

Minutes
Meeting of the Planning Board
Regular Session
Village/Town of Mount Kisco
Wednesday, February 13, 2013

Chairman Cosentino called the meeting to order at 7:45 P.M. at the Municipal Building Mount Kisco, New York.

Members Present: Chairman Joseph Cosentino
Doug Hertz
Sol Gibbons
Stanley Bernstein
Ralph Vigliotti
Enrico Mareschi

Members Absent: Vice Chairman Sturniolo

Staff Present: Whitney Singleton
Anthony Oliveri
Susan Y. Jainchill, RLA, AICP (for Nanette Bourne)

Staff Absent: Austin Cassidy

Meeting Minutes:

January 8, 2013

Changes: Page 5, Line 45 – “sold” should be changed to “solid.”

Motion: Stanley Bernstein
Second: Enrico Mareschi
All Ayes

Final Action:

**130-132 Main Street (KH Realty LLC)
Grandberg & Associates**

Chairman Cosentino: The action was completed. It is here for verification that it was completed.

There were no other comments or questions from the remainder of the Board.

Conceptual Application:

**350 Lexington Avenue
Sebastian / Steven Giner
PB2013-5 (SBL) 80.48-5-2**

Present: Michael A. Russo, Attorney for the Project
Steven Giner, Landlord
Sebastian Giner, Landlord

Brian Hildenbrand, Kellard Sessions Consulting - Site Planner
Andrew C. Milliken, Milliken Associates – Architect

Michael Russo: This is the before elevation of the property at 350 Lexington Avenue.

Chairman Cosentino: This is what is there now?

Michael Russo: Yes. This is the proposed. We've been before the Architectural Review Board (ARB), and they have approved these elevations. This is the front by itself (indicating).

Chairman Cosentino: It is a big difference.

Stanley Bernstein: Are you still going to call this the Tano Building?

Michael Russo: No, it will not be called the Tano building. Actually, the plans are mislabeled. Tano is not the owner.

Stanley Bernstein: Many times the owner gives the major tenant naming rights.

Chairman Cosentino: I am sure you all have read this. We have cover letters here.

Michael Russo: Originally we were just going to go for a building permit for interior repairs. Now, we decided to make a joint application to see where we would go with it.

Andrew Milliken: This is the entry side of the building. Most people drive up in the back. There are two doors that lead to stairs that go down to the occupancies downstairs, and there are two other entrances into the building in the back. As you can see, the parking lot is about three and one-half feet down from the floor level, which makes it a little awkward to get into the spaces.

Chairman Cosentino: Will that be filled in?

Michael Russo: We will level it with the building.

Andrew Milliken: As far as entering the building, assuming we can raise the parking lot up to the floor level, three entrances will be sufficient to serve the interior spaces – the center one going to a lobby, which will have a new elevator and new stairs. That will be a better entrance for everyone involved. This will take the place of the two entrances on either side, because the center lobby will come down and you can go both ways downstairs. The benefit of raising the parking is obvious.

Chairman Cosentino: The top is the front of Lexington Avenue?

Andrew Milliken: Yes. Essentially, staying the same entrance-wise. That entrance will remain exactly as is. The Architectural Review Board only looked at the colors and modifying these windows to make them match the windows on the other side. More or less, that is all we discussed. They approved that.

Chairman Cosentino: Do we have the parking count all in order? I believe there was a question on parking.

Michael Russo: We have 81 parking spaces now, non conforming grandfathered parking spaces.

Chairman Cosentino: Now they have to conform. When it's complete you will conform.

Michael Russo: We are trying to see what you are going to require.

Chairman Cosentino: You cannot leave them as is. You have to bring them up to date.

Michael Russo: Our plan is according to our site planner, in accordance with your rules.

Brian Hildenbrand: Moving forward we are going to see if we can justify the long term parking to the greatest extent practical to make the parking lot as efficient as possible, as far as the number of spaces.

Chairman Cosentino: In doing so, you've got to comply with the 18 x 9.5. That is the code.

Michael Russo: I don't know if that is completely correct. From my understanding, even according to the engineers, there is long-term parking and there is short-term parking.

Chairman Cosentino: It doesn't make any difference. You still have to comply.

Brian Hildenbrand: This long term is the 9 x 18.5?

Chairman Cosentino: Yes.

Brian Hildenbrand: So, if we fall under the long-term parking, these spaces shown would comply.

Chairman Cosentino: What is the size of the spaces you have now?

Anthony Oliveri: The code states the parking width to be 9 feet, which is the minimum for long-term parking. This might be considered more short-term parking, which you would need 9.5 feet according to the code. That is something you are going to need to address with the Board. If you're saying its long-term parking, you have to justify how it's long term parking.

Michael Russo: Our plan is based upon long-term parking.

Sebastian Giner: What is the definition of long-term parking?

Anthony Oliveri: I don't have the definition in front of me, but there are some uses under the parking code. This, to me, seems to be short-term.

Doug Hertz: Can we get into what you are proposing before we get into this discussion?

Michael Russo: We are proposing nine feet parking.

Doug Hertz: Forgetting the lots, can we just go through the whole thing?

Brian Hildenbrand: Basically, we are going to use the single curb cut off Columbus Avenue that is existing. We proposed a one-way drive aisle with 45 degree angle parking that approaches the building, which will now be on grade. The drop off area deemed required loading space for a commercial building, a dumpster enclosure in close proximity to the building, and then continued with a one-way drive aisle and out the same curb cut.

Doug Hertz: You are talking about doing some fill. Are there going to be retaining walls as you approach the building.

Brian Hildenbrand: There will be a retaining wall here, (indicating), which ends about three or four spaces out, which will hold the fill, and then catch it back up to grade (sic) about halfway through the parking lot we will be back at grade. The retaining wall on the other side for the fill, and then the existing grade jumps up along this property line, which enables us to catch back up.

Doug Hertz: In terms of drainage for that space?

Brian Hildenbrand: Yes. This is the grading and drainage plan. (Indicating) Since it is now filling along the building we will be able to pitch back and catch the roof run-off and the parking lot in a series of drain inlets, which will continue down and connect to the existing drainage structure. As far as run-off, we are reducing the amount of impervious with the landscaping and the islands.

Chairman Cosentino: Is that all within the plan of the new road and new drainage that is going there?

Brian Hildenbrand: It will be. We will coordinate it to make sure that structure is going to be there.

Chairman Cosentino: Anthony, with the drainage plan that they have, I assume it's going to be connected to the new construction?

Anthony Oliveri: Yes. We have already had some discussion with them. We will require some change to this, but we will work closely with them on this.

Chairman Cosentino: They are paving Columbus Avenue with all new curbs, etc., so your drainage is now going to be introduced into that.

Doug Hertz: I just wanted to see that it was all flowing and we were not creating two different things.

Andrew Milliken: It's actually a big improvement over the current situation because we were into the neighbor's property. Sometimes the catch basin overflows and creates an icing situation right down to Lexington Avenue. This will be creating the flow backward.

Doug Hertz: This looks like it would be an improvement, and you're creating some impervious surface, or you're removing some impervious surface, depending on how you look at it.

Chairman Cosentino: You will need to submit a landscaping plan, but that is later.

Ralph Vigliotti: What is the aisle width?

Brian Hildenbrand: It is a 12-foot, one-way drive aisle. It is 24 feet, which is required.

Chairman Cosentino: We went through this a couple of times, and I may be repeating myself, but I need to have this clear. The fellow that owns the other building next door, Mr. Case, has very small parking for a few cars at the corner. Where is the curbing going? Isn't he parking on village property?

Anthony Oliveri: When we do the improvements on the road, it will be decided (sic) upon the curb.

Chairman Cosentino: I was there, and I followed that white line. If that white line is correct, he has a problem.

Michael Russo: We've been through this already. The mayor was interested in that at one point. We had a meeting. We had John Kellard look at it for us. It was a tentative agreement that we would get together with them and see if there is anything we could do to help him out and would help us out also. He was not cooperative at all.

Chairman Cosentino: Thank you.

Doug Hertz: So, rather than make one large parking lot, it did not work.

Michael Russo: It wouldn't benefit us.

Brian Hildenbrand: Now that we're filling, we wouldn't be able to fill like we want and provide the pedestrians with the ease that we've proposed.

Doug Hertz: Thank you.

Brian Hildenbrand: This (indicating) is the landscaping layout. Basically there is a lot of screening. There are existing trees along this property line that will remain. We are just filling in the voids for screening purposes. (There will be) screening around the dumpster enclosure and along this property line (indicating) with shrubs.

Enrico Mareschi: Where are you storing snow?

Brian Hildenbrand: In the grassed areas between the property line and the curb.

Enrico Mareschi: That will be tight.

Sebastian Giner: Most of our snow comes down at the Whalen area. We have a 12-foot area there.

Enrico Mareschi: The parking spots end there, so will you push the snow against the parking spots here on the right side?

Brian Hildenbrand: You will be able to push it beyond the curbing.

Chairman Cosentino: Aren't there shrubs there?

Brian Hildenbrand: No. These are just ornamental trees.

Doug Hertz: What is on the other side of that property line?

Brian Hildenbrand: A brick building.

Doug Hertz: Is that right up against that property line?

Andrew Milliken: There is a buffer here, and it's on the property line.

Chairman Cosentino: How many feet is that buffer?

Brian Hildenbrand: I believe its ten feet from the property line to the back of the curb.

Sebastian Giner: We can also push snow up against here (indicating), which is what we do now.

Doug Hertz: What is the parking count that you are proposing?

Chairman Cosentino: 81.

Andrew Milliken: 61.

Michael Russo: 81 is the existing, non-conforming.

Doug Hertz: The existing parking count is 81, and what are you proposing?

Brian Hildenbrand: 61.

Michael Russo: That is at nine feet width.

Brian Hildenbrand: Nine by 18.5.

Doug Hertz: And every spot is dimensioned that way on this plan?

Michael Russo: Yes.

Doug Hertz: So, you are not proposing anything short-term?

Michael Russo: Correct.

Doug Hertz: Anthony has looked at a parking analysis?

Anthony Oliveri: Not at this conceptual stage. I mentioned in my memo that a parking analysis has to be done, as well as a zoning table on this so we can vet out all of the dimensional requirements. Development coverage, buffers, etc. I'm not sure if you have the buffer against the face property. That is something the Planning Board

has jurisdiction over. If you are not achieving that buffer, you have to call that out. The Planning Board has to discuss that.

Whitney Singleton: It might be helpful not only for the applicant, but for your Board to be provided not only with a zoning conformity chart of what is proposed and what is existing. As you transition from what is existing to what is proposed, what degree of compliance or non-compliance results. Because, I think what you're going to see is the applicant is now proposing the dimensional requirements that are standard in our code, but at the same time, they are becoming substantially more compliant than what presently exists. If you saw what was presently out there.

Chairman Cosentino: It's a nightmare.

Whitney Singleton: Yes. They are trying to walk that line, and I don't think that is coming across in their presentation to you. They are trying to maintain a maximum number of useable spaces in the spot, while providing you with the green space that you want that doesn't presently exist.

Chairman Cosentino: I realize that.

Whitney Singleton: If you have both the existing and proposed and the degree of increased compliance or non-compliance, it would probably be very helpful for the Board's visual review.

Brian Hildenbrand: Understood.

Chairman Cosentino: I have to say this; it's a beautiful looking building now. You did a nice job; a lot better than what is there.

Michael Russo: Thank you.

Doug Hertz: As long as we are going through it, there was something about lighting.

Brian Hildenbrand: We enlisted the help of a lighting consultant to do the photometric planning according to the village ordinance.

Doug Hertz: Just so you know, full cut off fixtures. We have an application before us that has some beautiful architecturally interesting fixtures, but they are not full cut-off. They are going to have to be night sky, dark sky compliant. You are going to have some discussions with the Board, so you are not struggling along this property line. The code requires you to have zero spillage at the property line. It's going to be next to impossible to comply with that on this. But because this is also a parking lot, there is a good argument to be made that it is not beneficial.

Brian Hildenbrand: We will include the lighting plan on the formal submission.

Chairman Cosentino: Please contact Nancy when you are ready for formal submission.

Brian Hildenbrand: Thank you.

Maya Restaurant, 37 East Main Street, PB2012-16-(SBL) 69.81-2-4 was scheduled for Continuing Review; however no representation was made by the applicant.

Ralph Vigliotti: Mr. Chairman, since the applicant has no representation here this evening, my question is do we place this on the agenda for the next meeting and send off a letter requesting that they be present?

Chairman Cosentino: We could do that, or can we table it for now?

Anthony Oliveri: Mr. Chairman, if I could suggest, I will get a memo to the architect and perhaps if he responds to those comments in time for the next meeting, he could submit a revised plan.

Chairman Cosentino: We are not here to babysit. If you want to bring the memo to his attention that's fine, but let him know that we expected him to be here today, and we took someone else off the agenda and put him in, and it's not right.

Stanley Bernstein: Tell him we are displeased, and we are not amused.

Special Discussion:

**Northern Westchester Hospital Center
400 Main Street**

Chairman Cosentino: We received a memorandum from Nanette Bourne, explaining the landscaping, talking about the berm and the phases.

Susan Jainchill: I work with Nanette, and she asked me to fill in for her this evening. I also filled in for her at a meeting a few days ago where whether some changes to the plan had to come before the Planning Board was being discussed.

Chairman Cosentino: They are not coming back, those are just fill-ins.

Susan Jainchill: Nanette prepared this memo to remind you that when the resolution was approved, there was a re-design of the parking lot with a wider landscape buffer in the resolution.

Chairman Cosentino: Are we talking about the north lot?

Susan Jainchill: Yes. Also, (in the resolution) there was a re-orientation of the last row of parking so there is less overflow of light to the outside of the property just by turning the cars. There is also an enhanced entrance at Main Street, and an upgrading of lighting at the Main Street entrance. The second thing she wanted to point out is that there were requirements as to the timing of the improvements. The first thing is that because there was a lag of time between the different phases, there was an interim planting plan installed, I believe. Now, as they come to the Certificate of Occupancy for the parking lot, the final improvements to the landscaping must begin within eight months.

Chairman Cosentino: So it's not going to be this spring, it's going to be the following spring.

Susan Jainchill: Yes, but they have to start it within eight months.

Chairman Cosentino: That brings us into January. They don't have to wait until then, but because it's in the resolution, they are saying we'll do what the resolution says.

Anthony Oliveri: After that meeting we had, they also indicated that they would get us a schedule with their intentions.

Chairman Cosentino: They were very explicit on the time. The problem is that it brings us into January, isn't that right?

Susan Jainchill: Yes. They will not be able to do it in January.

Chairman Cosentino: And they are not going to be able to do it in February, so the eight months really brings us to almost a year.

Doug Hertz: So then they'll have to start before eight months.

Chairman Cosentino: How are they going to start in January?

Ralph Vigliotti: They don't have to, by the resolution.

Anthony Oliveri: The resolution says it has to be underway within eight months.

Chairman Cosentino: They do not intend to. If they can get away without the berm, they would, probably.

Doug Hertz: That is simply not nice.

Ralph Vigliotti: If it has to be underway, they can certainly start the berm and curbing because that has nothing to do with the landscaping that should be planted until the spring, but you want to begin.

Susan Jainchill: They can prepare for planting.

Chairman Cosentino: I'm sure if they are going to do it they will do it. I'm sure they want to get it done as quickly as possible.

Doug Hertz: The point is they've been reminded of their timeframe with regards to this.

Chairman Cosentino: Yes, they have been reminded.

Doug Hertz: So it is what it is.

Special Discussion

Sherman Williams
156 North Bedford Road
PB2009-15, 69.66-3-20

Chairman Cosentino: That is the Finkelstein building.

Anthony Oliveri: If you remember, he was trying to satisfy some DOT requirements. He had to clean and inspect storm drains on Route 117. He had kind of a bad time with that, he had a bad contractor; but I think he's finally gotten that done. He had gotten the information back to the DOT, and now he is in the process of finalizing the permit for that curb cut. We will keep tabs on it.

Formal Application:

**487 Main Street
Neil Carnow, Architect
PB2013-6 (SBL) 80.57-3-2**

Present: Neil Carnow

Chairman Cosentino: We have a letter from Mr. Carnow. For the record, Whitney, please go through this.

Whitney Singleton: As your Board is aware, there was somewhat of a disjointed review of this application and because of some miscommunication they were led to the erroneous conclusion that they could go in as of right now without being reviewed by your Board. I subsequently had discussions with the building department and pointed out some of the erroneous conclusions, and so they have – with the extension - been placed on the agenda on an expedited basis. They are looking to take existing square footage of 2,200 square feet in the 487 building, which was formerly D'Agostino Carpet, or a portion of D'Agostino Carpet, and convert it to another retail use. But it's a general retail use. It is not retail sale of bulk household items, so it has a higher parking requirement. Under 110-38 of the code, referral to your Board is mandatory, and that is why they are here. They are on a very tight schedule. They are proposing no exterior alterations. It is simply a re-tenanting of the building with a tenant with whom you are already familiar. It is Lacrosse Unlimited from 222 East Main Street. He is relocating here. You should have familiarity as set forth in the proposed resolution. You also have a familiarity with parking demands for both Lacrosse Unlimited at the proposed tenant, and the existing uses of Leonard Park Liquors, Myong Restaurant and the UPS Store. The square footages that are shown before you in the resolution and the associated parking requirements are based upon in part on representations from the applicant, but they have been tweaked and they have been based entirely upon a confirmation of the existing Certificates of Occupancy and approvals from the building department records. It will result in a shortage without utilization of the joint use of parking; it will result in a shortfall of approximately seven spaces by code. But because of the different peak operating hours, your Board has the discretion to authorize the joint use of parking. The applicant has acknowledged that if your Board grants its approval, that any future mix of tenants that would go into the site that would constitute a new use, they would have to come back to this Board. I know your Board has not had the benefit of a full ramp-up on this, but because this has kind of gotten lost in the cracks, your chairman has authorized an expedited review. Obviously the application is 487 Main Street. I don't know the actual application number; I just know its application from 2013. That was not on the information provided. They have paid their fee for site plan application and for a Change of Use Permit application. They have paid their escrow.

This is a Type II action, which is exempt from SEQRA. They have submitted an application and a plan. I don't have the plan title. There has been support from other officials of the boards. The building inspector has reviewed and confirmed compliance with the code. I would change the word "Referred" to "Confirm."

The planning consultant has not reported to the Board on this, so I would delete that. The required parking spaces for the proposed use are talked about in the next paragraph. I also talk about the parking requirements for the previous use. I then talk about the lack of occupancy for the past four or five years, due to the non-compatible proposed uses. I mentioned the fact that there were previously 48 spaces, not 45. I also mention that the applicant would like to derive the benefit from joint use of parking spaces pursuant to Section 110-28-C-2, where the total parking requirements would be 52, and they are only providing 45 or 48, depending on how you look at it, thereby resulting in a shortfall. Then a determination by your Board that, due to the fact that the parking is not fully utilized in its present form, the Lacrosse Retail shop has demonstrated a history of low impact parking demands, and the assemblage of uses resulting in different peak operating hours that joint use of parking is appropriate for the site, subject to the following conditions set forth in the code as 1-9. This approval is only valid if the tenant actually goes in. All the prior statements are incorporated by reference. Any prior approvals of other boards are incorporated by reference. All fees shall be paid prior to the issuance to the Certificate of Occupancy. All other permits to the extent that they are applicable must be obtained from those agencies. Your Board is basing this on the fact that there will in fact be 45 spaces, and based upon the following allocation, and then (the resolution) breaks it down by space or seating capacity or storage capacity, and that is based upon the records from the village with the bolded section being the proposed use.

At this point, Mr. Singleton continued to read each item on the proposed resolution.

Whitney Singleton: Failure to comply with any of the aforesaid conditions shall constitute a violation of this site plan pursuant to Section 110-45 and shall subject the applicant/property owner and tenant to prosecution, penalties and/or revocation of certificates of occupancy pursuant to applicable law. Deviation from any such approvals may render this Change of Use Permit or certificates of occupancy issued thereunder null and void.

Doug Hertz: On Item t, where you go through the four stores and their designations, one is restaurant. This will be retail and admin, the liquor store is retail and storage. What could go in the UPS store? You have this listed as a shipping or post office center.

Whitney Singleton: There are actually parking requirements for post offices. One per 500, plus a space for every 40 (sic).

Doug Hertz: That is how this is being considered?

Whitney Singleton: That is how it was considered at the time it was approved for that use.

Doug Hertz: Anything that is not specifically shipping or post office would be looked at as a different use with a different parking count?

Whitney Singleton: Yes. It would have to come in at approximately one to 200. It would have to come back to you anyway, because we would now have a new mix of uses. This is identical to the arrangement we have for 305 Lexington Avenue.

Ralph Vigliotti: I want to share an observation for the site. Across the street there is a bagel shop and a nail salon. On occasion, I have seen folks who use those facilities walk across the street to their car that they are parking at that site-the site that is before us this evening. Now that we are literally filling every space within the facility, the parking should be very closely monitored now, because there are people who use the bagel space and the nail salon that are parking across the street. I don't know if you want to put up signage indicating that this is parking for this particular site only.

Neil Carnow: Duly noted. If I might, I'd like to make two comments about some minor changes in the calculations provided. One would be for the restaurant itself. While there are 60 seats that were shown on the submitted drawings, and that is what they currently have, they do have up to 75 seats available for that restaurant.

Whitney Singleton: I am aware of that, and I originally had that in. The additional parking requirement was five more spaces, but when it was reviewed by the building department, they said the Certificate of Occupancy for the restaurant was limited to 60.

Neil Carnow: My only concern is that they not lose the ability to have those seats available to them. Only because they simply are seating less than what they are allowed to have, shouldn't prohibit them from having those seats available in the future.

Whitney Singleton: There is a certain amount of discretion that goes on here. I am going not based upon what there may be capacity for within the building, as far as fair square footage. I am going based upon the Certificate of Occupancy. If they were to exceed more than 60, they would have to come back and get an approval from the building inspector. This is not tied to some sort of restriction that is being imposed; this is being tied to their actual Certificate of Occupancy. This can be addressed at a later point in time. I am just going with what I have right now.

Neil Carnow: On the basis of the 1,400 feet for the liquor store, that was done on the basis of one per 1,000 for warehouse. So rather than the five spaces, it was two spaces, generating a total of 10.

Whitney Singleton: The plans that were submitted, correct. I had it at 1 per 1,000, too, but the building department changed it, and I can't recall what the reason was. You actually had the total parking for the liquor store, one was higher and one was lower.

Chairman Cosentino: If I recall, there was seating, or tasting – a little room in the back.

Whitney Singleton: I don't want to go down that slippery slope.

Chairman Cosentino: This is what it was all about.

Whitney Singleton: This was based upon the plans that were approved by the building department.

Chairman Cosentino: So that's it. There is no discussion on it.

Whitney Singleton: We can clarify that with the building inspector as to why he came up with that number.

Chairman Cosentino: We can't change it.

Neil Carnow: As long as we can go back to the Building Department to clarify these two issues.

Chairman Cosentino: This Board has no authorization to change it, and yes, you can go back to the Building Department.

Doug Hertz: If those numbers are revised, what does that do to all the calculations in this resolution?

Whitney Singleton: It makes their request lesser than what the current is.

Doug Hertz: One does, and one doesn't. For the liquor store, they are suggesting they are over counting, but for Myong, if there is indeed the ability to seat 15 more guests, then there are five more spots required. So, you are assuming they are right on both - their net plus three.

Whitney Singleton: They would require five more from Myong and three or four less for the liquor store.

Doug Hertz: So they would be net positive two, which would change this. (Indicating)

Whitney Singleton: There is a certain fudge factor here. The fact of the matter is this site does not have the capacity to equate some other uses in town to result in spillage and monopolization of off-street parking. There is no on street parking in the area. There is not a capacity for these people to start to load up a joint property on their parcels. We specifically put a provision in here that they cannot put other adjoining parcels across the street. As you know, someone from Pound Ridge recently died in Bedford crossing Route 22 to get to the New Mexican restaurant. We actually won't have this provision in our approvals. We are trying to contain it on site, and the fact of the matter is I drive by here at least twice a day. Not that I vote. I think Ralph drives by here - we all drive by here and for a substantial portion of the day, I think it's conceded that there is available parking on site. Whether it's a plus two or minus one, your Board is ultimately going to review any mix use on this site.

Doug Hertz: My concern is with a restaurant, if we up their potential parking, if Mr. Carnow is right, and if there are 75 spots there, and therefore we allot them five more, what if another restaurant were to go in?

Whitney Singleton: If another restaurant goes in, they are going to come back to you.

Doug Hertz: If that were substantially more successful, with a higher turnover, we might be in trouble.

Whitney Singleton: They will come back to you. Just like 305 have come back to you with every tenant they put in their space.

Doug Hertz: Understood.

Stanley Bernstein: Going a little bit further, it just precludes the landlord from getting certain tenants that will upset the parking situation. They have to look elsewhere. That is the burden of the landlord, by agreeing to this resolution. You cannot rent to certain uses. That's the price you pay for getting a Class A tenant.

Motion for Resolution for Approval for Change of Use Permit

**487 Main Street
PB2013-6, (SBL) 80.57-3-2**

Date of Action: February 13, 2013

**Motion: Ralph Vigliotti
Second: Stanley Bernstein
Aye: Sol Gibbons
Aye: Enrico Mareschi
Aye: Doug Hertz
Aye: Stanley Bernstein
Aye: Ralph Vigliotti
Aye: Chairman Cosentino**

Administrative Discussion:

Planning Board Calendar

Chairman Cosentino: I was not here for the meeting. I was hearing something about the school calendar.

Stanley Bernstein: Tony asked Nancy to get the school district calendar, which I have right here and I really can't see any problems with it. He thought, since a lot of days were changed, that it would be good to compare (with the Planning Board calendar). The big issue, of course, is when we have a joint meeting, regular session and work session; one which requires a 15-day lead up for documents, and the other requires a 21-day. We didn't vote, but we pretty much decided that we would prefer to have a more stringent requirement of 21 days in those instances where there are two different requirements.

Doug Hertz: Since we are merging the calendar and rules of procedure into one discussion, we've had these meetings titled Regular Session and Work Session. In practice, they've been identical. I wonder, going forward, what is the practical value of not voting certain times of the month, only allowing certain types of applications to be heard on regular meetings vs. work sessions? I understand the value of it when we have a really loaded caseload with large cases that require only doing continuing review, and we are not allowing new submissions for work sessions. On a practical matter, we have very few of those very large projects in front of us. We only have one, and it hasn't been in

front of us for a while. I wonder about the usefulness of calling these meetings vs. regular sessions, having things that we will or won't do.

Chairman Cosentino: You are right, but I think I can explain. When we don't have a lot on the agenda, we blend it into the next meeting because we don't want two meetings. The reason you don't want two meetings is because the village does not want to pay staff to come out for two items that are on an agenda. This is not from the Chair, it's from the upper. If it's a work session and you don't have that meeting, now it has to go into the regular meeting, which is a dual regular and work session. I don't know why we need work sessions and regular meetings. I think that was from years ago.

Anthony Oliveri: In other municipalities, a work session is more like an informal presentation.

Chairman Cosentino: But we don't allow that to happen here.

Whitney Singleton: There are many planning and zoning boards that do not have a full complement of consultants present at work sessions, but they are present at regular meetings.

Anthony Oliveri: What's more important is the conceptual and information applications get the 21 days connected onto the type of application. The continuing review might be okay for the 15 days, or maybe you want 20 days for the conceptual and the formals; to connect it to those more so than connecting it to a work session.

Doug Hertz: In years past when we had a two-hour chunk for review, we could not accept other applicants during that time. On a practical basis, that is not what we are seeing right now. I wonder if we want to either formalize that within the rules and procedures, or tie the application timeframe to the type they are submitting.

Chairman Cosentino: Please give me an example of a "type" of thing.

Anthony Oliveri: Tie the 21 days to formal and conceptual applications, not to just regular sessions. So, you can have a conceptual on a work session as long as they submit with the 21-day window.

Chairman Cosentino: That simplifies what we have to do. I'm all in favor of that. Whitney, does this Board have the power to do that?

Whitney Singleton: Yes.

Stanley Bernstein: It's in the Rules and Procedures. It's simple enough to make every session a regular session, and anything that is submitted can come before us on any day. I think every session should be 21 days, otherwise it's mass confusion.

Ralph Vigliotti: I agree.

Anthony Oliveri: I would add to that. There is nothing that says you have to have all of your consultant reviews completed by that timeframe.

Chairman Cosentino: I need some knowledge of professionals to present.

Anthony Oliveri: If there is some circumstance – with a big project like The Hearth – and we need more time to look at it, there is no reason why an applicant can't come in and present it to you and you will tell them our consultants are still reviewing it, and you'll have responses to this before the next time. 21 days should be enough.

Chairman Cosentino: I am in favor for 21 days for (an applicant) to complete their work, including a conceptual within that.

Doug Hertz: I disagree. I think there are plenty of minor things. 21 days is a long submission time. (For example) They come before us tonight, they can't come before us the next meeting, and they could only come before us the meeting after if they get something in in a few days from today. That is arduous.

Stanley Bernstein: You are right on that, but the only problem is our next meeting is 14 days, and they have 15 days to submit.

Doug Hertz: They will automatically miss the next meeting, because we want some review time. It gives them some time to respond to what we say. I think 21 days for continuing review is a long time.

Chairman Cosentino: 80 percent of the time applicants take more than the 15 days to get all their stuff together.

Anthony Oliveri: Why don't you use tonight's application as an example? (350 Lexington Avenue). To submit a formal application, they would need that in by the 20th of February, and they would be on the March 12 agenda. They have seven days to get their formal application in. If they miss that, they will be pushed out to the next month.

Stanley Bernstein: But the Chairman can change any of those things if necessary. If we have normal applicants that require a lot of time and a lot of work, we can stick to what we are saying.

Whitney Singleton: Actually, State law provides for the Planning Board chairman to set the agenda.

Chairman Cosentino: Let's do it that way. Make it 21 days; if they are ready before the 21 days, I will use my discretion.

The remainder of the Board agreed with the Chairman.

Whitney Singleton: By having regular sessions and work sessions, that means that you're going to have public hearings at regular meetings?

Chairman Cosentino: Yes.

Whitney Singleton: You don't want to have your public hearings at only one meeting of the month?

Chairman Cosentino: We could have a public hearing at either meeting.

Stanley Bernstein: There is a possibility in the not too distant future where we will be meeting once a month. This town is almost at 100

percent built out. There will be very few applicants in the next few years.

Chairman Cosentino: Also, the objective is that you do not want the applicant to come in and hold them so they have to spend thousands of dollars and keep them coming back. We need to tell them what they need and finish it. Ralph and I feel that more questions might be asked at a regular session, ones that would not be asked at a work session. This is a great idea. It will help the client, the Board and staff, and it's going to keep costs down.

Motion that all meetings will be considered regular meetings and the board will eliminate the concept of work sessions. All submission dates will be 21 days from meeting time with the discretion of the Chairman for any applications that are ready earlier.

Motion to approve Planning Board Calendar to be revised with the new 21-day timeframe.

Motion Doug Hertz
Second: Enrico Mareschi
Aye: Sol Gibbons
Aye: Ralph Vigliotti
Aye: Stanley Bernstein
Aye: Doug Hertz
Aye: Enrico Mareschi
Aye: Chairman Cosentino

Chairman Cosentino: I have a few questions on the procedures. We need to change the Board meeting regular and work sessions. Also, I don't understand, under Special Board Meetings: "A special meeting shall be convened on the call of the chairman or by the majority of the Board." I think it either has to be the chairman or the majority of the Board. If I don't call a special meeting for any reason, the Board can call it?

Stanley Bernstein: The majority can overrule the chairman.

Chairman Cosentino: Next, "The Board in consultation with the Planning Board secretary shall draw up the agenda." Consultation does not mean that the secretary makes the agenda. If I want to consult with the secretary, which is fine and that is working out well.

8. Order of Business:

Business of all regular and work session meetings of the Board shall be transacted in the following order, unless the chairman, without objection from any Board member, shall change the order.

It was agreed by the Board that Mr. Singleton make the changes in the Rules and Procedures.

Chairman Cosentino: in "Business in Regular and Work Session meetings of the Board shall be transacted in the following order, unless the chairman, without objection from the Board members shall change the order." "Without objection from the Board" really doesn't

give me a choice. I'd like to remove "without objection from the Board."

Stanley Bernstein: In other words the chairman can change the order of business on the agenda at any time. There are some words that need to be changed:

Page 2 – Paragraph 3:

Applications shall not be placed before the Board if they have been dormant for a period greater than 12 months and are not before other agencies, unless an extension is granted by the Board. The Planning Board Secretary shall notify the Board of lapsed applications and thereafter treat them as if they had been withdrawn.

Stanley Bernstein: We have a situation where this does not apply. You have to write something in there that the chairman can waive. We have an applicant coming before us who has not been here for well over a year. This says he can't come, and he's still coming. We have to have wording saying that at the chairman's discretion, this can be waived.

Doug Hertz: I disagree. I don't think you want to put a work order on that. They are coming because they were in consultations with Planning Board counsel and the village Board.

Stanley Bernstein: That doesn't count. They were away for over a year. It does not comply with this paragraph. Are we saying that they can come regardless of what the paragraph says, or are we going to leave it to the discretion of the chair?

Doug Hertz: This paragraph says it's been dormant for a period of greater than 12 months. It does not define dormant.

Stanley Bernstein: They have not been dormant for over 12 months?

Doug Hertz: Not according to Whitney.

Whitney Singleton: There is a provision in here that says, "unless an extension is granted by the Board." First of all, your Board has the discretion.

Doug Hertz: It also says "not before other agencies."

Whitney Singleton: One of the reasons, and I know Doug is resistive to this, is you used to have your code that you could make a determination with regard to parking that if the Planning Board determined they could increase or decrease the parking requirements. Now if you look at it, it says you may only increase them. The reason was because your Board did not want to be saddled with the discretionary authority to modify the parking to have some applicant come in here and ask you for relief that they have discovered in the code. I think the Planning Board asked to have that removed, because the applicants were trying to seek special dispensation. If you put that the Planning Board chairman can waive it as opposed to the entire Planning Board, which is the way it currently reads, then it will put the chairman in an awkward position.

Stanley Bernstein: All I know is that you're doing something that disagrees with the rules and regulations.

Doug Hertz: I don't think so. It says, "Application shall not be placed if they have been dormant for a period greater than 12 months and are not before other agencies." It doesn't define dormant, and they were before other agencies.

Motion to Adopt Rules of Procedures for Meetings of the Mount Kisco Planning Board

Motion: Enrico Mareschi
Second: Ralph Vigliotti
Aye: Sol Gibbons
Aye: Stanley Bernstein
Aye: Doug Hertz
Aye: Chairman Cosentino

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

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm