

Minutes
Meeting of the Planning Board
Regular / Work Session
Village/Town of Mount Kisco
Tuesday, June 11, 2013

Chairman Cosentino called the meeting to order at 7:40 P.M. at the Municipal Building Mount Kisco, New York.

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

Staff Present: **Whitney Singleton**
 Anthony Oliveri

Staff Absent: **Michael Landlor**
 Rob Melillo

Meeting Minutes:

May 14, 2013

Motion: **Stanley Bernstein**
Second: **Ralph Vigliotti**
All Ayes

Public Hearing:

Grand Prix Bowling
333 North Bedford Road
PB2013-8 (SLB) 69.50-2-1
Amendment to Site Plan

Present: **Jim Diamond, Property Owner**

There was no one present from the public at this public hearing.

Chairman Cosentino: This is for the use of the arcade machines, and Mr. Diamond wants to "up" it from 25 to 75 machines. I, speaking for myself, do not have a problem with the 75. I am only one; so let the rest of the Board speak.

Enrico Mareschi: I'm okay with 75 machines. It's fine.

Sol Gibbons: I have no problem with it either.

Ralph Vigliotti: I have no problem with the 75 machines as an accessory use.

Stanley Bernstein: Its okay with me.

Vice Chairman Sturniolo: I'm comfortable with the 75. I would like to add a side note to it. Granted, the public is not here, but I did some research, and I pulled up the police blotter files for Grand Prix for the past year and a half regarding police response to calls. Outside of health issues and excluding burglar alarms there have been three incidents where police have responded. I would share this with my Planning Board members, but the names have not been redacted so I don't think it would be proper to release it. In January 2012 there was a police response to "unwanted party," in February 2012 there was a "disruptive" individual on the premises, and on February 21, 2013 there was another "disruptive" individual. They were all escorted off the property and no arrests were made. I bring this out only because the safety issue and the concern that both the applicant has for his operation and we being charged with the health, welfare and safety of the Village of Mount Kisco have obviously been addressed predicated on these police reports. I would like to enter this into the record. My conclusion is that 75 are fine with me.

Chairman Cosentino: I also checked with the chief, and not one call was made for problems with the arcade machines itself.

Jim Diamond: We have a very well run operation. They are a great management team. We have issues very infrequently, as I think has been evidenced by the last 18 months. The issues we have had have been pretty minor. It is very much of a family friendly type atmosphere, so it does not lend itself to becoming a disruptive type operation.

Chairman Cosentino: Was there an issue with square footage that they are actually allowed?

Michael Landlor: It's on the site plan. They have an area that is designated for their games.

Chairman Cosentino: As long as you don't go over that area that you have.

At this point, the public hearing was left open for 10 days for written comment. A resolution will be prepared for the next meeting. A vote was held this evening, subject to the resolution.

Motion for Approval:

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

Correspondence:

16 East Hyatt Avenue
ZBA13-2

- Acknowledgement recommendations to forward to the Zoning

Board of Appeals (ZBA). Memo from the Mount Kisco Planning Board to Chairman Donald Rose dated June 6, 2013

Chairman Cosentino: This memo is on its way. The Zoning Board of Appeals will meet on the 18th.

Vice Chairman Sturniolo: Before we get into that, I would like to enter an opinion into the record in that I am opposed to the letter that the Planning Board sent to the Zoning Board of Appeals because of the elimination of some of the comments that I made in the final draft language pertaining to the vote of five members and two members. I still have extremely serious concerns about the enforcement of the fourth option, if the Zoning Board of Appeals chooses to go with that. I think it's an unfair burden on the village, the Building Department, and the fact that the village is spending \$400,000 to mitigate storm water damage, and Option 4 contributes to storm water damage. I would like that on the record.

Chairman Cosentino: This won't get any farther than the minutes, because the letter has gone out.

Vice Chairman Sturniolo: I wanted to speak my piece.

Chairman Cosentino: Let the record show that Vice Chairman Sturniolo wanted something added to the minutes concerning Option 4 on the letter that went to the ZBA, which will go no further than the minutes.

Whitney Singleton: For point of clarification, I received a phone call yesterday, which I returned today from the attorney. My understanding is that he is working with the applicant in a constructive fashion to address the concerns that your Board has, whether they are reflected presently or not. My understanding is that they will likely withdraw their application to the Zoning Board of Appeals to submit a modified application to further address this Board's concerns. Apparently he has foil or accessed the minutes from the meetings, and he will be submitting a revised application on behalf of the applicant to the ZBA.

Chairman Cosentino: Who is representing the applicant?

Whitney Singleton: Richard O'Rourke from Keane and Beane.

Vice Chairman Sturniolo: Has the Planning Board memo to the ZBA been divulged to the applicant?

Whitney Singleton: Not to the applicant with the consent of the chairman. I shared it with the attorney for the applicant today. That was the predicate for him saying that his client would be withdrawing her application and potentially re-submits it.

Discussion:

**Proposed Zoning Text Amendment
Chapter 110-10**

Vice Chairman Sturniolo: We have copies for you of the proposed zoning text amendment changes to 110-10, which the village board

has asked for our input. Ralph and I went through this, are there are basically four constructive changes in language.

Change 1:

Page 2 –

(c) Maximum development coverage: (50%), 40%

Vice Chairman Sturniolo: We believe this whole proposed text change is a tidying up of the zoning amendments, and it's more of a conservative approach to these four individual items.

Change 2:

Page 4 –

A. General Requirements

1. Site plan approval shall be required for all uses other than one-*(and two-family)* residences in the RS-12, RS-9 and RS-6 and RS-6 and *(RT-6)* Districts and the buildings accessory thereto.

Vice Chairman Sturniolo: Again, it's more restrictive.

Change 3:

Page 15 –

(This refers to the Architectural Review Board)

B. Striking dissimilarity, visual discord or inappropriateness with respect to other structures located or proposed to be located on the same street or a corner thereof, in respect to one or more of the following features of exterior design and appearance:

1. Substantially dissimilar façade, disregarding color and building materials of one and two (single) family buildings and structures accessory thereto.
2. Size and arrangement of doors, windows, porticos or other openings, breaks or extensions in the façade, including garage openings and main entrance locations.

Chairman Cosentino: "Other significant design features." Is that something you put in there?

Ralph Vigliotti: That was there already.

Chairman Cosentino: What was the change there?

Ralph Vigliotti: One and two only.

Chairman Cosentino: We should not have, as something that happened in the past, where the Architectural Review Board – and I don't think this actually says that – gave permission to add an addition onto a roof when we already turned it down. We denied the applicant,

and the ARB approved it. Another was Appleby's, where we fought very hard to have green awnings there. The ARB changed it to yellow. If we work hard on something and vote on or deny something, they should not have the right to tell the applicant they can proceed. I point to Whitney on this. I think we need some protection on that.

Ralph Vigliotti: How can we word that to include#5?

Chairman Cosentino: The Board should be protected if we deny something. If the applicant goes back to the ARB, the ARB should not give them something that was already denied.

Doug Hertz: We need to say the ARB shall not override any decision made by the Planning Board.

Vice Chairman Sturniolo: As a new Number 5.

Chairman Cosentino: We fought so hard to have Appleby's awnings to be solid green without the stripes. All of a sudden, they went before the ARB and changed the color to yellow and never came back before this Board. Another one, we denied an addition on a pastry shop up the road. They went back before the ARB, and the ARB gave them the addition.

Whitney Singleton: My personal view on that is if those are conditions of the site plan approval, and the ARB approved something inconsistent therewith, it does not trump you and it does not officiate your jurisdiction with it. I believe that was a function of administration and not what the code provides.

Doug Hertz: Can we very specifically lay that out? Even though it's your interpretation of the law that is what happens? Can we make it very specific?

Whitney Singleton: Perhaps under 110-50 would be a more appropriate location. *"The Board of Architectural Review shall not act on any application requiring site plan review until the Planning Board reviews the submission and makes a recommendation as to the design and site plan requirements and the building inspector certifies code compliance."* Moreover, the Architectural Review Board shall not contradict site plan. I'm not sure which verb I will use.

Stanley Bernstein: In the same paragraph, I think you have to say that once the site plan is approved, the ARB cannot change any decision on site plan approval; whether it be architectural, color, etc., any part of the site plan.

Chairman Cosentino: I feel a lot better having that in there. Not to repeat myself, but I really don't like the yellow shades at Appleby's. The green was soft and nice. I don't think the addition that was put up should have been put up. There were a few others. I think this protects us. I think the ARB is doing a wonderful job in what they do, but I think they went overboard on the two decisions I just brought up.

Whitney Singleton: How about this? *"Moreover, the Architectural Review Board shall not authorize any modifications to site plan ----- required by the existing site plan expressly required by the Planning*

Board in any Site Plan, Subdivision or Special Use Permit Resolution of Approval.

Chairman Cosentino: It's not hurting if they are working on an applicant that is back after our decision has been made. By pulling the site plan and then looking at it would help them make a decision to see what's on it. When Appleby's came before the ARB, it would have been easier if they had just pulled the site plan. The site plan or the minutes would have said that the canopies were green. They would not have acted on the yellow.

Doug Hertz: The question is, how do we get the ARB informed properly to the information that has been (submitted) by us.

Ralph Vigliotti: Do they review each site plan that has been approved by the Planning Board?

Chairman Cosentino: No they do not.

Anthony Oliveri: The building inspector should do that.

Ralph Vigliotti: The building inspector reviews it, keeps that information to himself. The ARB now has a client who is a little savvy and says, "I couldn't get what I wanted through the Planning Board, let me see if I can lean on the ARB with regard to an awning color change." And the ARB does not have before them the approved site plan where they can see what we approved, including colors, etc.

Whitney Singleton: If you go back to that underlying paragraph where it says "and make recommendations as to the design and site plan requirements and the building inspector certifies code compliance." Perhaps that should read, "And the building inspector certifies code compliance with both the village code and the site plan approval of record." Somebody has got to be charged with the evaluations.

Doug Hertz: But it's not just site plan. It's a special use permit and subdivision.

Chairman Cosentino: That protects us, and I like that.

Doug Hertz: It still allows the building inspector to screw up and not inform the ARB to make a decision that is not consistent with what we required and then we get into a conundrum where the ARB approval is inconsistent with what we say. They have not been informed, the building inspector missed it, and a building permit is issued for that. Then we have the "he said/she said" scenario.

Whitney Singleton: You have a "such and such" screwed up and must revoke his building permit.

Vice Chairman Sturniolo: Going back to Doug's point, the onus of responsibility should lie within the ARB to educate themselves on what the Planning Board approved. Not to wait from a telephone call from a third party to interpret what the Planning Board approved. That is where it could fall through the cracks.

Ralph Vigliotti: The discussions that we're having here is the ARB needs to have a copy of the approved site plan so they know what was

approved by this Planning Board. If we just rely on the building inspector or the assistant building inspector, they will read our site plan approval but they are not going to have a phone conversation going over every "whereas." We work hard here. They need to do their homework. They need to have every site plan that has been approved in their packet so they are educated to what was approved by this Board.

Anthony Oliveri: It is the town's provision to have the ARB confirm with staff and the building inspector. It may not be practical to have the site plan to some of these sites.

Ralph Vigliotti: It may be the resolution we are talking about.

Vice Chairman Sturniolo: It's incumbent upon the ARB to do their own homework, to stand up and be responsible for the decisions that they make, not necessarily to be fed by a third party who is going to pick up a piece of paper and recite something. Just like we pick up any application and submission and interpret it our own way. The ARB should be doing the same thing on their own and stand up for what they ultimately decide and not rely on someone to say, "You can't do that." They need to be held accountable. Accountability is important.

Chairman Cosentino: I think its part our job too.

At this point, the Chairman instructed the secretary to insert a copy of every agenda of the Architectural Review Board in the packet of each Planning Board member.

Chairman Cosentino: If they want our agenda, they should have it. But I think our agendas should be shared.

Doug Hertz: The language that Whitney was talking about is useful, that the building inspector should look for compliance between the applicant's submission and our approval. Additionally, there should be a procedure that is put in place where, if there is a site plan approval, a set of conditions, special use permit – any where we have put in language that might be restrictive and may touch upon what the ARB may be looking at, that it be provided to them in their packet. Who would we make that incumbent upon doing? Should that be part of the applicant's package? That they collect the data out of their file and provide it along with the rest of their submission?

Whitney Singleton: May I take a step back and answer that in a round about fashion? I have encouraged this Board collectively and through the chairman for years to not entertain a site plan application or any application from the public without having the last site plan of record before you. It does not happen even within your own Board.

Chairman Cosentino: And we've been having that.

Whitney Singleton: No, you haven't.

Chairman Cosentino: Well, we've been asking for it.

Whitney Singleton: It has not happened. Now you're asking another Board that is a Board of volunteers to get familiar with your approvals as they entertain sign applications. I don't think that it's feasible. I

think it is more appropriate to put that onus on a full time, accountable, compensated employee of the village than it is a volunteer Board member.

Vice Chairman Sturniolo: I think we all know what drove the creation of this document, and it's 16 East Hyatt. Look at the mistakes that were made there by the competent building official. We are trying to correct errors.

Whitney Singleton: I appreciate that, Tony, but nothing is perfect. Your Board doesn't even review your own approvals in entertaining applications for sites, and you want that to be incumbent upon third parties.

Ralph Vigliotti: That's not true.

Whitney Singleton: Not on a regular basis, you don't.

Ralph Vigliotti: We are not getting the information that we have requested from staff.

Whitney Singleton: Let me give you an example. Tonight you have an application, which is incomplete, from the hospital. It does not show the easement areas that you requested them to show. You do not have a copy of your existing site plan of record.

Chairman Cosentino: And we asked for it, and that is why they are not here tonight.

Whitney Singleton: That is not why they are not here tonight. They just did not show up tonight.

Chairman Cosentino: We are trying to find a solution to this. Just tell us what the solution is.

Whitney Singleton: I am trying to make somebody that gets paid a six-figure salary to be accountable for their mistakes. I think you should leave in the sentence that is there and put in in something that says, "and moreover the ARB shall not authorize any modifications to site plan requirements, elements or features required by the existing site plan or expressly required by the Planning Board in any site plan, special use permit or subdivision approvals previously issued by the Planning Board. Any ARB approval in contravention thereof shall be deemed annulled." That is so nobody would have any invested rights to approval from the ARB somehow being deemed to supersede approval of this Board. Ultimately, the people who have access to the files downstairs, the people who are paid municipal employees who are here 40 hours a week should be the ones responsible to get these packages together and apprised, not volunteer members that contribute a couple of hours a month to do this. If there are nine items on an ARB agenda, are you suggesting that the ARB should get fully up to speed with every site plan?

Doug Hertz: I would like to make a recommendation that we ask specifically that the building inspector or his staff provide a written review for every ARB submission that documents it's compliance for the existing site plan, special use permit and whatever else and calls out any non-compliant issue. Can we make that request of Jim Palmer,

that he specifically delineates that as a job responsibility so that there is a clear and unequivocal chain of responsibility for this specific piece of information?

Whitney Singleton: That's what I was saying under my paragraph.

Doug Hertz: I'm saying not just make it municipal law, but additionally request that there be a municipal procedure for review.

Whitney Singleton: 110-50 is the procedure for the ARB.

Doug Hertz: I'm asking for the procedure for the person that we are making responsible to enforce this. We are making recommendations as to village code. Then we have to get from village code to actually being implemented. So, I am making a suggestion that whatever is that gets recommended to be written that there is a municipal procedure that the implementation will also follow. It's real easy to write a law, but if you don't tell anyone about it and there isn't a clear person who is responsible to do it and a set of procedures that inform the ARB.

Whitney Singleton: I'm not trying to be facetious, but if we take this sentence that I'm talking about and add to the last part of it, "the building inspector shall certify in writing compliance with both the code and approvals of record," that is not sufficient?

Doug Hertz: It is sufficient if the ARB is informed that they may not act without a written certification of the Board. Is someone going to be able to nullify the ARB action because there was no written certification? It will never happen.

Ralph Vigliotti: If I go to the ARB with a number of things and I say, "Do I really have to put a brick veneer on that building? Can I put something a little different?" And they say, "Yes, absolutely." Can I then begin work the next day, or does this go back to the building department?

Whitney Singleton: You have to have a building permit.

Doug Hertz: It goes back to the building department for a building permit.

Ralph Vigliotti: Does the Building Department know what the Planning Board's resolution was compared to what was approved by the ARB to give that building permit?

Doug Hertz: In your dreams they know.

Ralph Vigliotti: I'm trying to put this together. I go to the ARB. I know deep down I fought with the Planning Board not to have a façade that was stone, but maybe with the ARB I can go with brick. The ARB says, "Yes, just as long as it's red." That now goes to the building department or building inspector or the assistant or a clerk, and they issue the building permit. Now, that person goes out and puts brick. We go look a week later, we see brick. Where are the checks and balances?

Anthony Oliveri: It goes to the building inspector first. Then he sends

it to the ARB. When it goes to him first, he should be checking the site plan.

Doug Hertz: So it goes to the building inspector and then it's going to end up before the Planning Board.

Anthony Oliveri: If it's a site plan issue, but it's not going right to the ARB and they are getting approval. The building inspector is involved first.

Doug Hertz: And he should be involved in confirming that the resolutions of the Planning Board and the ARB are contained within.

Anthony Oliveri: That is standard operating procedure.

Ralph Vigliotti: We don't know if it's standard operating procedure.

Anthony Oliveri: It should be. If it's made part of the code, he is going to affirm that to the ARB acceptance.

Whitney Singleton: Austin has not been to an ARB meeting in two years.

Ralph Vigliotti: And it's understandable in the situation that Austin was placed in. However, there has to be someone who is representing the resolution and the site plan with the ARB before the building permit is issued and being at the meeting. That has to be a guarantee. If the building inspector or a representative has gone over the site plan and the resolution and is not at the meeting, we are placed in jeopardy.

Anthony Oliveri: Even if he weren't at the meeting, if it's in the code saying that they need to confirm in writing with the building inspector, before they approve it they should be asking, "Do we have that confirmation?" That procedure has got to happen.

Ralph Vigliotti: So the question is, is it happening? Let's rely on this like it's going to happen. Do we have steps to do this?

Chairman Cosentino: I did not notice this was going to be a hot potato when I brought this up.

Whitney Singleton: Right now, you are already supposed to be receiving copies of all. It's already in the code.

At this point, Chairman Cosentino instructed the recording secretary to instruct the Planning Board secretary that no application is to come before this Planning Board without the original site plan. If there is no original site plan, the Board should be notified.

Chairman Cosentino: I will reject every application that comes before this Board if it does not come with the original site plan.

Stanley Bernstein: I would also like to point out that the building inspector should be at all of our meetings.

Chairman Cosentino: He will be he is just not here tonight.

Doug Hertz: You may want to amend that because we are running into

situations where we cannot find the original site plans and we are asking them to create a site plan where the site plan of record can't be found.

Chairman Cosentino: Then we should be informed.

Anthony Oliveri: It's been happening.

Doug Hertz: Which is great.

Vice Chairman Sturniolo: Anthony has more confidence in the system at 104 Main Street than most of us do.

Doug Hertz: Wait until you are sitting in that chair for 19 years, you'll have a different opinion.

Anthony Oliveri: When you're trying to set this up because of some mistake that was made or some incompetency or oversight that happened and try to write the code to that..

Whitney Singleton: If you say we want it in the code but we really want them to do it. When there is a mishap and you point to the error, you cannot say, "Well, we said in our meeting of sometime in 2013 that it would be done." The only place that is reflected that it's being done and it's required or anything else is in the code, and therefore you should identify the people that should be responsible and what happens if they screw up.

Vice Chairman Sturniolo: But then those who were responsible for the supervision of the code and the people enumerated in the code as person X, Y, and Z, and job titles, the person responsible for the code has to sit down and do his or her job and get that code enforced and not assume, "Well, it's written, someone is going to read it." That is what goes on here all the time. "Somebody" is going to read it.

Doug Hertz: To Whitney's point, if it's clearly enumerated in the code it is at the jeopardy, at the peril of the applicant. If it says that the Planning Board site plan shall supersede any whatever of the ARB, and they build it not to the Planning Board specs, it is at their peril. We have legal recourse to have it undone.

Vice Chairman Sturniolo: Which we are afraid to do.

Doug Hertz: Which we are afraid to do but which are recommending in something tonight.

Ralph Vigliotti: I don't want to get into that stage. It's happened too often.

Vice Chairman Sturniolo: You want to clean it up and correct it early on.

Whitney Singleton: Here is something else that is in the code, and it's in every Planning Board's code in every community. It is something which is done with inconsistency at best. In 110-45, C-4 it says, this is procedure for the Planning Board. You are taking it away from the ARB and putting it back to the Planning Board's lap. "The building inspector and village engineer shall review each proposed site plan or

amended site plan for compliance with the village code. The building inspector shall present the site plan or amended site plan to the Planning Board only after he is satisfied that it does still comply with the village code, and it shall not be deemed submitted for presentation until then." Anthony does his review, but we have had a series of time without, and you know what I'm talking about, where you are entertaining an application...When I first came on ten years ago as village attorney, where you had the application for the Mount Kisco Pastry Shop enlargement upstairs before you for three meetings before I said, "you don't have any review by the building inspector. It's not a permitted use." You were scheduling a site visit.

Chairman Cosentino: And we denied it, and the ARB approved it.

Whitney Singleton: The point is that it should never get to your Board without a written confirmation that everything is code compliant.

Anthony Oliveri: To that point, it is actually happening now. In the Building Department all the Planning Board applications are first going through the building inspector and assistant building inspector for review and then when they are satisfied that it has everything it is supposed to have, after conferring with the chairman and with the attorney, it is then considered to be on an agenda. This same kind of procedure should happen with the ARB.

Whitney Singleton: Yes, it should happen. It's required in the code to happen. For clarification, let's go back to Paragraph D. This is what I suggest for language. If you want to modify it, I will modify it. "The Board of Architectural Review shall not act on any application requiring site plan review until the Planning Board reviews the submission and makes a recommendation as to the design and site plan requirements, and the building inspector certifies in writing compliance with both the village code and all approvals of record. Moreover, the ARB shall not authorize any modifications to site plan elements or features required by the existing site plan or required by the resolution of site plan, special use permit or subdivision approval previously issued by the Planning Board. Any ARB approval and contravention of such requirement shall be deemed -----.

Chairman Cosentino: I know what our obligations are here as a Planning Board. What is the ARB's obligation or charge of that Board?

Whitney Singleton: The ARB's charge is rather broad and generic and ethereal. "They shall consider the appropriateness of the proposed building structure, alteration or addition in relation to the established character of other structures in the immediate area and with respect to significant architectural features. The Board may disapprove any application for a permit provided the Board has afforded the applicant an opportunity to confer upon suggestions or change of the plans, and provided that the building or structure which a permit is requested would, if erected, alter the remodel that is indicated promote one or more of the harmful effects set forth in 110-47." They specifically talk about monotone similarity, substantially identical facades, the size and arrangements of doors and windows, similarity or dissimilarity.

Doug Hertz: Visual offensiveness or inappropriateness because of poor quality of design, marring the appearance of an area and preventing

an appropriate development and utilization of the site. I am reading from C, D and E of the same statute.

Whitney Singleton: The reference is 110-47 says "The Board of Trustees of the village hereby finds that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings erected in any portion of the village adversely affects the desirability of the immediate area and neighboring areas for residential, business or other purposes. It is the purposes of this article to prevent these and other harmful effects of poor-quality exterior appearance," etc., etc... "for the health, safety and general welfare of the community, conserve the value of buildings and encourage the most appropriate use of land within the village." It is very, very ethereal.

Chairman Cosentino: Explain structure to me. What are they talking about when they say "structure?" That scares me.

Whitney Singleton: It should. If you go back to that first paragraph, the word to key in on here is the "exterior" appearance. The ARB should have no involvement on the internal, the utilities and the layout of the site. They should be concerned solely with the exterior appearance.

Chairman Cosentino: Explain structure, though. A structure could mean they are going in for a modification, and we want you to tear down the whole front of the house or we want you to add something. I need to know the reason why "structure" is there.

Anthony Oliveri: I believe they are referring to the building as a structure, not the structure of the building. It could be not a building. It could be sign. It could be something else.

Chairman Cosentino: So there is really nothing in there that you just read that can authorize them to approve an addition or anything like that.

Whitney Singleton: No.

Anthony Oliveri: They could deny the building permit if they don't like something.

Whitney Singleton: Gentlemen, just to go to a couple of examples, and I think I said this ten years ago. I don't think that the building inspector had any authority to authorize modifications. They said it was not habitable space and it was just for aesthetics. It was alteration to the site. It created new building space and should have been before this Board.

Chairman Cosentino: Yes, and he should have known that we denied because he was at the meeting.

Whitney Singleton: I can't speak to that.

Chairman Cosentino: I am generalizing.

Whitney Singleton: Generally speaking, the Architectural Review Board's charge is the exterior appearance. Your job is planning the

layout and the functionality of the site. Going back to what Ralph said about the overlap of where you guys are, when you approve the stone facing, and they go to the ARB and talk about garden state brick facing, that is appearance. It's where your two Boards meet.

Chairman Cosentino: I can understand that, that is their job. I take umbrage to them approving structures and construction.

Whitney Singleton: The appropriateness of the structures.

Anthony Oliveri: They are improving the structure; they are approving the appearance in supporting the issuance of the building permit.

Ralph Vigliotti: Case in point. We spent hours discussing the stone wall for the diner. Not a brick wall, not a timber wall, a stone wall.

Chairman Cosentino: The ARB has nothing to do with that wall because it's not on the building.

Anthony Oliveri: The site plan specifically calls out stone wall.

Ralph Vigliotti: Right, but if they said, "Instead of stone can we go with concrete block with a stone veneer?" can the ARB approve that?

Whitney Singleton: What we are proposing now says that they cannot approve anything in contravention of the site plan element. The ARB's charge is the exterior appearance of buildings and structures.

Ralph Vigliotti: They don't know unless they read the resolution or the minutes the amount of work on our part to gain something that would aesthetically be pleasing to the site and the neighbors, and they (ARB) make a decision. Meanwhile, we've spent hours debating what would look appropriate.

Doug Hertz: Maybe it is incumbent upon us when there are items like that to just very carefully delineate those in the approvals, and recite those critical elements even more so than just having them listed on a physical site plan.

Anthony Oliveri: You have two situations like that. A situation when there is a site plan like the diner that has not been built yet, where let's say it got by and the building inspector didn't catch it and they put the veneer. When they start working there, we also get involved as village engineers and we also review it again. There is another level of checking there.

Chairman Cosentino: I'm confused on something. I am now hearing that is that if this Board approves a parking lot and they want to put Belgian Blocks, the ARB can change that?

Doug Hertz: Not in contravention to village code.

Whitney Singleton: I would not think they could change that.

Chairman Cosentino: If we say we want a stone wall detached from the structure, how could they change that?

Whitney Singleton: Paragraph 110-49 says "they shall consider the

appropriateness of the proposed building, structure, alteration or the addition in relation to the established character of the other structures in the immediate area.

Anthony Oliveri: That could be a fence, wall, sign, etc.

Whitney Singleton: You are in charge of the land of the site and they are in charge of the exterior appearance. I would think that if you have a site plan element, the ARB is not going to authorize a modification thereof. If you say, "Here's a wall," fine. They may comment on the appropriateness of its exterior appearance. If you say a dry stone wall or a wet stone retaining wall, I don't believe they should change anything. I think there has to be a little bit of deference between the boards. What exactly does the Planning Board want? What exactly does the ARB want? Whether it's an environmental review Board, an architectural Board or a zoning Board, they are very mindful of their fellow Board members.

Chairman Cosentino: I want to work with them and I think they are doing a wonderful job. Things have changed? There needs to be more dialogue between the ARB and us. That's why I want the agenda delivered to the Planning Board members, so we know what's going on. If they want our agenda, they are welcome to it.

Vice Chairman Sturniolo: You just mentioned change. What Whitney just read was amended in 1998. Philosophies and building requirements have seriously changed since 1998 till now. What was written then, to me, needs to be modified. The whole thing needs scrutiny.

Whitney Singleton: In my estimation, if you're going in that direction that you feel as though this is not an appropriate charge to the ARB or it does not properly delineate their jurisdiction from yours, then the thing to do is to have your planner do a survey of how other communities lay this out. Look at 20 other communities and see how they give their charge. You don't have to re-invent the wheel, but look to see how they structure themselves. This is not just approving it. It's rolling up our sleeves and making this stuff better.

Stanley Bernstein: I mentioned this before. It's time for a new comprehensive plan. This one is outdated. It's expensive but it's something that should be done. Many municipalities are doing it every 10-15 years. Ours is 15 years old now. It's time to re-visit.

Vice Chairman Sturniolo: The comprehensive plan, for example, is not going to address what we were just talking about.

Stanley Bernstein: Yes it does, because we reconciled the zoning law with the new comprehensive plan. I was on the committee, and it changed a lot of the zoning.

Vice Chairman Sturniolo: But it did not change, for example the 100-49 criteria for the ARB.

Whitney Singleton: It didn't change any procedure.

Vice Chairman Sturniolo: It talked about zoning, planning for the future, what is and is not appropriate for this neighborhood, what we

would like to encourage/discourage in this area, but nothing as hard and specific as 110-49.

Ralph Vigliotti: Maybe we should table this and have the Board dig into the zoning amendment in greater detail.

Vice Chairman Sturniolo: Where does this stand with the village Board?

Whitney Singleton: They are required to give you 30 days to respond. They referred it to you on February 14.

Vice Chairman Sturniolo: So they can do whatever they want as of tomorrow morning.

Ralph Vigliotti: Let's respond to the four items and maybe we can send off a letter indicating that we would like to review the entire zoning amendments.

Whitney Singleton: You can say, "we apologize for the delay in getting back to you, but we are doing some meaningful review, and we would appreciate additional time."

Doug Hertz: Can this be provided to us electronically?

Vice Chairman Sturniolo: It was to Ralph and I by one of the trustees but in a very crude format and almost illegible.

Doug Hertz: If this can be done electronically I personally like to mark up electronic documents and take notes. While I think the recommendations that are being made tonight are excellent, I think this is something that we've had issues with over the years and it would make sense to spend a little bit more time on it.

Chairman Cosentino: We got hit three times, and we don't want it to happen again. Let's take your recommendations and see if the Board will give us a little extension being that we are going through this one last item. We need a little more time to think about how we are going to go about it.

Whitney Singleton: I will take the version that is in your packet and have that put into a Word document showing the underlines as additions and the strikeouts as deletions. Then I will incorporate the language that we talked about tonight, and people can comment on further changes that they would like to see.

Vice Chairman Sturniolo: The comments that we talked about tonight referring to Page 17, Letter D.

Whitney Singleton: Not just that. I have a provision for 110-45A-1, saying "site plan approval shall be required from all uses other than one-family residences in the 'such and such' zones." As Anthony pointed out to me earlier, there are other residential zones that allow one-family homes. Are you suggesting that they require site plan approval? If somebody lives in the C D, are they able to get site plan approval? I would suggest changing that to "site plan approval shall be required for all uses other than one-family residences in order to get buildings successfully thereto."

Vice Chairman Sturniolo: However this shakes out; we have to get page numbers on here so we're all working on the same pages.

Ralph Vigliotti: Do we want to send to the Village Board that we are in agreement with the four items and that we would like to also continue reviewing the amendment? Let's at least review the four items.

Change 4:

Vice Chairman Sturniolo: This is just two sentences that Whitney came up with.

Chairman Cosentino: I agree.

Ralph Vigliotti: But we want the right to continue to review.

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 9:00 PM.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

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