

Village/Town of Mt. Kisco
Planning Board
Meeting Minutes
Tuesday, October 22, 2013

*Chairman Cosentino called the meeting to order at 7:40 P.M.
in Village Hall.*

Members Present: Chairman Joseph Cosentino
Vice Chairman Sturniolo
Stanley Bernstein
Ralph Vigliotti
Enrico Mareschi

Members Absent: Doug Hertz
Sol Gibbons

Staff Present: Whitney Singleton
Anthony Oliveri
Rob Melillo
Jan K. Johannessen, AICP

Minutes:

September 10, 2013

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

Conceptual Application:

**Jaguar/Land Rover
250 Kisco Avenue
PB2013-18, 69.43-3-3 (SBL)
Site Plan and Steep Slopes**

Present:

**Thomas Coughlin
Chairman, C.E.O.
The Premier Collection**

**Richard Stavridis
President,
The Premier Collection**

**Ira Grandberg
Grandberg & Associates, P.C.
Architects
John P. Slaker**

Village of Mount Kisco
Planning Board Meeting
October 22, 2013

Landscape Architect
Robert Sherwood Landscape Architects

Thomas Coughlin: Mr. Chairman and members of the Board, we thank you for hearing us tonight. We have been working for about six months with Ira Grandberg to provide you with a presentation of our proposing facility, come up with a design to meet the requirements of our business and at the same time be an enhancement to our community.

Ira Grandberg: As you are all familiar, Jaguar/Land Rover will occupy the north end of the site that is presently the BMW facility. You can see, based on your previous approvals, the extensive landscaping Mr. Coughlin has done and the style of the building that is there now. Our charge was to come up with a new facility for Land Rover/Jaguar that would be on the north end of the site and would be compatible with the existing building. We would work very closely with the landscaping potential at the site and create a building that would be a compliment to the village. The building is built on a very complicated part of the site. We have terraced the building and crenulated the building in a way that we have minimized the actual frontage of the building. We complied with the setbacks, building height and coverage for the site. We will be working with the building inspector to determine the actual grading and mean elevation to assure that the building fits within the envelope for which it was intended. The building is going to be in the same alum clad structure that the existing building is, and we've made great efforts to set the building back where we could so that Mr. Slaker's office could come up with an attractive landscaping scheme. All the retaining walls are designed so they will be completely covered with planting, which Mr. Slaker will discuss in a moment. The way the building works is that there will be one common drive; the same drive that is on the site right now. We are not adding anymore street ingress or egress to the site. The parking will be in the existing parking lots. No one on the street will see any parking lot. What is unique to this site is that the building itself will harmonize with the landscape, and we will not be looking at a sea of cars. That is the overview. What we have presented here is a building section which may explain how the building works. The upper level, sales area, is directly off the upper grade of the existing driveway. Please feel free to ask any questions as I go along, as it might seem a little complicated to you. The second level down is a service level, and that is where the cars will be serviced. Mr. Coughlin can explain a little bit about his operation and how that works. The lower levels will be storage and service. One of those levels will be below grade that you won't see. We did that to mitigate some of the height of the building. The next level will be, where you see these cars here (indicating) – this is not an ingress for the building. These are secondary openings only if the elevator inside of the building breaks down – to get cars out. The display will be similar to the display that is there now on the site, so these will be plateaus that you can see on the rendering. Those plateaus will be terraced areas where the cars will be exhibited. This is not a flowing traffic lane; it is entirely a display area for the site. Mr. Coughlin will now explain his operation and how it fits.

Thomas Coughlin: I would say those emergencies exist for the cars that are in storage. We plan to move the cars within the building by elevator. This would be just in the event the elevator breaks down. We would not want to have one of our customers come in the evening and wanting their car, and all of a sudden we can't get it out. So, we have an emergency egress for each of the four levels. Here we have the displays of the cars. As you see them, they would be similar to the displays that we have today. In addition to that, in terms of service and sales, we plan to do about 500 cars a year out of this facility. It would be roughly 40 cars a month and that would probably mean we would have about 120 customers coming in the course of a month, because typically our closing ratio is about one out of three. If we divide that by 20 days, that means we have six people a day that would be coming in for sales. This is a low volume operation. In addition to that, we probably have about two and a half cars per day that we'd be using. We anticipate that we would have no more than ten bays that would be active at any point in time. That would be about 25 customers a day. So, the traffic requirements of the site are really minimal relative to the traffic that is on Kisco Avenue today. We would use the same driveway that we have coming up from Kisco Avenue. We think we have a gorgeous building here, and I have to thank Ira for this splendid design. He really did a fantastic job with it. We definitely have something that would be a real enhancement to the community. It is something that our customers will fully appreciate. As you know, we have great views from our existing building. This would enhance the views. All of the parking, with the exception of the display cars, would be inside the building for this particular operation. That would include our entire employee parking as well. I think it's going to be unobtrusive with regard to the town, and I think it will be a great positive addition.

Ira Grandberg: John Slaker can probably comment on how he has tackled the challenges for the landscape.

John Slaker: We tried to continue on and replicate what we have already accomplished on the first part with the BMW displays with the landscaping and do something very similar that blends together with that, but also taking into account the architecture, using some evergreens to soften some of the hard lines at the base of the building. Also, introduce some ornamental trees where the service component is in the front.

Vice Chairman Sturniolo: Would you mind pointing out the locations John describes?

Ira Grandberg: Here is the existing driveway that comes up (indicating). That driveway doglegs to the right, and that is where you go for new car sales. So, this is already on the parking level. Another road comes in and goes underneath it, and that is the second level down. These are the display levels down here. We designed the wall system with John, so they will be completely planted, so at the angle you view looking up the hill you will see total greenery coming down. You won't see any of these terrace levels.

John Slaker: The walls will be clad in the same stone as what we did on the BMW building and the display areas. We really are only adding one more display area, the three existing ones that are there and then one more closest to the building area, which will also access one of the intermediate parking levels for that emergency access point, so that we have an ability to get cars out if we need to in an emergency. What I was talking about in front of where those parking areas are, I wanted to get some interest going there, so I decided maybe with the silver looking building some Blood wood maples which don't get too large would soften that façade. So you really won't see, other than the service level, any cars going in and out of those lower levels. What we intend to do on the lower wall, we have some room in front of it, we are going to put some evergreen plantings, perpendicular juniper that will grow eight feet or so, and then plant ivy on the other two walls to hang down, as well as all along the front façade of the building where it curves out. That is a stone wall as well, and there will be ivy plantings to cascade down that. If you are familiar with the building along I-95 in Stamford that has cascading ivy.

Ira Grandberg: It's a parking structure that has been there since the sixties, and it's completely overgrown at this point. So, we took the lower level of the building and created a concave planting wall that replicates the others on the other side so that it tries to integrate and make less harsh where the building hits the ground and integrates with the landscaping.

John Slaker: Again, we tried to replicate the same plantings, the same concept as what we did originally on BMW and carry it to the rest of the frontage of the property.

Thomas Coughlin: We hope that you're pleased with the BMW building. We, hopefully, have exceeded your expectations when we came before the Board and asked for approval on that. We think it is one of the prettiest buildings in town. Now, as we present this building, we would certainly have it to the same standards, and in fact, we hope to exceed the standards that we have on the original building and make this one even more beautiful.

Chairman Cosentino: It does something for Kisco Avenue. It is a beautiful building, and I commend you, Ira, for the work that you've put into this and allowing Ira to put up a building like this. The building is gorgeous.

Ira Grandberg: Thank you.

Enrico Mareschi: I agree it is gorgeous.

Chairman Cosentino: I think you've done a lot for the traffic ingress and egress, as far as keeping it to a minimum.

Ira Grandberg: It's a very low-volume operation.

Ralph Vigliotti: The key point is the existing driveway is being used. There are no other cuts being made onto Kisco Avenue.

Thomas Coughlin: There is one other minor cut that will be made for where we have the emergency egress. There we would have a right turn in for a car, and then coming out there would be a right turn out at the far end of the building.

John Slaker: That has a garage door on it, and no one will be using that in any way.

Thomas Coughlin: That will not be a customer entrance.

John Slaker: The one thing I have to say, for a car dealership not to have 50 cars sitting out in front of you, it's amazing that three dealerships can exist on a piece of property like this, and you only have six or eight display vehicles in a garden setting. It is quite unique.

Chairman Cosentino: The landscaping is gorgeous.

John Slaker: The key is maintenance, and I have to say that Tom has outdone what I expected they would do.

Chairman Cosentino: As a matter of fact, if I'm not mistaken, you won the Beautification Committee award.

Thomas Coughlin: That is correct, thank you. We bought 500 mums.

Chairman Cosentino: This is a conceptual. Make application, and we will put you on the next agenda. Does anyone have anything to add?

Robert Melillo: Something has been brought to my attention the other day, which will be a big issue for you, is that you can only have one principal building on the property. You are going to need another variance for the other building.

Ira Grandberg: There are other properties in town that have done that, and we anticipated that. We feel since the coverage is within the coverage range for the property, this will be a mitigating feature based on others as well.

Robert Melillo: I bring it up because that was not brought up in our meeting at all.

Ira Grandberg: And I wasn't going to bring it up tonight. Thank you very much.

Formal Application

**666 Lexington Avenue
PB2013-04 80.72-4-2 (SBL)
Amended Site Plan**

Present:

**Michael Gallin, AIA - Principal, Gallin & Beeler Design Studio,
Architect representing the Applicant**

Michael Gallin: Good evening. This application was submitted to you some time ago in a conceptual state. For a variety of reasons, it took some time to get us back here, but we are excited to be back here to make the proposed improvements. As a reminder, the core of this application is just a parking lot reconfiguration. This parking lot was developed some time ago, and when it was originally developed it was developed with parking spaces that were 16 foot 6 inches deep and significantly smaller standards than their current standards, and the result is that this parking lot has always been tight in terms of maneuvering. The goal here is to improve the configuration of the parking lot to provide more comfortable parking space sizes, drive lanes and just to help the facilitation of movement around the property. This is the existing configuration of this site. There are parallel parking spaces here (indicating) along the building front. There is a sidewalk here and then the parking juts in closer to the Mrs. Green's area here and then there are perpendicular spots here. There is one handicap spot here and two handicap spots here, another parallel one here. This one has the code compliance access aisles, these do not (indicating). We want to rectify those issues as well, to make the accessibility of the property better. With all the parallel spots that are here, we are proposing to encroach into some of this landscaped area and then re-layout the parking lot by eliminating the central islands here, instead create more islands in this direction, and create perpendicular spots along the face of the building where we can have three legitimate handicap spots here, the main entrance, two legitimate handicap spots here near the other entrance, and we think this is a great improvement for this site.

Chairman Cosentino: You went from three handicap to two?

Michael Gallin: We are going from four striped handicap to a code complaint five. Currently it does not meet the building department's compliance, so we are adding one handicap spot. We are also simplifying the traffic flow by having a standard uniform layout for the parking spaces, which is very important. We are proposing new site lighting, new landscaping and reconfiguration of the landscaped island in front of Mrs. Greens.

Chairman Cosentino: What are the widths of the drive aisles now?

Michael Gallin: The drive aisles are now 24 feet, and all of the parking spaces are 18 foot, 6 deep. We have nine foot six widths typically in the rest of the spaces, which is significantly larger and more comfortable than they are. The end result is a wash in terms of the number of parking spaces. We are not picking up any; we are not losing any. There is a previous site plan on record, which is dated 1982. On this site plan it shows 16 foot 6 spaces by 9 foot 6 spaces. Sometime between 1982 and now the lot has been re-striped, and there are less spaces there today. We had our surveyor go back out and survey the spaces. This is what we got from the building department. The existing site plan, which is this one, is what we got

from our surveyor. To be honest, there is a discrepancy between what is there today and what was approved. I'm sure that's not the first time you heard that. We cannot get the number of parking spaces we had in this original approval because they were so small. We can replicate the number of parking spaces that are on site today, but in a configuration that has larger, more comfortable spaces with more handicap spaces.

Chairman Cosentino: In 1982, I believe this was offices and not medical. Since it became medical, I think there were more offices put in there than there was in 1982. Did we know, as far as the square footage in the building, the amount of parking spaces that are needed?

Michael Gallin: Yes. Per code, we have a deficiency in terms of the number of parking spaces. The parking spaces that are required per code are 289, and currently striped on site are 144. We have a significant deficit as of today on site for parking space requirement code.

Chairman Cosentino: Why is that?

Michael Gallin: The building was approved in 1982, and on the site plan approval, it had 159 spaces. I do not know how we got from the 159 approval to the 144 that are there today. At some point, somebody prior to the current owner taking property re-striped the lot with slightly bigger spaces, and they just ended up with less spaces, because they went from the very tight spaces to something a little bit tight. We are going another step to make them comfortable.

Chairman Cosentino: What are we doing with the garbage that is in the corner?

Michael Gallin: We are proposing a new enclosure for that garbage. We are consolidating it, proposing a new enclosure, which we provided details. We are also pulling it back from the street a little and providing new landscaping in that location.

Chairman Cosentino: Which we will want to see, of course.

Michael Gallin: Right. There is a blow up in the set.

Chairman Cosentino: Is it going to be somewhat screened from the road?

Michael Gallin: Yes. It will be screened from the road both in terms of the enclosure, which is proposed. We have an enclosure that is going to surround the containers completely, but then we also have new landscaping proposed.

Chairman Cosentino: What about the fence?

Michael Gallin: There is no proposal on this application to change the chain link fence on the wall here.

Chairman Cosentino: It should be. It's falling down. It's broken.

Mr. Gallin then retrieved a photograph of the chain link fence.

Michael Gallin: This is the current state of the fence. It has been replaced and repaired.

Chairman Cosentino: I didn't see that.

Michael Gallin: I know I drove by six months ago and it was really falling apart. It has been replaced since.

Chairman Cosentino: When we had a site visit there, I know Jim said he was going to paint that wall.

Michael Gallin: I was not aware of that, but we can add that as a contingency.

Chairman Cosentino: I assume he owns the wall, but he said he would paint it.

Michael Gallin: That's a good question. That doesn't sound like a big deal.

Chairman Cosentino: The complete parking lot is going to be repaved?

Michael Gallin: The whole lot will be repaved, resealed, re-striped. We have new lighting proposed.

Chairman Cosentino: Is the parking lot going to be resealed or repaved?

Jan Johannessen: It identifies on the plan that it is going to be repaved.

Michael Gallin: Correct. I don't think they are going to scrape it down and rebuild it. They are going to put a cap over it.

Anthony Oliveri: There are actually details on the plan for it. There is a trench repair detail and a full pavement detail. It is unclear.

Michael Gallin: We will provide clarity, but we are not intending on recycling the existing lot and starting over, except of course there are areas where we are removing and reconfiguring. Those areas will be repaved.

Chairman Cosentino: Did you talk to our assistant building inspector on some items that he had?

Michael Gallin: He gave us a memo on July 9, and we've addressed those issue.

Chairman Cosentino: This was October 9.

Robert Melillo: I know this is the first time the applicant has seen this memo. As you go down this memo, there is a variance for lot coverage. He has increased the coverage on the lot by two percent. The store owns two percent, and they will need a variance for that. We talked about the parking, the 1982 site plan with 159 spots. Now they are proposing 144. It still has to be determined if a variance will be required or not, because you have reduced the amount of parking spots. I will have to talk to the village attorney about that and come up with a resolution on that. The applicant needs to list all the tree sizes that are going to be removed, which they did not show. The applicant must show signage for handicap location as per Section 1106 in the New York State Building Code. Also, the applicant must meet the entire requirement of Article IX, Section 110-45 D site plan elements, which is for the planner to go over.

Chairman Cosentino: Also, there is a memo from our planner.

Jan Johannessen: I've identified this project to be an Unlisted Action under the State Environmental Quality Review Act (SEQRA). We reviewed the Part I Environmental Assessment Form (EAF) and have made comments there. The two uses on the property are special permit uses for medical and food store. I had a conversation with Whitney, and he determined that an Amended Special Use Permit is not required because the use isn't changing. These are site improvements that will require amended site plan approval. I've identified the two potential variances, the coverage variance and potentially the parking variance. It is our understanding that the applicant is working with the DEP on the storm water pollution prevention plan approval, and the applicant should update the Board on the various outside agency approvals, which would probably be the DEP, Zoning Board of Appeals and Architectural Review Board. I had some comments on the Zoning Analysis Table, specifically related to the landscape buffer for minimum requirements. We provided some recommendations on the landscaping proposed for the trees, shrubs and some of the ground cover within the landscape aisles. The front landscape island along Lexington Avenue contains some deciduous trees. There are also some low level evergreens, but they don't really screen the parking lot very well. If the Planning Board is looking to provide more buffers into Lexington Avenue and the parking lot we provided some recommendations for enhanced landscaping along that corridor. The landscaping along the foundation in front of Mrs. Green's is not specified. It identifies on the plans to be determined. The Planning Board should determine if they want that specified now or later. It's up to the Board. There does seem to be a kind of overall reduction in the amount of landscaping.

Chairman Cosentino: Do you have a landscape plan?

Michael Gallin: This is the landscape plan that is being proposed. This large area (indicating) is a perennial garden area. We did not get into specific types of perennials that we will plant there. Mrs. Green's and Diamond Properties will work together to landscape and beautify this area in front of their entrance. If you would like to know the exact species of the perennials, we will be happy to do that for you.

Jan Johannessen: Also, the parking spaces per code need to be double-lines authorized by the board. I believe there are two loading areas required by the code. I believe the code requires two loading areas. There is one shown where Mrs. Green's, I'm not sure where the loading area is for the medical office, so it should probably be identified. There is one portion of the parking lot by the electric transformer that has an aisle width of less than 24 feet. The scale is at 20 feet. That does not meet the minimum requirement.

Chairman Cosentino: They came in four or five years ago...

Jan Johannessen: Yes, in 2002. That is a different configuration than the 2002 amended plan. Regarding the dumpster location on Lexington Avenue – and this is more for Rob to look at – the code prohibits dumpsters from being located within the zoning setback for accessory structures. The zoning setback for accessory structures is the same for primary structure in the zoning district. The dumpster location is being relocated.

Chairman Cosentino: It's not getting relocated, is it?

Michael Gallin: We are moving it and trying to screen it a little better, but it's the same general location.

Jan Johannessen: We had some comments on the lighting plan. It needs to be brought into conformance with the code. The signage plan is a little more technical in nature. We took care of the notifications to the county.

Vice Chairman Sturniolo: With all the new lighting fixtures, please reassure me that everything is going to be full cut-off.

Michael Gallin: We are proposing full cut-off LED's. I have to review the memo to find out exactly what is being referred to that is not in compliance.

Jan Johannessen: It's not that it's non-compliant. The code requires certain materials or tables be provided on the plan to demonstrate compliance. There are a lot of existing light fixtures to remain. Are those light fixtures included in the photometric layout? Do the foot candles shown on that plan include existing light fixtures?

Michael Gallin: Yes. The majority of the parking lot lighting is to be replaced.

Jan Johannessen: Up against the building and all the lighting along Lexington Avenue is to remain?

Michael Gallin: Yes. It does include the bollards, but we will do a double verification on that.

Anthony Oliveri: I have to apologize. My memo never made it into the packet. It was late last week, but I could go through it with you now. I noted the variances that were required. I also note that the storm

water pollution prevention plan and calculations need to be submitted for our review. This, I believe, is being submitted to the DEP as well.

Michael Gallin: Can it formally be submitted to the DEP until this Board takes action, if I understand the protocol?

Anthony Oliveri: That may be, but we still need to review it as well, regardless of DEP.

Michael Gallin: Absolutely.

Anthony Oliveri: This was regarding that question before with regard to the disturbance and how much asphalt is being removed or not. You might require DEC coverage as well, if you disturb more than 5,000 square feet of space. I noted some discrepancies on the aisle width, as Jan also noted. You should designate snow removal areas with double striping. I was not clear of the existing parking on the east or south side. It was remaining as to the existing. That needs to be made clear on the plan. You show a six inch piping on the drainage piping, and we would recommend a larger pipe size. Six inch is small for drainage piping. You should provide deeper sumps. I believe you show a 12" sump for your detail, current standards dictate sumps great than 18" at minimum. That is something the DEP would also require. We also recommend and suggest pretreatment and manhole access to the underground detention chambers. Right now you are showing a 6" inspection port, and being this is under an asphalt barrier, there would need to be better access to it to service and maintain it. It was unclear whether the detention system was going to be percolation or infiltration practice or not. It is a perforated system. I think you also had an impervious layer at the bottom. That needs to be cleared up, and that would be in the storm water pollution prevention plan.

Michael Gallin: Just to provide some clarification, we submitted this prior to the meeting with the Department of Environmental Protection. In meeting with the DEP, they had some other ideas about how they would like us to mitigate this. There will be an amendment specifically to the SWPPP and the drainage that we will address and or modify.

Anthony Oliveri: If you do an infiltration system, you need to do a deep whole test and percolation test. You should notify our office when that happens. I mentioned in the lighting photometric plan, in a table format list the minimum and maximum average illumination level. I believe you did not go all the way out to the property lines in some of the trespass lighting, in particular along the residentially zoned properties. You should show your trespass lighting along the property line. I mentioned the trash area also being in the front yard. Rob will have to take a look at that. The sediment and erosion control plan should include a construction sequence. You had some details on the sediment erosion control, which are not located on your plan. You need to show the construction entrances and so forth.

Vice Chairman Sturniolo: Will the storm water pollution prevention plan also address INI as part of it?

Anthony Oliveri: That is really a different thing. INI involves the sewer system, and groundwork and infiltration that gets into the sewer system from storm water connection and just cracks in the pipe. That is a different thing.

Ralph Vigliotti: I am happy to see that the parking lot will be repaired and brought up to speed with regard to aisle spaces and parking spaces. However, as an entrance building to the village, we are taking away a lot of green space to accommodate a better flow. There is certainly a balance to making that happen. While this may provide a better flow for those that are parking and using the facility, it has taken away a lot of green space. I am concerned about that.

Michael Gallin: It is two percent. I can give you the exact square footage, but it's hard to call it a lot.

Ralph Vigliotti: It seems like more than two percent for some reason. Two percent of the total piece of property is a lot of square footage. I would like to know at some point how much green space are we really losing. You don't need to answer that now. We will now have a number of trees that will not be part of this site plan any longer. I want to have for the record how many trees will be net lost once the full parking plan is put into place.

Michael Gallin: We are taking away seven and adding seven.

Ralph Vigliotti: The shrubs on the south side row are really all woody tissue. I was surprised that you are going to keep the existing there. If we are going to make an improvement to the site, that would be a major improvement – to remove what is no longer viable plantings and put in new plantings. All you get to see in the first six or eight feet is the retaining wall. The intent early on was to block the retaining wall view and see some nice shrubs. It is a very health neighborhood at that end of town. It is the south entrance to the village. I want to insure that all that can be done can be done. A recommendation was made with regard to putting a row of shrubs that would block the cars from 128. I think that is a wonderful suggestion, and as a resident of the south end of the community myself, two streets away, I know the residents down there have complained about the sea of cars in that lot. I think that would provide some blocking of the cars. That is one thing this Board has been trying to do as much as possible, to soften the sea of cars and parking lots. Additionally, I know where the snow is going now during snow emergencies. You are just taking up parking spaces and piling the snow up. I see it all the time. I'm not sure you provided an area where you can put snow for that size parking lot. I don't see that being addressed. As of now, there is not a spot to be had certain points of the day. I know during snow storms people are scurrying to the south end of town to place their car because there are not enough spaces because the snow is taking the spaces. The snow is being dumped, believe it or not, in the aisles that you are now removing. So there was this overflow. There was an aisle, snow was placed on the aisle, then it went three or four feet into one parking space, and three feet into another parking space. We are talking a lot. With the new plan, you don't have that option anymore, and I don't

see where you are going to be placing the snow unless you make a concerted effort to remove the snow totally off the site. The dumpster has been problematic since the day it was put in, and now you want to move it six or eight feet closer to the sidewalk. The screens were not there when it was put in. It overflows and it smells. I think the design that you have could be enhanced. I'm not in favor of where you are placing it. I'm looking at the drawing, and unfortunately I don't see many other places to put it. I understand that.

Michael Gallin: We have to accept that this is a lot that is developed. This is not a new lot, and it's a lot that I think we could all agree could use some more elbow room, but that is not something that we can create. A lot of the things you are referring to -- obviously we wish to put the dumpster in the back. Obviously we would wish to have some extra parking spaces that we could designate as snow removal spaces, but the site cannot operate with less parking spaces. I think we can all agree to that, and we are not willing to do that. The owner is in a position to repave the lot, and his feeling was, if he is going to invest the money in repaving the lot, let's look at: and this is how this all started - can we do some minor changes to the parking configuration to make this operate better. And that is how we got here today. We are certainly going to review every comment that we have gotten and address it with the owner, but I can assure you, when the DEP got involved and had their series of comments, his initial reaction was, "this is ridiculous, let's stick with what we have." We will go through each of these items, present them and address the ones we can. If the village does not feel like it's an asset, then we are certainly not going to fight this.

Ralph Vigliotti: I think the village believes it will be an asset. However, it needs some tweaking to make it work better. The dumpster right now I believe is chain link fence. My honest belief is that should be a concrete wall in which the shrubs are against, rather than a chain link fence that ends up, as you know, damaged.

Michael Gallin: We are not proposing a chain link fence. We are replacing it with a solid fence enclosure. That would be a significant improvement. I can talk to them about the prospect of building something more substantial.

Ralph Vigliotti: If I were looking at two of the most important items for the south end of town, it would be that line of shrubs and doing something very positive down here (indicating) once and for all. It's only getting worse.

Michael Gallin: I know they get leggy.

Ralph Vigliotti: It's more than leggy. This is the opportunity with the equipment that is going to be there to make these two major improvements. Mr. Diamond has been very fair with the village. As the southern entrance, what more can we do to enhance whatever greenery we have.

Michael Gallin: I expect a lot of very positive feedback in particular with landscaping.

Chairman Cosentino: Jim has done a beautiful job throughout the village. By doing this, he is going to really improve that building, which needs to be improved. I know he'll do a great job.

Anthony Oliveri: I failed to mention in terms of the look that they were proposing Belgium block curb instead of concrete curb, which the Board likes to see.

Michael Gallin: I would like to get referred to the Zoning Board of Appeals to keep this process moving.

Whitney Singleton: They need to just apply to the ZBA and confirm with the building department that the scope of the variances that you are seeking is what you think they are.

Michael Gallin: Thank you very much.

Change of Use

145 Kisco Avenue – Kidville and Flywheel 69.65-2-1 (SBL)

Present:

Diana Mann, Owner, Kidville, Applicant
David S. Steinmetz, Attorney at Law, Zarin & Steinmentz,
representing the applicant
Michael Fuller Sirignano, Attorney at Law, representing Kidville
David Seldin, Chairman, Flywheel Sports
John R. Martabano, Property Owner
(Richard Beusman, President, Saw Mill Club Audience Member)

David Steinmetz: I am here with a group of folks in connection with this matter. I am here tonight on behalf of MRE Corporation, the landlord of the subject space. So the Board and staff are all aware, Diana Mann is from Kidville along with her personal attorney, Michael Sirignano. My clients, J.R. and Donny Martabano from MRE, David Seldin from Flywheel, also one of the tenants for the facility, and my architect Ed Gemmola from Ed Gemmola Associates. We are here tonight to hopefully to explain where things are, how we got before your Board and most importantly, to try to leave here tonight with an understanding to achieve a temporary Certificate of Occupancy (C.O.) leading to a permanent Certificate of Occupancy, because Diana Mann has a wonderful concept that she has spent an awful lot of time, money and effort to bring to Mount Kisco, and that is Kidville. In addition, David Seldin is anxious to bring Flywheel to Mount Kisco as well. These are two different uses, related similar, which we will talk about. They are both designed and intended to come into this space in the Martabano building at 145 Kisco Avenue. Each would be approximately 6,000 square feet. Diana's use, Kidville, is a franchise.

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There are approximately 25 Kidvilles located throughout the United States, Metropolitan Area and international as well. Under zoning, Kidville is a physical training studio, in terms of use as Diana has explained previously. Classes for young children ages zero to six, so we're talking about young kids coming in for physical activity, art, music, and various forms of instruction. In addition, Diana also has a birthday party program where folks can come in with their children and enjoy birthday parties. Significant to tonight and Diana and why she's here, in addition to the tremendous amount of money she has spent in pursuing her portion of the application, she is scheduled to open on Saturday, November 2, one week from Saturday. She literally has youth from Mount Kisco and the surrounding area enrolled in her program. She has birthday parties lined up weekend after weekend from now through March. Time is really important. Why are we here?

Chairman Cosentino: Before you go on, explained "enrolled."

David Steinmetz: Diana's students or customers have registered for her classes. She has different classes scheduled on different days. A typical class is no more than 10 children. She has two areas that she would actually operate her classes in, so there would be no more than 20 participants in her portion of the physical space at any time, and they would be, as we've indicated to staff and in writing, they would be staggered. So, there would never be 20 kids and their moms and dads coming at the exact same time. They would be staggered about 15 minutes.

Diana Mann: They enroll for the entire semester. You do the same class every single week at the same time. There is no membership. You cannot just come at your own will. You come during your class time.

David Steinmetz: I want to take a step back, because this has been, at least for me – and you all know I've been in front of you many, many times over many, many years. This is a bit of an unusual application. I'm not here tonight for a site plan review. We have filed no site plan application. There was no need for a site plan application. In fact, we just got brought into this on behalf of the landlord because of issues that seemed to have arisen for the two tenants. Each of the two tenants, Kidville and Flywheel, filed their respective building permit applications with the village. Each has processed those. My clients have obviously been overseeing what is going on here and are obviously participating in various construction activities on site, but we are here because building permits were issued in September for this activity by the building department. Construction has been ongoing for more than a month at this point. The villages, as I'm assuming you all know and your professional staff can confirm has been out there regularly and conducted inspections. Somewhat to the surprise of the two tenants as well as the landlord, issues have arisen most recently that brought us to your Board.

Chairman Cosentino: We want this to happen, too, but are you telling us we shouldn't ask questions?

David Steinmetz: No, never. I don't think you can recall a night when I told you that you could not ask questions.

Chairman Cosentino: Let's not let that happen tonight.

David Steinmetz: The reason we came with our full cadre of folks involved is because we want to answer your questions. Before we get to your questions, I feel it's really important for the record and for everybody so that we are all on the same page. I just got involved in this thing within the last week.

Chairman Cosentino: So did we.

David Steinmetz: So I want to understand, and I want to make sure we're altogether on what happened. What I understand from Diana: Diana is excited having grown up in Mount Kisco and gone to Fox Lane High School, she is excited about bringing this wonderful use here to Mount Kisco. She and her husband, Michael, who is here tonight as well, investigated this terrific franchise, Kidville, decided to spend a lot of their own hard-earned money, time and energy, and significantly they contacted the village as early as May. You all should have in your record a letter that Diana wrote to your Board dated May 5, 2013, where she first outlined to the village the program, the concept, the number of children, the modifications to the space that were going to be made and how she was planning on using it.

Vice Chairman Sturniolo: I never got a copy of that letter that you're referring to.

David Steinmetz: All I can tell you is that I know it was filed with your village by Ms. Mann. She dropped it off here in Village Hall. I hope its part of your administrative record. If it's not, I want to make sure that it is both the letter and the brochure that accompanied it. She was asked to file this material with your village so that your Board understood the use. Why? Because Diana was processing this - as was ultimately David from Flywheel, and my client's as landlord has a building permit application. It has been in existence as you all know for decades. There was a health club facility there. It was going from a health club facility to a physical training studio. It's still a permitted use in this zone on Kisco Avenue. No one thought there was an issue. No one thought there was a concern. She and her husband were going to do a lawful, proper application. They were certainly ready to spend a lot of money on a building permit fee, contractors, franchise fee, outfitting their space. They filed. No one said anything to them in May, in June, in July, in August or in September that somehow what they were doing was not appearing in front of your Board when they should have appeared in front of your Board. I want to say the same thing as to the landlord and as to Flywheel, because the last thing I want to do is stand before your Board and tell you that our team consciously knew for five or six months that we were supposed to be in front of the Planning Board on anything, because no one on our team knew that. No one on our team was told that, and so we relied, to our detriment, on having cooperated with the village as certainly my firm and I always try to do with this village, and as I learned happily,

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my clients and my client's tenants had done with this village as well. Everybody filed what they needed to file. They were processed, they got a building permit, and they started construction. So, roll forward. My understanding is that, though there might have been an understanding, a misunderstanding about whether or not the Board needed to review something, had reviewed something, the fact of the matter is at this date, tonight, I understand that a determination was made that there was a change in the intensity of the use, and therefore, under your code, and I'm sure you are all familiar with Section 110-38 of the Mount Kisco code, we all know there is a Change of Use provision. Despite the fact that I'm not happy, literally seven or eight days before she is ready to open, after spending hundreds of thousands of dollars, that we are here, we are here. We are here to cooperate, we are here to process, but we are here with a full reservation that we don't believe at any time anybody on our side did anything wrong. We are disappointed that we literally have been having inspections at our property as late as about three hours ago. That, in my experience is highly unusual to be on an administrative agenda of this Board and for your inspectors to be out at this time. But, they were. If you have questions, we want to walk through those questions. We are also aware, and I want to confront it right out of the box. I don't know if you all received a letter dated October 17, 2013 from the Saw Mill Club. Are you familiar with that letter that was written to the Chairman?

Ralph Vigliotti: We just received it this evening. We have not read it because we didn't have enough time.

David Steinmetz: All I can tell you is it was dated the 17th, sent to your village addressed to the chairman. I want to speak to it initially and very briefly. I absolutely understand that folks in the community have a right to participate in the review process and speak on applications. I should say I was a member of the Saw Mill Club for approximately ten years. I had my middle son's Bar Mitzvah there. I know the Saw Mill Club very well, and I am no longer a member of the Saw Mill Club because I am no longer working in Mount Kisco. Having said that, I was disappointed to see that this letter was written by another business here in Mount Kisco, and I'm going to be frank with you as I always am. This letter, in my estimation, is written as nothing more than an attempt to the anti-competitive and to raise issues, not out of concerns of public, health, safety and general well-being; I'm not convinced that the Saw Mill Club is particularly concerned about MRE's property and its parking lot and drainage issues on that property. I believe this letter was written purely for anti-competitive purposes. Whether it was or wasn't, I probably – at least tonight – I don't think I can prove it.

Chairman Cosentino: Obviously you read the letter, and we haven't. I don't even know what's in it.

David Steinmetz: Mr. Chairman, what's in it is a lot of inaccurate statements, factual, technical misstatements raising a number of issues. When you read it, I am fairly certain you will understand why I characterized it. I don't mean to disparage the author or the Saw Mill

Club, which is a fine institution. But, I think it's critical for your Board to realize that somebody like this, writing a letter in connection with an application like that, does not have standing to object. They wouldn't have standing to pursue this matter in front of your Zoning Board or in court., and I wanted to say – because I really want to nip this thing in the bud and deal with the important stuff – going to cite to the Board for the record, Sun bright Car Wash v. the Board of Zoning and Appeals of the Town of North Hempstead. For the record and your counsel, it's 69 New York 2nd, 406, 1987 New York State Court of Appeals Case, that decisively said, "The administrative record reveals that the only substantiated objection in that case to a variance, was a claim that it would result in increased competition. Zoning laws do not exist to insure limited business competition." My position is that this letter was written by a competitor. Why? Because David Zeldin wants to have a bunch of people riding spinning classes at Flywheel.

Whitney Singleton: That is in the context of Article 78, correct? You're not suggesting that the people from the public can't speak?

David Steinmetz: I did not say that.

Whitney Singleton: We have a lot to cover, a lot of applicants. Can you just move along to the zoning?

David Steinmetz: Absolutely. But especially, Mr. Singleton, to the extent that the Board has not seen this letter yet, I really want to make sure you know it is our position that this letter really is outside inappropriate filing in the record. I believe it was designed to intimidate your Board and to more or less stick a finger in this applicant's eye. I don't want to process this application in this fashion, and I don't think your Board wants to treat it in that light and I want to make sure that we address the legitimate issues that are in front of you.

Chairman Cosentino: That's all we're here for.

David Steinmetz: So let's go to the legitimate issues.

Vice Chairman Sturniolo: As my fellow Board members have said, I too have not read the letter. Putting the contents aside, whether it's a good letter or a bad letter, I'm not addressing that. I have a bigger concern, and it is receiving this letter about an hour ago before a Planning Board meeting. I wish we had seen this a lot sooner.

David Steinmetz: You should have.

Vice Chairman Sturniolo: Individually we could read it and come to our own individual conclusions and decisions about the accuracy and how germane the letter is or is not.

David Steinmetz: I agree with you, Vice Chairman Sturniolo, and that is why I want it clear for the record. That letter is dated almost a week ago. I don't know why you haven't seen it.

Chairman Cosentino: I want to say one more thing about the letter, and then I don't want to hear any more about it. I don't know what the intent of the letter was, but there are other places that just opened up in the village, work out places, etc., and we never received a letter from this person. Is he concerned about the bikes? I don't think so. Maybe he was just concerned about what is happening on the property. There are other gyms that just opened up. He did not send a letter concerning the other gyms. I wouldn't want to believe that he did this to put a crunch on the opening of Kidville and Flywheel.

David Steinmetz: And we're here tonight because we don't want a crunch put on the opening of Kidville and Flywheel.

Chairman Cosentino: We don't know what is in the letter, so it's not going to put a crunch on anything. I just want to say that, because we didn't receive anything.

David Steinmetz: Good deal. One of the things that arose most recently is someone in the village realized that there was theoretically a mathematical change in the intensity of the use based upon parking. Though not involved in the original approvals for 145 Kisco Avenue, my understanding is that there are 29 approved parking spaces associated with this 12,000 square feet originally permitted and given a Certificate of Occupancy as a health club or gym. In the current filing that was done by Mr. Gemmola's office, Kidville, a physical training studio was identified as having 19 parking space, which under your code one space for every two participants as well as the eight staff members that are there, and I'll come back to the eight staff members, Flywheel was identified as having 22 parking spaces; one space for every two participants, again under the physical training studio, and four staff members. The 18 and 22; 40 parking spaces, currently the space has a C.O. originally issued for 29. We are going up in terms of our number of parking spaces. We understand that. The good news is that there are 89 existing parking spaces at 145 Kisco Avenue. The balance of the strip center accounts for 45 spaces mathematically under the code. What that says to us is that this space, 12,000 square feet, is 40 spaces. The other remaining folks have 45 spaces. That is a parking demand of 85 spaces. There are 89 on site. We believe there is sufficient parking on the property. Let's talk about parking a little bit further. We heard that there was some concern articulated by the Board or the staff especially with regard to Diana's use. You have children coming in, ages zero to six, and you've got a parking lot associated with a retail-oriented strip center. One, this would be number 25. There are 24 other facilities located nearby. There is one in Scarsdale and one in Riverdale. They operate in strip centers like this. That is not unusual. Two, Diana has a protocol that is mandated here. One, there would be no more than 20 children there at any time, and she understands that. That is what she signed up for. 20 students, 10 and 10 inside. They come at different times. And, not these children should be escorted inside the building; they must be escorted inside the building. There is a security desk at the back, which is the primary entrance for parents with children. You cannot just drop your kid off and take off. You literally have to bring your son or daughter in, you have to hand them off to a teacher, and

what I learned from Diana is that you actually have to sign your child over, leave your cell phone number, you leave – you’ve got to come back and you have to -- whoever it is has to sign the child out and leave. Why? Because in 2013 you have to be ever more vigilant, especially about children, security, and who is the right person picking up and dropping off. It is not as easy as just pulling up and saying, “Run in, honey and enjoy your class. I’ll pick you up in 45 minutes.” That cannot happen. That is part of your record. We are fine with that. That is the way she is going to operate this facility. I think that is really important because my understanding is that question has been raised. I know this Board has always historically been concerned about safety. We’ve processed applications together in that fashion, and they understand that fully. Flywheel, on the other hand, is basically adults coming in for physical training. It’s bicycle riding. It’s spinning-type stuff. They will have the opportunity to park in the front of the building. They will have the opportunity to park in the back of the building. They can get into the building from the front; they can get into the building from the rear. Significantly, MRE has requested that both of the tenants, and certainly that Diana’s eight staff members, all park in the back of the building on the east side of the building adjacent to the railroad tracks. Why? Because why not promote the staff parking as far away from the building to make it easier for the parents dropping off their kids and bringing their kids in. So, we are committing to that type of parking arrangement as well. Another question arose. Although you may not have seen it, Diana told you in her original letter back in May that she also has the incidental sale of retail products. The question arose, is this is a retail operation, or is this a physical training facility? Diana will correct me if I’m wrong. Not unlike many gyms, physical training studios and other types of uses, you walk in, there is a little bit of stuff on the wall that’s for sale. Water bottles, t-shirts, toys, knick-knacks, etc. There are literally two shelves. One on each side which will contain incidental accessory items for retail sale. This is not a retail facility. It is not designed to be a retail facility. We are not asking for a C.O. to be a retail facility, and we absolutely think that retail use is in accordance with your code as a legitimate accessory or incidental use.

Chairman Cosentino: Is this the same for flywheel?

David Seldin: Our use is exactly the same as you described. If someone comes without socks, we will sell them a pair of socks. We have a pro shop, as it was, adjacent to our use. Selling clothing is one or two percent of our business.

David Steinmetz: I talked about the staggering and the parking. I want to make sure I said Flywheel has its primary entrance at the front of the building, but it does have an entrance at the rear as well. We got a question about fleet vehicles parking at the property. I am not sure what fleet vehicles actually are, because I don’t think that term is defined in your code, but I think I understand what it is. Certainly, neither of these two uses have any fleet of vehicles, any marked vehicles of any kind. I gather that the comment related to my client’s other tenants that are at 145 Kisco Avenue. First of all, they have nothing to do with this application; nothing to do with Kidville,

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nothing to do with Flywheel. The Martabano have made sure they asked us to address the issues that you have raised. We are happy to tell you that if there are vehicles of that nature, there is no reason they cannot be encouraged to be parked behind the building. I am not sure if that is your Board's concern, if that is the building department's concern, or otherwise. We want to make sure if there is any concern about fleet vehicles, most importantly Diana doesn't have a fleet of vehicle and David doesn't have a fleet of vehicles. We also got a question about handicap parking. Mr. Gemmola has reviewed the site plan. There is an inaccuracy in one of the letters that was submitted to your Board. There are the same two handicap parking spaces as I understand it at 145 Kisco Avenue. I've been told both by the architect and by the property owner.

Chairman Cosentino: I have not been there, but I think there is one marked.

Mr. Gemmola: They share a space there. They are double-sided with an island between them.

Chairman Cosentino: You can't share a handicap parking space.

David Steinmetz: There is one stall with two handicap spaces that meet the requisite. I did not go out there today, but I am going to rely on Mr. Gemmola. I obviously respect Mr. Gemmola; I've worked with him many times, and if tells me there are two and he's been out there and they are on his plan, there are two handicap spaces. There is no change as a result of this change in tenancy that would warrant under the ADA or otherwise a requirement for additional handicap parking. We have the same parking layout, the same number of parking spaces that were there, and we meet the requisite number of parking spaces. I am going to be presumptuous. You have not read Mr. Beusman's letter. I just read it a short while ago.

Chairman Cosentino: I don't want to hear it anymore.

David Steinmetz: You got it. Diana Mann is here, David Seldin is here. All we want to do is transact business lawfully in the Village of Mount Kisco, serve the youth and adults of the community with two physical training studios, and most importantly, I want her to be able to go home tonight and go to sleep knowing that she is opening, assuming that she completes all of the work she has to on Saturday, November 2, that we are not disappointing children, parents, etc., canceling birthday parties. We are ready to go. We are ready to cooperate. If there is an issue that Whitney has on a technicality, we will address it. If there is an issue that Anthony has on engineering, we will address it. If there is an issue that Jan has from a planning standpoint, we will address it. I will tell you, we think we've addressed everything that Mr. Tarchine and his department have raised, because we have been working with them, as I said, regularly, since the issuance of the building permit.

Chairman Cosentino: We do not know what is in (Mr. Beusman's) this letter and that is the reason why I don't want to discuss it.

David Steinmetz: I got you. If that is the case, unless there is something that I'm either unaware of or that myself and the rest of my team have not or cannot answer, I am hoping that you can all look at this and say, in effect, "Yes, David. You are here because you went from 29 parking spaces to 40 parking spaces." That is the change in intensity. Had the letter been circulated and you all saw Diana's letter from May and saw what we have been dealing with since the issuance of the building permit since September, we are ready to go. I'm glad I was able to come tonight. I'm really happy to go home tonight, because I really don't think I need to be here any longer.

Vice Chairman Sturniolo: Is there another communiqué that was sent after that letter?

David Steinmetz: After that May letter? In terms of communiqué, it would be a building permit application that was filed on behalf of Kidville; a separate and independent building permit was filed on behalf of Flywheel. Both have been submitted to your building department, both have been here in the village for about a month, and again, I have to say this: It's not like this stuff has been happening under the darkness of night.

Vice Chairman Sturniolo: That was the one and only letter?

David Steinmetz: That is my understanding.

Michael Fuller: Let me correct that. There are two communications from Mr. Tarchine that are relevant here, because it goes to Diana's good faith reliance on the building permit that she has been building out her space from. There is a memo dated September 19, 2013 from Mr. Tarchine, and it related a meeting of that date where this change of use was discussed, and then the next day Mr. Tarchine wrote a memo to the Chair dated September 20, in which he said, "pursuant to my memo of September 19, attached, a revised site plan was submitted and reviewed today. Based on the revised calculations submitted, it appears that the proposed uses and parking requirements comply with our zoning laws.

Chairman Cosentino: We spoke about 31 parking spaces.

Ralph Tarchine: What the conversation was at that meeting, as the letter referred to, was that the parking fit, and Whitney was there and confirmed that it did not have to go to the Planning Board, and it was fine. That is why I sent the memo.

Michael Fuller: And he concluded the memo with, "Please contact me if you have any questions or disagree with my findings and conclusions." So, I don't know what the Chairman's understanding is. I just think it's important that you understand Diana's good faith reliance.

Chairman Cosentino: I have no problems with her good faith reliance. We want this to happen. We just had some questions, and that's why you are before us here. We will probably ask you some questions right

now about items that we knew nothing about. Maybe it should have come before the Planning Board in the beginning. Obviously, it didn't.

David Steinmetz: We are here now.

Chairman Cosentino: I am not faulting anyone because of that. But, there are questions that we need to know.

David Steinmetz: We are ready to answer them.

Ralph Vigliotti: When I received this, I had a few questions based on the health, safety and welfare of the kids. You said earlier which offers a bit of comfort that everyone of the children will be brought in to be signed in, even a six year old. No one will be dropped off.

Diana Mann: Everyone who signs up for a class gets an individualized membership card. The mom, dad, caregiver; anyone who might be entering our building gets their own individualized membership card with a picture. We set up a state-of-the-art system in the front and the back. When you come to our facility, you are greeted by one of our employees who are sitting at the desk. You have to hand your membership card to them. They swipe it; your picture appears on the computer so we can double-check that. Then you walk into your classroom – you will know after the first week which is your classroom – and 3, 4, 5, and 6 year-old will go to their teacher. They have a sign-in sheet. You write your name, you sign it that you dropped the child off, and you offer your cell phone number. Let's say the Dad drops off but the Mom is picking up. There is a who's picking up line, and you have to put the Mom's name, the Mom's cell phone number. Then, when the Mom walks in and picks up after the 45-minutes, she has to sign that she has now picked up her child and they can leave the building.

David Steinmetz: To clear the record, Diana used the phrase "membership card." This is not a membership club organization, is it?

Diana Mann: When you sign up for a class, you become part of a loyalty program. We call it membership loyalty. It offers you discounts on birthday parties as well as passes to our play stations. Our play stations are also regulated. You must call ahead to RSVP for a spot, and it goes along the same lines. If you have 10 or 20, depending on if there are any other classes going on in the building. You cannot just show up for a play station. Our membership or loyalty program gives you access. You cannot come to our facility if you are not signed up for a class.

Ralph Vigliotti: If we just go through the logistics. The child is brought in, you use the front entrance, park, and there is a sidewalk as opposed to walking on the driveway to get to the front of the building. Is there a sidewalk at the rear of the building to accommodate that movement?

Diana Mann: Yes.

Ralph Vigliotti: My concern early on was a five or six year-old being dropped off. That creates a very different set of circumstances as far as a drop-off zone or a clear path to make that happen.

David Steinmetz: It cannot happen. It will not happen. We are committing to that.

Ralph Vigliotti: Thank you.

Stanley Bernstein: In the back along the railroad were undersized spaces. How were included in the count?

David Steinmetz: Those spaces, as I understand are all approved on the original approval. They are pre-existing, compact spaces and are all capable of accommodating vehicles. They have been accommodating vehicles for the last 30 to 40 years.

Chairman Cosentino: They were there.

Stanley Bernstein: I know they were there. Many applicants have come before this Board over time, and there was a change in use. We ordered them to re-stripe and change the compact spaces. That has been done in every facility that I'm aware of. Just because it's pre-existing, once there is a change of use, there is also a change in the parking.

Chairman Cosentino: For the record, will the assistant building inspector reiterate the answer you gave us for the compact spaces?

Robert Melillo: What was that?

Chairman Cosentino: That they were there.

Robert Melillo: I guess they were there.

Chairman Cosentino: That we could not change them.

Robert Melillo: Honestly, I don't remember discussing compact spaces.

Whitney Singleton: This has been discussed with the building inspector. The determination is of the building inspector's not mine.

David Steinmetz: My understanding is that eight are there, therefore, they are pre-existing. They have been there in excess of 30 years. More importantly, going to what I believe is the root of Mr. Bernstein's question; I am unaware of any empirical data at all in this area or elsewhere in the village that those spaces have been unsafe or unusable here in the village.

Stanley Bernstein: I didn't say that.

Chairman Cosentino: I apologize. I think it was Mr. Tarchine I was talking to, that they (compact parking spaces) were there, and that was it.

Ralph Tarchine: The compact spaces are on the site plan, which is correct. They were approved by the Planning Board.

Stanley Bernstein: That happens all the time. They were approved in the past. I can give you an example. On Lexington Avenue where we insisted that those compact spaces had to be changed and re-stripped. That was the most recent. I want to bring that out, whether this Board agrees to allow them to stay because of pre-existing condition, fine. But it has been done where they were made to comply. Everyone should be aware of it.

Chairman Cosentino: This time they need to stay.

David Steinmetz: Anything else that we can address for any of you?

Whitney Singleton: Are you done presenting everything or are you done presenting just for Kidville?

David Steinmetz: At the moment, in terms of Flywheel, I think we've answered the fact that they are a physical training studio. I think you all understand that they are basically operating bicycle or spinning type classes, there is an instructor there. There are no more than four staff members and based upon the information that we've submitted to the village in terms of the number of potential "participants," the participant number yields 22 parking spaces, which is one space for every two participants as well as the four staff members.

Whitney Singleton: Translate that for me for clarity. You're saying that maximum proposed number of participants at any one time on the Flywheel space will be 36?

David Steinmetz: That is correct.

Whitney Singleton: I believe you will find there are some mathematical errors in your math, and I'd be happy to go through those with you now.

David Steinmetz: If you believe that they are germane to the public health, safety and general welfare, I'm happy to listen to them, because Mr. Singleton, I am intending to leave here tonight with the Board agreeing to issue a T.C.O. so that Diana can sleep tonight.

Chairman Cosentino: That's not in the form of a threat is it?

David Steinmetz: No way.

Chairman Cosentino: We are humans here too. That will put you in a dangerous situation, as far as your plan. We want this to happen. Don't threaten. Let's be friends.

David Steinmetz: We always are you know that. To the exception that Mr. Singleton is ...

Chairman Cosentino: He may have something. He's our counsel. Listen to him.

David Steinmetz: We have been speaking to him regularly. We tried him several times today to find out if there were any residual concerns that he still has. I wanted to know, before we walked in here tonight, if there are any additional issues so that we would be ready to answer them.

Whitney Singleton: You were put on the agenda as of two days ago.

David Steinmetz: We all scrambled, believe me.

Whitney Singleton: I don't understand how you can get the parking requirement of five for a dry cleaners with a square footage of 1,150 square feet.

David Steinmetz: So you're now talking about a space that is not in front of us here tonight?

Whitney Singleton: I'm talking about everyone of your uses here.

David Steinmetz: I'll turn to the Board. I am here tonight in connection with one specific space, 12,000 square feet.

Whitney Singleton: You can't say look over here but don't look behind the curtain. We are looking at the entirety of the site to make sure there is sufficient parking on the site. I don't care whether you want to call them fleet vehicles or required parking under the code, there is a maximum allotment of spaces on this lot, and the Planning Board is going to look at that.

David Steinmetz: If the Planning Board wants us to start talking about the dry cleaner, we are happy to talk about the dry cleaner.

Chairman Cosentino: Let's just get through this.

David Steinmetz: My understanding is number one, there is an error listed on the site plan identifying the dry cleaner as a retail space.

Whitney Singleton: If we just go through the list it would be a lot easier.

David Steinmetz: We are ready to do that.

Whitney Singleton: "Retail general" should not be listed as retail general. It should be listed as existing premises. The four typos should be corrected: heat, peak x 2, personal and vacuum. The two notes should be removed. They are gratuitous and they have nothing to do with the plan. We are talking about SY-101, the notes. If you just do the basic math going across the top, for the cleaners, the number is wrong. It should be 6.7. You have an incorrect calculation, plus you have a fleet vehicle that is on the site 24 hours a day.

David Steinmetz: When you refer to the fleet vehicle, is there some significance?

Whitney Singleton: It's a van. There is a provision in the code that the parking requirements are in addition to fleet vehicles.

David Steinmetz: So you're saying it plus the fleet vehicle?

Whitney Singleton: Right. The barber shop calculation is incorrect. The Lux Hair Loft calculation is correct. The spa calculation is incorrect, it should be 8.3.

David Steinmetz: If the barber shop is incorrect, what is the actual number?

Whitney Singleton: 4.3. I will give you the total number when we are done here.

David Steinmetz: So it's 4.3, and somebody rounded it down to 4, and that is what here and that is what the village approved.

Whitney Singleton: No, this is the first time we've seen this.

Mr. Gemmola: This has been like this forever.

Whitney Singleton: The uses were there, but this was not presented to this Board. Let's keep going.

David Steinmetz: So you have the cleaners at 6.7, the barber at 4.3, Lux Hair Loft you were okay with 13?

Whitney Singleton: The spa has to increase to 8.3 the Sign-o-Rama – I'm not disputing the five spaces, I just don't know what formula was used by them to arrive at that figure.

David Steinmetz: Isn't it identified here, 1 per 3?

Whitney Singleton: You have manufacturing and sales.

David Steinmetz: You were asking how we allocated between manufacturing and sales. Is that the question?

Whitney Singleton: You allocated this on square footage. It's not a parking requirement for manufacturing. I don't know where he got 1 per 300. It's not an incorrect number, if he could just clarify it and confirm it.

Mr. Gemmola: It's the same amount of space.

Whitney Singleton: How do you get 1 per 300? What was your use?

Mr. Gemmola: It is under retail sales, bulk household items.

Whitney Singleton: Then that should be listed as listed a retail sales and bulk household items, and the whole thing is 1 for 300. There is not a differentiation.

David Steinmetz: That is fine. That is a ministerial correction, but we understand.

Whitney Singleton: And you need to tack on three vehicles to that. The vehicle doesn't move. Again, I don't know what parking requirement you used, but it cannot be that formula that you used because sales are a prohibited use in the zone.

David Steinmetz: What if they are incidental to the primary use?

Whitney Singleton: What is the primary use, then? Storage? I believe it's small appliance repair. It's not a problem. I just want to see what formula you are using, so if they did swap out of that space, we can compare apples to apples.

Mr. Gemmola: The use was based on 1 per 1,000 as storage. That is what we have listed.

Whitney Singleton: What is your principal use of that space?

David Steinmetz: Storage, warehousing and distribution.

Mr. Gemmola: I tried to list is as it is. This is unchanged from the first meeting we had.

Whitney Singleton: I'm understanding that, but there are a number of things that need to be corrected here.

David Steinmetz: We want to understand your reasoning and we agree.

Whitney Singleton: You are going to have to confirm that sales are a permissible accessory use to storage. I don't know that that is what they do there. The use is there, there is a Certificate of Occupancy, and you have to have it for something.

John R. Martabano: I spoke to the gentleman himself when we discussed what he did. A very major part of his business is repair. He was very clear to me in saying that. Most of his retail sales were pretty much limited to vacuum bags.

David Steinmetz: We will certainly go through all of Whitney's numbers. I just think it's important to interject for the benefit of the record. The reason Ed has said we've had these numbers in front of you four different times; I want to make sure the Board knows this was submitted to the building department. We didn't hide the calculation. Ed did a calculation, shared it with your building department and your building department issued a permit based upon that, and we relied upon the building department. I am happy to go through the exercise and correct the error.

Whitney Singleton: If we are going to repeatedly speak to the record, let me just say that may all be true. I have sat down with the applicant and her attorney, and I have no doubt as to the bona fide use of her application, but the fact of the matter is that this is the first time the Planning Board has seen this application.

David Steinmetz: Whitney, you know me well. I am not standing here because I'm not clouding their authority. I am trying to cooperate with the Board. But you know me too well to think I'm not going to remind everybody that permits were issued, and that we've been in front of the village, for our purposes, since May.

Whitney Singleton: Let's just finish this. Advertising Concepts is a full office use. I don't know where you get a parking requirement of 1 per 500. They have offices throughout the space, and it's full service advertising. That should be 1 per 250.

David Steinmetz: With all due respect, could you just give me your total so I understand what you have?

Whitney Singleton: The total for all the uses, based upon a 36 participant Flywheel and four employees and 20 participant in Kidville with eight staff members gives us 92.6 as a requirement, or 92. I calculated that by increasing (the vacuum store) by one space. I could be wrong on that.

David Steinmetz: Just so we're altogether, and I'm not going to profess to all of Whitney's mathematical calculations, nor should the Board necessarily on the fly here. We went from 89, as at least we came in understanding it, as the total number of spaces that are out there. The requirement was 85, and now we are being told that the requirement may be 93. The facility has been there for as many years as you all know. You know it better than I do. Many of these tenants have been there in excess of five years. The only thing I would share with the Board anecdotally that I think may be relevant is when Mount Kisco Athletic Club was there, it had between 1,200 and 1,300 members.

Chairman Cosentino: They had excess parking next door and across the street.

Whitney Singleton: They also had different hours of operation.

David Steinmetz: So maybe it's irrelevant. We think there is enough parking here. We believe it's safe and adequate. Again, we are happy to work with the village in any way we can. I'm here because I really hope that we can secure the Change of Use and the Temporary Certificate of Occupancy.

Whitney Singleton: Just because we're speaking to the record, I believe the applicant (Flywheel) did represent to the chairman and myself that there would be a maximum class size of Flywheel of 10 people, and then when we asked him to put it in writing, it was

represented between 10 and 20. Now, it's appearing to be 36. I want clarification.

David Seldin: To my knowledge, Flywheel has never made a submission on this point to this Board. I've never been asked this question.

Whitney Singleton: The applicant is the property owner, and that was asked of the applicant.

David Seldin: I would defer to Mr. Martabano.

John R. Martabano: We did defer to a number that we worked out together, but we were under the impression that we were using 36 that were in place, one for every two spaces. Do you have numbers from your other places?

David Seldin: We have many places. I will answer any questions.

Whitney Singleton: It was represented to the Board as ten. We asked you to confirm that in writing. So the application that was presented on an administrative level was not what is on the table tonight.

David Steinmetz: I was not at the meeting, so I obviously take you to word.

Whitney Singleton: With that being said, let's get back to this. If you operate from the premise that the Board is willing to leave the number of spaces and the nature of the spaces the way they are, and you're not going to eliminate any for a drop off area of anything else, then by my calculations, which are not binding on your Board, I've come up with a shortfall of only four spaces, which can be addressed in a number of different fashions. They can remove vehicles, they can lower class size, and they can lower employees. Those are the issues that we dealt with. If they are looking for special dispensation from your Board, that is another thing. There is that aspect of it, and then with regard to, as David pointed out, they are here for a Change of Use Permit. Assuming that a Change of Use Permit is forthcoming from your Board at this or future meetings, there are some site issues which are not the subject of this application tonight but do become relevant as to when and how Certificate of Occupancies are going to be issued. The village engineer issued a memorandum today which I'm sure the property owner is aware, relative to work that was done on the site without a permit.

David Seldin: If it would be helpful to resolve any of these issues, I would be happy to commit that my employees will not park in the lot. I will make other arrangements.

Chairman Cosentino: That is kind of you, and maybe we can work that out that way. Everything that was said tonight was hashed out well. She (Diana Mann) should not be punished. There are issues that counsel brought up that we need to straighten out along with other issues.

Richard Beusman: I am wondering if this is wrapping up, I would like to address the Board. It is unfortunate you did not get a chance to read my letter, as it was delivered to the Board on Friday.

Chairman Cosentino: We just received it tonight.

Richard Beusman: I think Mr. Steinmetz's comments about my motives are misplaced. I'm here as a taxpayer, and I think there is a question to fairness and equity in terms of review and in terms of town code. I've been a tenant at the building, so I can tell you from what I've seen in the files and we ended up taking over Mount Kisco Athletic Club (MKAC). The original MKAC was actually 45 spaces. It was 250 per square foot. It was not 29, it was 40, and that's when it was 10,000 square feet. The club then went to 13,000 square feet and had additional outside parking, which you are all aware of, that was granted to them for a special use. So, I think he's misstating the parking. I have no problem with Kidville or Flywheel. My question is, knowing the space and knowing the parking problems as we had on that space – knowing how at Saw Mill Club – for example, we came before the Board four or five years ago and acquired additional parking because parking was an issue at the club. At that time we were asked to eliminate all compact parking spaces and to go to code on all spaces to 9/6. You have a site here where 30 percent of the parking is compact spaces at seven and a half. I work in that business and I can tell you we could not use all the parking spaces along the back because it's too tight. In fact, if we're going to be fair and equitable, and I think as Mr. Bernstein has mentioned, this certainly advocates a Change of Use, they should get up to code in terms of town parking. We certainly did at no small expense. Additionally, I think that the choice of a physical activity space and saying that you're going to have one parking space required for two users is probably an inappropriate use here. Think about this. When we came in with Saw Mill East, we were required for each room to list the density of use, the number of users. I know of nothing in the plan from Flywheel that shows the number of bikes or the number of people that are going to be in the Flywheel space or the number of people that are going to be using the locker rooms, or the retail area. We were required to do that. When you think about it, when we have the spinning bikes – and I'm in the industry so I know – I know of no one that shares a spinning bike, two for one, in a class. If, indeed, they have 36 spinning bikes in their spaces, and that class sells out, gentlemen that is 36 parking spaces that will be used. To say that they only need to have 18 doesn't make any sense. Now, the code says it's two for one, but we know that there is a specific required use – one person per bike. Additionally, if they are running classes at the same time at Flywheel, how many is that? Additionally, typically they will run classes one after the other, so you have changeover. You have people coming into the site and people leaving the site along with people showering at the site and not leaving the class, possibly lingering and talking. By my count, Flywheel alone easily will use 40 parking spaces when they are fully up and running. Let's look at Kidville. Kidville shows you three activity rooms. They are claiming that they are only going to run two classes at a given time, 10 in a class. They have three activity rooms and a

party space. I know Kidville. I'm in the industry. We know people that run Kidville. Kidville tends to run classes consecutively, and they will run them at the same time. It does not make sense to me that Kidville has three activity spaces but they're only going to use two at any given time. Additionally, we know in other Kidville locations that they can run anywhere from 10, 12, 15 to 20 in a class. So, they have an 850 square foot space here. If they have a dance class, it's easy to imagine there will be 15 to 20 children in that. They are telling you that they are going to limit it to 10, and I have no reason to doubt them. But I ask the question. They have three activity spaces. They are running concurrent classes often. They have a retail space and a party space. Kid's party size is 15 to 20 kids. That is all their parking right there. Half of their classes require that the mother or the caregiver be on site. They talk about having them within hugging distance. When you start to add these things up, I can easily envision Kidville having 40 parking spaces given a time when it's a mature and operating facility. My point to you is that either one probably fits to the use of the building. Both seem over intense. In my letter, I talk about various issues in terms of parking spaces, handicap ramps. For example, Kidville has a second check-in in the back of the building. But it has three steps and a small landing. 50 percent of their classes are for young kids. It's toddlers in strollers. How are they going to get in from that back entrance? Should there be ramping back there? Doesn't that impact parking in terms of the spaces? There are a number of things that I've listed here, and it's unfortunate that you haven't seen them. But I think it would be inappropriate to give carte blanche Certificate of Occupancy without looking at all the issues. I think you should ask some questions about the uses. Clearly, 36 spinning bikes – at some point, those classes sell out. Why do you need 36 bikes if you're only going to have 18 parking spaces?

Chairman Cosentino: You are probably right on some of these things. This is a little unique. They were issued a building permit. I don't question the building department. She spent thousands and thousands of dollars. It is complete.

Richard Beusman: I just found about it last week, and I am shocked they are in this position.

Chairman Cosentino: But it's complete. They did everything that they should have done. How could I tell this lady, after she spent maybe \$400,000 that she can't open up on the 3rd without probably putting aside some things that we need to put in the resolution? How can I face her and tell her that? It's not her fault.

Richard Beusman: I'm with you on that. I agree with you. My question is, and I think there is an obligation to be fully informed about the intensity of the uses. I concur with you that a temporary Certificate of Occupancy should come to them, and it should be coming tonight. I don't have an issue with that. My question is that you have a second use, and she has an impact on the whole building.

Chairman Cosentino: And the second use was issued a building permit, and I'm not going to question the building inspector. What can we

possibly do? Me, as the chairman telling her that she can't open up – I'd be a fool. I would do the same thing for you.

Richard Beusman: My point is the same standards that have been applied with other applications in this village should be applied here, and it does not appear that that is happening.

Chairman Cosentino: But those other standards were not issued a building permit.

Richard Beusman: I can't speak to that.

Chairman Cosentino: That is what I have to speak to. This Board has a difficult decision tonight.

Richard Beusman: I think you need to be fully informed.

Chairman Cosentino: I'd like to say, you need more parking, etc. This is not what it's all about tonight.

Richard Beusman: It has to be. Because if you're down the road and you have two very intensive uses in that building and the parking is not there and the traffic is not there, it's not appropriate and it's not being met with the same level of scrutiny that anyone else in the town has faced.

Chairman Cosentino: Under the code the building inspector has made a determination. We asked them to come before us tonight not to ridicule what they did. They did everything right. We are adding things and hopefully they will let us work this out.

Richard Beusman: I'm not sure they did everything right.

Chairman Cosentino: They did everything right.

Richard Beusman: Under the code that they are talking about, theoretically a physical activity space, yes, should be two for one. I'm positive to you, Mr. Chairman, that 36 spinning bikes ultimately are 36 parking spaces.

Whitney Singleton: I thought Rick would speak later in the process. There are a number of things. That is why I was asking David if he was speaking to Kidville or to Flywheel as well. There were other things that the chairman and discussed in anticipation of this.

Chairman Cosentino: I think we can address some of these things.

Diana Mann: I want to address from someone who knows Kidville very well. Everything he said is pretty much inaccurate. We have three classrooms because we offer different types of classes. I don't want kids doing art on a carpet and I don't want kids listening to music sitting on a wet floor. The reason why we have different rooms is because we have different uses – gym, music and art. You can't do gym in an art room. You can't do art in a gym room. That answers

one of Mr. Beusman's concerns. We are in the suburbs. People do not take a kid out of a car, put them in a stroller, wheel them 10 feet to a door, take them out of a stroller and bring them to a class. It's just not what happens. I'm a mom of two little girls. I would never do that. It would be more work for me to get a stroller out of a trunk, unfold it and put the kid inside of it to then refold it back up. I think we all can understand that. That's a little bit common sense in my mind.

David Steinmetz: With all due respect to Mr. Beusman and his comments, I don't think anybody who has ever been to the Saw Mill Club would go in there and testify that when they were in the Saw Mill Club, and I was there many times, that every single piece of equipment in every single room was all being used simultaneously. Mr. Beusman's argument in effect, is Mr. Seldin; all of your bikes are going to be used at the exact same time. His spinning bikes aren't used; his free weights aren't all used.

Ralph Vigliotti: I want to make sure we have an understanding. We are talking about not incidental uses, but a class that could max out at 35.

David Seldin: We've done parking studies in at least 10 different municipalities. A significant number of my people come together. We are a group fitness and we're social. Husbands and wives come together, boyfriends and girlfriends come together. Girlfriends come together. Moms bring daughters. We have Grandma, Mom and Daughter together. Significant overlap. We've done studies with professionals in other jurisdictions like Milburn, New Jersey, which had questions about this where we did get a zoning change to come into the central downtown in Milburn. The town voted unanimously – your equivalent Board there – to invite us in. We've made a huge difference in the rejuvenation of the downtown, and they found that we have no parking impact, and we've had no parking impact.

David Steinmetz: There is one very significant thing that none of us have talked about, but Diana was good enough to mention it in her original letter to the board. David and Diana will comment on this if I'm misstating it. They are completely independent of one another. They have no equity affiliation with one another; though, they are here, effectively because they'd like to have what I would call synergy. We are not hiding that. There is 12,000 square feet that is going to be bifurcated into 6,000 for Kidville and 6,000 for Flywheel, and the expectation is that not everyone, but some moms and dads will bring their children, park their car, walk inside the building, drop their child off safely with Diana and go and spend 45 minutes dripping sweat in Flywheel. That is something that is permissible, lawful and exactly why this space is going to work for these two uses. That is exactly why both of these people are spending all of this money to try to bring these uses to Mount Kisco.

Diana Mann: I would like to bring to the attention of Mr. Beusman some more inaccuracies. Birthday parties are on the weekends. One nice thing we do at Kidville for birthday parties is you get exclusive use

of the entire space. Those spaces, yes, we will fill up, but that's all we have that day. That hour and a half is exclusive.

David Steinmetz: I also want to cover that Mr. Beusman started off by saying we were inaccurate in our numbers, and maybe he's right. He actually said that the parking count approved went from the 29 that I was told, and that the resolution reveals to either 40 or 45. If he had 40 or 45 parking spaces for the Mount Kisco Athletic Club, then I believe mathematically that there is no intensification of this use the way it's been calculated, and then we wouldn't even be here.

Chairman Cosentino: I know what he went through. He went through a lot. He was before us for maybe a year, and he may be frustrated right now, because I'm sure the things that he said are true. They need to work. I would like to set up a special meeting for this, possibly Thursday.

David Steinmetz: Staff level or Board level?

Chairman Cosentino: Board level. I want to address some of these things so we can straighten this out. I'm not out to hurt you.

Diana Mann: It is not in my best interest to open up a business where the parents cannot ----- . I would never do anything, and I'm sorry for this misunderstanding.

Chairman Cosentino: And this Board knows that.

Richard Beusman: Diana, I want you to know that I'm supportive.

Diana Mann: That's hard to tell.

David Steinmetz: Thank you.

Whitney Singleton: I want to go through a few things, and it would be very helpful to resolve those issues before. Actually it will require feedback from Ed or David or whomever.

David Steinmetz: We are ready to cooperate as you know.

Richard Beusman: Thank you for the time, and we understand. I hope you get a chance to read the letter and see if there is valid input there.

Whitney Singleton: Rick, your plan A-101 that shows existing proposed floor plan is inconsistent with the floor plans that were submitted by the other two applications.

Mr. Gemmola: This was done prior to any layout here. This delineated space that Kidville is going to take and Flywheel was the existing walls that were there at the time. That was to give you a comparison of what was there. That is why I gave you the two plans. This will be treated as if it was an alteration. That was the existing, and this (indicating) is at a different scale. We did not produce this drawing,

but that was the layout. These petitions, when we issued it to get a building permit, showed all of that to be demolished.

Whitney Singleton: Can you show on one plan a revised A-101? Can you show the layout of the entire building? In other words, these are all fine. But have this reflect what is going to be there, and have this reflect what is going to be there. This is so when the Planning Board is looking at plan, it is for the entire site. Also, there seems to be some inconsistencies as to what is lawn and what is brick and what is concrete. Your front on this one shows that area around the fountain as being lawn, and your other plan shows it as being brick. If the existing location from the catch basins is going to change, they should be reflected on this plan as such. If the front travel lane is one way to the north, you don't have it marked as such. With regard to handicap, I will defer to the building inspector on this. Our code has a tradition of not two, but four. Not to the lesser of 10 spaces or five percent of the total number of spaces on the site. I don't know what the law is with regard to the state building code. I don't know what the demand is for the handicap spaces on the site, but the code - Chapter 110-28 - speaks to not less than 5 percent.

David Steinmetz: That is for retail use. I don't believe that is for this use.

Whitney Singleton: It's for handicap within the Village of Mount Kisco. If it's just going to be spaces that sit vacant, that doesn't do anyone any good. It's shopping centers and facilities with five retail stores.

David Steinmetz: And we don't have five retail stores, so I don't think it applies. More importantly, I don't want it sit vacant. I also don't want to find out that my clients are violating something in some respect. I am unaware of any complaints that have ever been lodged to the village.

Whitney Singleton: You don't show the sign on the plan. There is a sign on the south end of the property or on the neighbor's property, I don't know which.

Mr. Gemmola: I thought that was going to be worked out in terms of existing signs.

Donald Martabano: I know that John from C & M Signs was going to address it. It has not been discussed. Is it an issue?

Whitney Singleton: It shouldn't have tenants from 20 years ago. It should be updated.

Donald Martabano: Diana, am I correct that you spoke with the mayor and he expressed a concern over the brick, which had sunk down through the years. We are replacing that back to concrete again.

Whitney Singleton: Just show it on the plan the way it's intended to be.

Donald Martabano: It's easier to shovel when you have concrete as opposed to brick.

Whitney Singleton: I know that the chairman has talked about the staircase right here that is the secondary ingress. Right next to it there is a loading dock which is not being utilized that goes into their space. Without a full-blown site plan, does the elimination of one or two of those spaces create a bare area for people to walk up the staircase and make provisions without affecting the parking for a ramp into the space because it's only about two feet if the walk becomes a ramp and the loading dock becomes a staircase.

David Steinmetz: And losing two spaces?

Whitney Singleton: It depends in where you drop off. I don't know what the answer is.

David Steinmetz: I don't fully understand your design on the fly, but there is no drop off. Everyone is going to pull into a space. My guess is we'd rather know we have the spaces unless there was some real, good, functional benefit of what you're proposing. I am not aware of an ADA non-compliance issue, and most importantly I am not aware that either of the two tenants have objected to the functionality of the ingress/egress. If Diana came to my client and said, "I'll sign a lease, but you've got to give me a ramp or a better way into that back door.."

Whitney Singleton: I guess it begs the question: Does the Board want to address that issue with the applicant.

Chairman Cosentino: I felt that the back ramp, since they put a nice walk back there, to make a nice entrance so when you park in the back, you can make a nice entrance to the rear of your place.

Diana Mann: I would love to speak to the Martabano's about doing that.

Donald Martabano: We heard about the rear staircase looking kind of worn and dilapidated.

Chairman Cosentino: It's a ramp look.

Donald Martabano: We were thinking to do a nice masonry staircase, because it's only a couple of steps with a landing, with a nice rail.

Chairman Cosentino: It would be nice if you could dress it up and not make it look like a ramp for people parking in the back, and for people to be enticed to go through the back entrance.

Donald Martabano: I will also say that the loading dock in situations in which you have people moving in heavy equipment, which Diana did move in, it came in quite handy.

Chairman Cosentino: I'm not saying to remove it. I'm saying to enhance it. Don't make it look like a loading dock. This Board would like it to be made to look a little better.

Donald Martabano: I understand.

Chairman Cosentino: I don't know if you found out yet, but today someone fell going into the cleaners and the haircutting place. I know you don't have to, because the code says it has to be two feet or four steps or more, but you might want to put a railing there so people don't fall off the edge when coming in and going out.

David Steinmetz: It is certainly something that could be addressed. Just to be clear as we are walking away, did we agree that we are dressing up the back but not actually losing parking spaces or doing a ramp? Because to the extent that we hear Whitney tell us he has recalculated and he thinks we may be four spots fewer, I don't want to lose more spots.

Chairman Cosentino: I think he's right. If you had a back entrance that would enhance people to go to the back.

Whitney Singleton: We were under the impression that kids were going to be darting between cars.

David Steinmetz: That is not happening.

Whitney Singleton: Would it be easier and more functional for you to have a car pull up and have somebody let them out of the car, like most schools do?

David Steinmetz: No, and I am not the expert in that but Diana is. She is taking on the liability of your kids and mine, and she won't take them if that is the way we are dropping them off.

Diana Mann: The kids need to be extremely comfortable. They need to be brought into the facility. In this day and age, no parent wants to drop their kid off. It's a brand new facility. You have to give us time to get the kids acclimated.

Chairman Cosentino: Do you foresee any car block up where maybe five or six moms are coming to take their children in? Having five or six cars blocking up in that roadway?

Diana Mann: They should always find a parking space. They might want to come in for five minutes. We have a window cut out so they can see their children playing.

Chairman Cosentino: If the front is full, you can entice them to park in the back.

Diana Mann: When I've been speaking to parents, I've always encouraged the rear parking, with the secure system in the rear entrance.

David Steinmetz: The chairman suggested if the front is full, people go around to the back. I thought you made it clear to me, Diana, if you've been there once you'll know to park in the back. Your security person is in the back, the door is in the back. Are the moms coming in through the front or the back?

Diana Mann: That can come in through both, but it is encouraged to come in the back. I just think it's easier.

Chairman Cosentino: So all the more you want to enhance that entrance.

Ralph Vigliotti: You want to make it as comfortable as possible if they choose to use a stroller, they don't have to go up two or three steps to get to the front door. Whatever you can do to make it easier.

Diana Mann: Absolutely. I will have an attendant there at all times. If I see someone pulling up in a stroller, and I'm the one who is manning the desk, by all means I'm going to open the door, head outside and help them pick up the stroller.

David Steinmetz: How does the Board proceed from here?

Chairman Cosentino: Hopefully I can get a quorum together for Thursday at 6 pm.

Ralph Tarchine: For the record, as you know I'm retired from New Castle after 30 years of service. I am trying to sever myself from Mount Kisco. I am only going to be here a short time, and I'd love to get that Certificate of Occupancy to you as soon as possible.

Chairman Cosentino: We'd love that. We can meet Thursday evening at 6 PM.

David Steinmetz: If I understand this, Whitney will be working on a resolution.

Chairman Cosentino: Correct.

Whitney Singleton: The issue that I see not today but presenting itself. If the applicant wants to open up Saturday, November 2, and you have all the other businesses open at that point in time, I don't think Flywheel is in the position to open. What is the pleasure of the Board with more than half the parking spaces that may not be usable?

Discussion followed.

Chairman Cosentino: This is too premature. Flywheel has not even started yet.

Whitney Singleton: I am more concerned about next Saturday. Anthony's office issued a memo today relative to what needs to be done in the back of the property. I am only raising the issue.

Anthony Oliveri: There are some permanent issues in terms of the work that is going on in the back with the parking lot. A permit had been issued for more of a maintenance-type resurfacing of the lot, and it's gone a little bit beyond that. It has triggered some permitting requirements. DEC coverage for one, which isn't a huge deal, but it has to be dealt with.

Donald Martabano: Isn't that in excess if you have disturbance over 5,000 square feet?

Anthony Oliveri: Yes.

Donald Martabano: We did not disturb 5,000 square feet.

Anthony Oliveri: It's 20,000 square feet.

Donald Martabano: I spoke with Scott from Insite.

Anthony Oliveri: And I spoke with the DEC to get clarification.

Whitney Singleton: If this parking can't be used, and you're going to have nine businesses open with 32 spaces.

Chairman Cosentino: I certainly want her to be open by the 2nd. Is that what you're saying?

Whitney Singleton: No. I am trying to figure out whether the property owner and the contractor can have this paved by the time she opens.

Chairman Cosentino: Probably not.

Whitney Singleton: I personally don't know. I'm only asking the question.

David Steinmetz: It is my understanding that this space will be paved prior to the opening on November 2nd, and any issues that Anthony just raised relative to DEC or technicalities, I would suggest could be resolved between TCO and permanent CO. We will be working with staff to address all of that.

Anthony Oliveri: We were asked to look at it in terms of what permitting was required by what was done. There is certain permitting that wasn't done.

Chairman Cosentino: Do you think it's going to be done by then?

Anthony Oliveri: It could easily be paved by then.

Chairman Cosentino: Fine.

Anthony Oliveri: The permitting side of that needs to be rectified.

David Steinmetz: And my response to that is the permitting side, to the extent that there is any, will be rectified before a permanent CO. I wish we had known about this sooner.

Whitney Singleton: If you could get me updated plans before Thursday that would be helpful.

David Steinmetz: We will get you updated plans as quickly as we can, and if you have any questions, we are available and looking forward to trying to resolve this as much in advance to minimize conditions.

Vice Chairman Sturniolo: Regarding SY-101. What is the significance of this second note?

David Steinmetz: We were told to take that off by Whitney a little earlier, so we are removing those two notes.

Vice Chairman Sturniolo: Great idea. In addition to reading Mr. Beusman's letter, I am going to give this a lot of thought prior to Thursday. As the chairman articulated awhile ago, no one wants to see you penalized and hurt because of an internal conflict that has taken place. There has been a lot of money spent on this project. You've gotten approvals going back to May and what's right is right, and what the code says the Planning Board is obligated to follow. However, sometimes there is something a step above that. I totally understand your predicament and understand what November 3rd means to opening. That will be part of my deliberation as well.

Thursday, October 24, 2013 at 6 PM was confirmed for the Board to meet.

Chairman Cosentino: Thank you all for coming tonight. Mr. Beusman, thank you for your information. We will read your letter and see what we can do. I appreciate your coming and giving us the information.

David Steinmetz: We appreciate the time and the patience that you've had with us tonight. I know there was a lot here, and we are glad we were able to do this productively.

As there was no further business to be discussed by the Planning Board, on motion by Mr. Vigliotti, seconded by Mr. Mareschi, the meeting was adjourned at 10:30 PM.

Respectfully submitted,

Stanley Bernstein, Recording Secretary

dm