to do that. Absolutely not. In looking at the playground in the back, my main concern is the safety of the children also, and I have determined that if it's back there, they are not safe conditions. Crossing the parking lot, going in front of another business, the fumes from the garbage trucks that pick up. It's unsightly and I cannot in good conscious put it back there. It is much more pleasing in front. It's a grassy area. It's beautiful up front. The back is a safety issue.

Vice Chairman Sturniolo: Then show it and demonstrate it. Convince me.

Michael Santora: We cannot in good consciousness spend our money in rewriting something for the back when we have no intention of going back there. No disrespect to any board member, it's just that if we are forced to put it back here, we have to walk away. That is basically it. I do not mean any disrespect to anyone here. It's just that it has to be here or we cannot go. We look back here and for security safety observation, and the fire inspector did not like it either.

Beatrice Santora: And the licensors as well.

William R. Spade: I think at the end of the day you have a business operator who knows his business, wants to open this business as a certain way, and believes the business will function correctly. The proposal of the playground in the rear is not what they believe is correct. At the end of the day, the business operator has the valid judgment as to what works best for their operation.

Michael Santora: Please keep in mind that we were in business for seven years on South Bedford Road. We ran it successfully. This is an expansion point for us. We were well received. In the seven years that we were active, we had not one major or minor flaw on the state side for any infraction whatsoever. That cannot be said by any other day care in this area. They are easy to get. Someone leaving a purse on the desk is an infraction. The point is we are very concerned with the children we have in our stead. In good conscious, we could not go here. Where money is also an issue, we cannot tell Mr. Spade to re-

draw everything when we have no intention of going back there. That is not a disrespectful thing, it's just our decision.

Ralph Vigliotti: How would you have to cross the parking lot?

William R. Spade: The rear door out of their space comes out into the parking area.

Ralph Vigliotti: I wanted to be able to see it visually.

William R. Spade: There is a tenant here whose entrance is right here.

Beatrice Santora: You would be blocking off their entrance to their business.

Doug Hertz: You wouldn't be closing it off.

William R. Spade: They have to provide a protective pathway.

Ralph Vigliotti: In your other location, you had to cross the church to get to the play area, right?

Beatrice Santora: No, the entire space is green space.

Ralph Vigliotti: In all fairness, you had to cross through the parking lot in front of the church.

Beatrice Santora: No, we went through the grassy area. We didn't go in the parking lot. It was a grassy area, there were no other tenants. Every visitor has to sign in. It's a safety issue for me for the parking lot, for crossing in front of the space, for cleanliness, for the fumes of the garbage truck coming in and out.

Michael Santora: It's unsightly. Frankly, we cannot imagine someone going up to Mount Kisco and saying, "Wow, this is a nice place." Granted, it is, we are admitting that. Then coming back here and saying, "Oh, look at this." For a business to succeed, we have to sell it. It's a matter of perception.

Chairman Cosentino: I would like to poll the board here to ask their feelings.

Sol Gibbons: I would prefer the front.

Ralph Vigliotti: I would prefer to see a drawing for the best possible proposal for the back so I can make an honest determination. I am not convinced that the back would not work by verbally speaking. I need to see it on paper. At that point, I can make a decision. Looking at it visually, the number of parking spaces it may take up to work, whether it's here crossing or you've made a decision to move the dumpster to the end of the property to make it work. I see it as, if you can't see out, you're not going to see a parking lot, and it's probably quieter in the long term than it will be on the front of the building. As one member of the board, I want to be able to see Option Two to be able to draw some kind of conclusion. Because that option is not in place, I am uncomfortable with this option knowing that we are taking up parking spaces, open green space that is in front of the building, and trying to weight this through and do our job.

Beatrice Santora: Another issue with the back is if you have the fencing back there, you still need to put barriers all around because of the other cars coming in and out. It's not just the sanitation truck, but also the people with other businesses in the back coming in, parking their cars, idling them; I can't control that.

Ralph Vigliotti: The amount of traffic that comes by here, and there are days when there are cars and trucks right up to this point waiting for that light with their exhaust going. We can go back and forth, and I don't want to do that.

Enrico Mareschi: I would prefer the front.

Doug Hertz: I was not at the site visit, so I went over and spent some time over there on my own. I was wandering in the back. Kombine was out. They were having a baseball catch. The back is seriously under utilized. There is a tremendous amount of space, the way it is currently configured; I don't think it is a defining factor. If it were honestly looked at, it could be a viable option. The only reason I say this is that I am extremely uncomfortable with having this in the front. That fence is inches from the property line; you are going to see this playground. Forget the fact that it is a playground, there is no other thing that has a big area in front that does something like this. It changes the complexion of how the street feels. I am sure you'll landscape it beautifully. That's not really my concern. You are right near a relatively busy corner. This is a very sheltered spot. Forget what's there now, reconfigure it. Put the dumpster up here. Do any number of things. You've got a huge amount of space back there. You are going to have cars idling here and here. You are not going to have cars idling back there. I think that is disingenuous. I think there are opportunities here. We honestly wanted to see it, not because we wanted to spin your wheels. We volunteer our time, and we don't want to spend anymore time than we have to. If we didn't think it was a legitimate request, I don't think you would have heard it. I respect the fact that you don't like it on first blush, but it really didn't get explored.

William R. Spade: Respectfully, I gave you seven reasons in my memo as to why we believe it is not feasible.

Doug Hertz: And we just gave you any number of reasons that go the other way. We are not professionals at this, but because it's not being explored, we don't have the opportunity to look at this in a complete manner. You're asking us to rush through something that could stay here for 20 or 30 years if you're successful. If we are wrong, there are major implications to it. Also, forgetting what happens here tonight - I can't possibly see how you're going to open in September. From what I can tell from your drawing, you have to go before the Zoning Board as you need a zoning variance. How are you going to get that to open in September? I don't know why you're pushing this process in a way that seems unbalanced. Maybe you don't think you need a zoning variance, but that is not what I'm seeing.

Stanley Bernstein: We have seven people here with seven different opinions. I've been in building construction for 47 years, and if I consulted ten engineers, I would get ten different opinions on any particular issue. I respect everyone's opinion and the fact that some of us want exploration in the back. I did not go to the site visit, but I

walked back there about six different times. It is almost a depressing area. I don't draw or visualize a concept to see that putting a playground back there would be awful without spending very large sums of money to relocate and repair and decorate including a disgusting wall (the back of the building) which we cannot ask of the applicant. I would like to see it in the front.

Doug Hertz: I don't want to make this process one about being pro business and anti business. We are not the Economic Development Council here, we are a Planning Board. I think you are aware that we've all struggled from Day One with this, that there are levels of discomfort with access/egress, where you could safely and successfully locate the playground, etc. The option that is not being discussed is that this just may not be the right site for a childcare center. That is something that we all have to struggle with. You have strong feelings about what would make the site work for you. I appreciate that you have experience in it. You bring a lot of passion to what you're saying. We have a different perspective because we are concerned with what could go wrong. What is the right long term planning for the site. I appreciate that everyone is a professional doing this, but it may be that we can't figure out that the use and the site don't connect. Some of us are very concerned about it, and if we can't explore the things that do that, it does tie our hands. As to time, please understand the board has published submission dates for documents, etc. We are already bending the rules and allowing submissions that have not hit our timeline, and we're looking at them tonight. Please appreciate the fact that the board is really doing what it can to expedite this and do it in a timely fashion.

William R. Spade: Speaking maybe to my harm, I don't believe this board has done the job it needs to do for this application. Several board members did not attend the one site walk that we had. My client is taking time, effort and money to try to get this application processed, and this board has not done enough of a job, I believe, to process it. I'm sorry.

Chairman Cosentino: I take umbrage to that.

Vice Chairman Sturniolo: I do as well, because the members, who did not attend when you and I were there, have made individual, personal site visits on their own time.

Ralph Vigliotti: And then wrote memos to the board.

Chairman Cosentino: You have just insulted this board.

William R. Spade: I apologize.

Chairman Cosentino: I think you are now going to hurt your client.

William R. Spade: I apologize.

Ralph Vigliotti: In all fairness, you have several board members that have requested over the last couple of sessions drawings for the back play area so we can make an honest decision based on an honest evaluation that is presented to us. You have not been forthright with us.

Beatrice Santora: That was not my intent.

Chairman Cosentino: I have just done something that I've maybe done once or twice in the 30 years I've been here, and I did it for your clients. You are almost making me sorry I did it.

William R. Spade: I apologize. I let my emotions take over.

Chairman Cosentino: We are not against your client, but there are certain things that have to be done. I really take umbrage to that and I'm really upset about it.

William R. Spade: I apologize. I'm sorry, I really am.

Chairman Cosentino: My Planning Board members work very, very hard. When we get our agendas on Thursday, we study them on the weekends so we are prepared for a Tuesday night. What you did tonight was the first time I had you answer everything that we wanted. Maybe it's your problem where we are tonight. I hope you don't tell many Planning Boards off.

William R. Spade: I do apologize. I'm sorry.

Chairman Cosentino: It may be too late. Let's continue.

Austin Cassidy: We have to go to a public hearing on this. Without going to a hard drawing, is there a sketch or a free-hand drawing that can be done that would reasonable reflect if there were to be a play area in the back, where would it be and how would it lay out to what is there now? Not a hard drawing, a sketch.

William R. Spade: It's possible to do.

Austin Cassidy: I'm hearing over and over here a request to see, the operative word being "see." I think that visual image would help the members make their decision.

William R. Spade: My own feeling is that I believe we delineated the substantial disadvantages for that location.

Austin Cassidy: Cerebrally perhaps you have, but visually, no.

William R. Spade: I struggle to understand why even the cerebral description is not sufficient to say it is not a viable option.

Austin Cassidy: We could just talk about the cerebral aspect of it all night.

William R. Spade: We do know that putting any playground back there would require the loss of substantial amount of parking. The relocation of that parking is impossible on this property.

Ralph Vigliotti: Your diagram may show how many spaces would be lost, and that is something that visually we would like to see.

Vice Chairman Sturniolo: In all due respect to Mr. Cassidy, I would not like to see a hand sketch. I would like to see a full hard drawing that shows the parking issues, the pluses and the minuses, everything. We

need to look at this thing in a crystal clear atmosphere so we can make proper determination. I am not in favor of a loose drawing at all.

Austin Cassidy: I did not use the word "loose" at any point. I'm talking about a sketch reflecting the contents.

Vice Chairman Sturniolo: I would like to see the hard drawing as we requested a few weeks back.

Michael Santora: With a due respect to the Board, I understand the request. It is our expense to have him re-draw something. It is not our intent to put the playground in the back. We have no intention of opening this with the playground in the back. So, for us to spend our money for him to re-draw something so you can make an educated decision, that would be great for the board, but we can't.

Vice Chairman Sturniolo: It would be great for the community, because our hands are tied right now. We cannot make an educated decision because we do not have the full picture and all the specifications.

Beatrice Santora: Money aside, it is a matter of safety. I can't put the playground in the back. I just wouldn't be able to do it. In all good conscience, as a childcare provider, as a mandated reporter, as absolutely anything professional that I believe in, I can't put it in the back. So, I just don't see what a point would be to have a sketch.

Vice Chairman Sturniolo: Think of what Mr. Hertz was talking about a moment ago regarding the location and the site you've chosen.

Chairman Cosentino: Are we telling them not to come back?

Vice Chairman Sturniolo: I am surely not. (To the applicant) The ball is in your court. You need to do whatever you want to do, but don't try and sell this Planning Board on the fact that you have a calendar date to meet and we have to compromise our decision making process and our research process regarding looking at further drawings, looking at traffic study analysis and parking study analysis. We need to do the right thing absent of a calendar.

Beatrice Santora: I agree and totally respect your positions and your volunteerism. It certainly was not our intent to insult anyone.

Austin Cassidy: Recapping the status, you are setting the public hearing for July 10, is that correct?

Chairman Cosentino: That's fine with me. I don't know what the applicant wants to do.

Steven Corrigan: Based on the materials provided, to date, and I understand you would like to see additional studies performed as far as the relocation...

Stanley Bernstein: Again, as requested several weeks ago.

Steven Corrigan: I respect that. My question is a different question. Based on the materials supplied to you for your review, do you feel you have enough to vote on the location of their preference?

Chairman Cosentino: No, they won't have enough to vote on.

Steven Corrigan: If we requested a vote, to finalize this one way or another, so we either continue on with this application or not, do you feel you have enough information to make a vote?

Vice Chairman Sturniolo: Tonight? Absolutely not.

Chairman Cosentino: I just asked the board how they feel. Four people voted no.

Doug Hertz: You have a choice. This is your process. You don't have to pay an architect to draw plans that you don't intend to use, and I appreciate if you don't want to spin your wheels in a direction that you are one hundred percent convinced in your heart that you will never follow, that is a wise investment; to spend money on something that you know you won't do. I will comment that as one board member at this point, I would have to not vote because I am not at a point where I think I sufficiently prepared. It's wrong to take straw polls. With a seven-member board, you need four votes.

Chairman Cosentino: This was not a straw poll tonight, I just requested opinions.

Doug Hertz: You have a process. There will be a public hearing. The public will ask questions, if they wish. You'll have to answer to that or not, and then at some point that will get closed. Then, if there is no more give and take in terms of information because you are at a point where you feel like you presented what you want to present, it is your option to ask that we vote on it.

Austin Cassidy: On that point, we have to keep in mind that there are other elements to this process. We've identified tonight and it's on the permanent and your drawing that you are proposing to exceed the maximum development coverage. That is a variance – that is another board. This board cannot take an action until you are before the Zoning Board and secure the variance.

William R. Spade: Isn't that still a definition that we were to discuss?

Austin Cassidy: You are showing it on your drawing.

Anthony Oliveri: You are at 70 percent now. It's over.

William R. Spade: My argument is that we are not increasing it.

Anthony Oliveri: I don't understand how you can't increase it. You are increasing development coverage with the driveway cut. I don't see any way around that.

William R. Spade: True.

Austin Cassidy: You briefly alluded to early on (a connection to the DEP). Have you connected with the DEP?

William R. Spade: Yes. We received the application material to get into them.

Austin Cassidy: Where does that leave this board procedurally if they have not even gotten to a point of some kind of determination with DEP?

Whitney Singleton: There is a little bit of miscommunication, which I think Mr. Hertz has articulated pretty well. I don't think the board is telling you that their preference tonight is to put it in the back or the front or anything else. It's not unusual, and in fact it's commonplace for this board to entertain an application as part of the SEQRA process for them to consider alternatives; frequently many alternatives. Layouts, building designs, all sorts of different things. It does not mean that because they've asked you for something that they are attributing to approve something that you don't want. It's simply accepting ---? ----. Just like the fact that they asked you for a traffic study does not mean that they are going to find that the traffic is less sufficient. It will help them better equip themselves in being able to render a pre-determination. Obviously some board members have expressed concerns or preferences or whatever; but I would not take that as being, and I don't mean to speak for the board - it's just the process that they go through. So, the mere fact that they are asking you to prepare something doesn't mean that they are trying to spend your money needlessly and delay a process or that they are committed to putting the kids in the dumpster in the rear of the property. I want you to understand that, because I think there is a little bit of misreading as to what the board is trying to convey. As far as the other issue; yes, you are going to have to go to the Zoning Board for a variance, and there may be another variance based upon discussion with Mr. Cassidy, as this is an accessory structure in a front yard, which is prohibited. Again, if that is the preferred spot, then the Zoning Board would likely get some sort of positive feedback from the Planning Board. That is how you get to your goal line.

Nanette Bourne: The Planning Board's practice is for you to have your DEP approval prior to their approval. In the past, the Planning Board has approved it subject to the DEP, but that is when the Planning Board is pretty comfortable that the DEP isn't going to require any site plan changes. You brought up an interesting point with the case of Mount Kisco Daycare. It was post the Planning Board's approval that DEP change the site plan. I think the Planning Board would concur with you that it is not their idea of a good plan, because it happened after. It's because of that, that the Planning Board is very careful to make sure they have DEP input.

Austin Cassidy: To reaffirm, are you setting the public hearing for July 10? If so, notice will follow.

Doug Hertz: If we are setting the public hearing, I don't think we are going to be expecting major changes or major new information on this site plan going forward. Would that be your expectation members of the board? Because I would be surprised if we start a public hearing and then we get into changes on the site plan.

Chairman Cosentino: I could leave it open for 30 days or more.

Vice Chairman Sturniolo: But that could be confusing to the public.

Whitney Singleton: That is not what he's talking about.

Doug Hertz: I'm saying there should be a site plan that we are comfortable with before we open a public hearing and ask for public comment on it, or are we going to open a public hearing, get public comment and then expect them, if there is public comment, are they going to go back and look at the site plan? What do we expect of the process?

Vice Chairman Sturniolo: I could be wasting time prematurely.

Chairman Cosentino: I think it's continuing with the process. I can leave the public hearing open. We cannot vote on it until the ZBA is involved anyway, so that is going to take time.

Vice Chairman Sturniolo: Also, should not the public hear the full presentation with the modifications to the back?

Chairman Cosentino: Yes, but is there going to be much of a change? They already said they are not going to put the playground in the back. If that is not going to be, don't let them spend any more money.

Doug Hertz: I appreciate the cost of this, but let's think of something like Westchester Residence or a lot of projects that have come before us. The project developer knows in his mind what he wants. He is convinced of what he thinks is the best plan. We've looked at alternatives and been convinced that that is the best plan and we've explored a change.

Chairman Cosentino: I understand that and I respect what you say. They are taking a chance on one of the four that wanted it in the front, saying they don't want it in the front now and spending all this money, while they don't want to put this in back.

Doug Hertz: So you're saying if you had the information you'd change your mind?

Chairman Cosentino: No, I did not say that. I said four people on this board chose to have it in the front.

Doug Hertz: I don't think there has been a vote yet. I think there has been an exploration.

Chairman Cosentino: I'm only saying what happened tonight. I did not say it came to a vote, and I did not call a straw poll on it. I just wanted an opinion. Somebody might change their opinion, and we all vote that it goes in the rear. I am saying they are not going to put this in the rear. Am I right?

Beatrice Santora: I cannot, in good...

Chairman Cosentino: So, if we are not open to it in the front and are adamant about keeping it in the back, let's tell these people tonight so they don't continue spending more money.

Ralph Vigliotti: I am not adamant that this be placed in the back. I want to see it on the plan as an option. I know that you are emotional over the front versus the back. It provides an option if you don't get your variance. I am trying to weigh some things here. You want to have some options. You have an option. There are folks that have come before us that have had absolutely no options, and they have to walk away. I, as one member of the board, know some of the issues that are happening in the front with the variance. I've walked this property half a dozen times. I would do an overlay, talk with the landlord whether or not that is something that is acceptable to him and then we have an option.

Chairman Cosentino: I agree there should be an option, but if the board comes to a conclusion, including myself, that it's going to be in the rear, they are not going that way. We have an option to put it in the rear or in the front. Is there anybody here that, no matter what we do, their mind is kept (with the option to keep it) in the rear? Or when you see the options, you may change and say, okay, go back to the front?

Doug Hertz: The people who have expressed wanting additional information have not committed to a decision because we don't have the information.

Vice Chairman Sturniolo: We asked for it, we don't have it.

Chairman Cosentino: It's your choice.

Beatrice Santora: What I think we are trying to say is that really the ball is in your court, because I cannot put it here. So, to explore the option, what's the point if I cannot put it back here?

Doug Hertz: I would disagree. I think your option is to convince us that you're right, and the way you convince us that you're right is by giving us the tools to make that determination. What we have repeatedly said tonight is that we don't have the tools. You are convinced in your mind, you've done this longer than we have, and maybe you can conceptualize it better. But I'm not convinced it's not viable. You are. The written and verbal descriptions we've gotten haven't convinced me. I have as many concerns for the front as you have for the back, and I am hoping that you can get us to where we are all in agreement that you have a plan that makes good, long term sense.

Chairman Cosentino: I respect the decisions of Mr. Vigliotti, Mr. Hertz and Mr. Sturniolo. I want to make it very clear that you can do all you want to do, come back here and your playground may be in the rear. I don't know, I haven't seen anything either, but this is what the board wants.

Michael Santora: We are saying that we have to walk away if it's in the back. And we will walk away.

Ralph Vigliotti: You are doing a disservice to yourself and the children.

Michael Santora: In all due respect, we will have our daycare. It may not be there. It may be in this town, may be in another town.

Ralph Vigliotti: That's fair.

Beatrice Santora: Not to be rude here, I know better than any of you because I've done this. I've spoken to the fire inspector, the licensor. I know her well; she comes and inspects me every year. My fear is that we will put it in the back and they will say, sorry, because it's just not safe. Would you sign up your child to play back there?

Ralph Vigliotti: There are plenty of play areas across the state in parking lots.

Doug Hertz: Go to the elementary school. They cross the street.

Beatrice Santora: But these are three-year-olds.

Doug Hertz: And they are five-year-olds.

Chairman Cosentino: We could talk about this all night. If you feel that you have to back out, send us a letter and state so.

Austin Cassidy: Without having all the dates in my head, if that is a possibility, because we will be moving forward to put this public notice out in the paper and follow that protocol.

Michael Santora: Mr. Chairman and members of the board, we are not backing out. We've told you honestly, for the reasons that we've provided that we have no intentions of putting the playground in the back. For us to waste "X" amount of dollars to do that when we have no intention; if the board comes back and decides they want it in the back, regardless of tonight's non vote opinion thing, we have to walk away. And that's what we will do.

Chairman Cosentino: So, are you saying to go ahead with the public hearing?

Michael Santora: We say, yes, go ahead with the public hearing. But Mr. Cosentino and members of the board, with the idea that we want this in the front.

Ralph Vigliotti: So we're going with the public hearing but you're saying "no" to a request of showing us a rendering of what it could look like in the rear? Is that what you're saying?

Michael Santora: We don't see the point. I don't want to pay Mr. Spade to re-do this when we are not going to go back there.

Beatrice Santora: I am not understood why a sketch is needed. I understand your position. You're asking for a sketch. Even with a sketch, I know all the reasons, and what is the point of the sketch?

Vice Chairman Sturniolo: We don't know all the reasons why the back is not as good as the front. Show us, convince us.

Michael Santora: Are we on for the public hearing?

Chairman Cosentino: Yes.

Vice Chairman Sturniolo: Our next planning board meeting is June 26. It's a work session, not a joint.

Stanley Bernstein: We are going off the once a month situation and go back to our original situation.

Chairman Cosentino: Didn't we say we would continue this through July and August, since we only have one meeting a month?

Vice Chairman Sturniolo: July is a combined meeting to compensate for the lack of meetings. July 10 is a regular meeting.

Stanley Bernstein: July is a work session and August is a regular meeting.

Vice Chairman Sturniolo: June 26 is a work session.

The recording secretary will explain to the secretary the status of the meeting titles.

Correspondence:

- Minutes from the Mount Kisco Beautification Committee dated May 2, 2012
- New York Metropolitan Transportation Council dated comment period May 24 – June 25, 2012.

As there was no further business to be discussed by the Planning Board, on a motion by Mr. Hertz seconded by Vice Chairman Sturniolo, the meeting was adjourned at 9:30 PM.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm