

Meeting of the Planning Board
Village/Town of Mount Kisco
Minutes
Tuesday, September 24, 2013

Chairman Cosentino called the meeting to order at 7:55 P.M. at the Municipal Building Mount Kisco, New York.

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

Members Absent: **Vice Chairman Sturniolo**
 Stanley Bernstein

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

Public Hearing (Continuation)

The Hearth at Mount Kisco
270 Kisco Avenue
PB2012-15, 69.49-4-1 (SBL)

Present: **Mark P. Miller, Attorney at Law, Veneziano &**
 Associates, representing the applicant
 W. Charles Utschig, Jr., P.E./Associate, Langan
 Engineering
 Carl Guy, Partner, The Fortus Group

There was no one from the public wishing to speak for/against this project.

Mark Miller: We are here for a continuation of the public hearing with respect to the special permit and the steep slopes and wetland permit applications and we also have a site plan application pending before you. When we were here for the last couple of meetings (two weeks ago), we heard significant concerns with respect to the amount of retaining walls. At the last meeting, we indicated to you that we were working on some revised plans to address that issue. In these past two weeks we've had borings done so we have a better understanding of exactly what's there. Chuck and Carl and Carl's people have been working virtually non-stop to come up with a revised plan that we think you will like.

Chairman Cosentino: Do you have a complete set of plans on what is being done? There is no use in us hearing unless we can look at plans.

Mark Miller: We have a plan for you to look at.

Chairman Cosentino: Is it a complete set of plans that we are going to be receiving?

Mark Miller: Assuming that your Board agrees with what we have accomplished is appropriate – Chuck has not done the full engineering. The changes are somewhat significant. We have reduced the length of the retaining walls by almost 50 percent.

Chairman Cosentino: Since there are no plans, has staff looked at this?

No one on the staff acknowledged viewing the plans.

Mark Miller: We are going to show you what the plan looks like with respect to decreasing the amount of the retaining walls. It changes some of the disturbed area. We've eliminated virtually half of the retaining walls. Under this plan, the site is almost entirely balanced, as opposed to a significant amount of export. We are looking for a conceptual agreement from your Board that we are on the right track. Then we will go away and come up with a fully engineered, complete set of site plans. We are looking to keep the public hearing open.

Chairman Cosentino: We are going to be looking at a concept. We don't have a set of plans before us. That is not fair to the Planning Board or staff. We can't approve a concept. Mark Miller: We are not asking you to approve a concept. We want to hear that you think we are on the right track. We know, based on the memo from your building inspector that we need to go to the Zoning Board of Appeals (ZBA) with respect to the grade and slope of the road. Based on discussions with your counsel, we think it's also appropriate to go to the ZBA with respect to the terms of parking.

Chairman Cosentino: This disturbs me. Is Anthony and Jan prepared to listen to this?

Anthony Oliveri: We are not going to be doing any review. It is strictly to present to the board what direction they are going in.

Mark Miller: Then we would ask to be put on the November 12 agenda.

Chairman Cosentino: Understand I am upset because of this. I'll let you do it, but I'm upset because we do not have a set of plans before us.

Mark Miller: We don't want to give you a fully engineered set of plans that you don't think are appropriate.

Chairman Cosentino: Continue.

Chuck Utschig: What is driving this is the clear indication from the Board when we did submit a complete set of plans that the extent of the retaining walls maybe was stretching the intent of your steep slope ordinance. We really went at that issue. We are trying to amend the plan in such a way that the Board thinks we are going in the right

direction. There is a lot of engineering that has to go on, but if we don't have the Board's feel that this is going the right way, then we have to continue to rethink this and continue to address your concern about the wall. We have developed two quick plans.

Chairman Cosentino: Understand this. We can look at it. Even if we like the concept, we don't know the engineering part of it.

Mark Miller: We agree, but before we do the engineering, we want to know that you hopefully like the concept.

Doug Hertz: In their defense, this will help them not spend a ton of money and then we just reject it out of hand.

Chairman Cosentino: When people come before this Board, I expect to see a set of plans. I don't have a set of plans before me. Staff and the building department do not have a set of plans.

Doug Hertz: I understand.

Chairman Cosentino: Continue.

Chuck Utschig: This was the grading plan that we submitted about a month ago, which was a full set of drawings. The dark lines are the walls that were proposed, and the primary area that we focused on was on the downhill side of the building where we had three very substantial retaining walls. I have highlighted in color the walls that we have an approach by which we can eliminate those and adjust the grading and deal with the slope a little differently. That allows us to eliminate a good portion. We went from about 4,000 feet of retaining wall throughout the site to about half of that. A good portion of it is taken out from this area. We are also trying to look at the issue of materials being hauled off site. We modified the way this slope gets handled, primarily in this section (indicating) that allows us to reduce the walls by grading it. It's a little steeper, it will have a rock face to it, but it allows us to grade this steeper. We have tweaked where the secondary (emergency) access road comes in. This pushes out, this grades down when we eliminate the walls. Unfortunately, here (indicating) we have this kind of fixed geometry to the access road itself. We were only able to make kind of a minor adjustment in the walls. Plus, in reviewing this with your fire department, they asked us to provide a little bigger separation between the building and the first grade change here so that they had room to set up their ladders. Part of what drove this side was those two issues; a fixed roadway because we are trying to hold this at 12 percent, and providing a little more room along this face of the one-story building so your fire department has access to get by. This is what we are asking you to look at. The impact, obviously, is that we do disturb a piece of this through here. The highlighted yellow line is the limited disturbance as shown on this plan. You can see there is a bigger area here that is undisturbed. We are grabbing a bit of that, so the impact is a little less than one-half acre of additional disturbance right through this corridor. There are about 80 additional trees that come down. It's a balance between dealing with tough to grade-in (sic) with walls that are substantial, and be able to spread that grade out a little bit, and it does push us a little

closer. We still do have a buffer. We do intend on presenting a landscape plan that incorporates landscaping not only at the bottom but also at the top. We are really just looking for the Board's reaction to a plan that reduces the amount of walls and allows us to absorb a lot of additional material on the site without having to truck it off. It reduces it by about 75 percent. There are a few positives and there is a negative. It's a balancing act. That is why we are asking the Board to kind of weigh-in on the concept, so that as we move this through to a full set of engineering plans your staff will have the pre-requisite amount of time to review and get your their memos. We are hoping that the Board would at least think about this concept and see if it's going in the right direction. We do not expect the Board to approve anything; we just wanted to make sure that it seems like it makes sense to go this way before we invested the time and the energy to modify the design and to really react to what we thought the Board was telling us, and that is there is a lot of walls, and we should try to come up with a better answer.

Mark Miller: To add one item, although the area of disturbance in our proposal today is somewhat greater than what we had last submitted, all of the impacts – and we will document this – are still less than what was approved as part of the environmental impact statement and what we addressed in the technical memo. We will provide your staff with the back up to demonstrate that.

Ralph Vigliotti: The concept that you're proposing, you're indicating that by lowering it or removing the retaining walls that you would also be removing 80 more trees at the entrance that you're talking about?

Chuck Utschig: No, (it would be) along the back of BMW. There is no change whatsoever in the entrance road coming up the hill. The design is exactly the same from here all the way down. The area that we gained by modifying the switchback, etc., those are as we presented to the Board the last time. The real change occurs within this corridor of the building, what we are calling the back of the building, almost all of behind BMW. In essence, we've flattened the walls out, and we've used an engineering solution. We've gotten the borings done so we know a little more information about the soil conditions, so we were able to basically flatten those walls out. Obviously we cannot do it in exactly the same space, so it does have to expand out. There is a plus and a minus here and we are trying to give you a sense of what that is to see if that is a balance that the Board is comfortable with and would like us to continue to work in that direction.

Doug Hertz: I am concerned what you are able to achieve in the recent modified plan with the higher retaining walls was preserving enough undisturbed space in that area that acted as a significant visual buffer from the rest of the village. You had significant lines of trees below the new secondary access road from Curtis, and you had some undisturbed area on either side of that access road. It looks like you're going to lose the bulk of that, which is going to mean there is going to be a clear view across the valley up to the building.

Mark Miller: Your point is well taken. We think most of it won't be visible even across because it will be behind BMW.

Doug Hertz: It will be above BMW.

Chuck Utschig: We want to prove to you that this solution can be dealt with, and we think, still preserve the kind of visual screening that we were talking about. If we can demonstrate that those things still hold true and we have not exposed a significant amount of this building across the valley, and that you can see it where the visuals demonstrate that you couldn't; if we need to demonstrate that to you, we are comfortable that we can do that. We do not think we have opened this up from a view-shed perspective by doing this. Our job is to prove that to you.

Mark Miller: There will be landscaping at the bottom and the top of the slope, and the rock we use will be the rock from the site. It probably won't be visible at all from Kisco Avenue from across the valley. Again, we have to prove this to you. It should look like a rock out-cropping because it will be from a great distance and it will be using the same rock with the natural color that is already on the site.

Doug Hertz: I'm not worried about seeing the rock. I am worried about trees that act as a buffer; that act as a screen. Plantings will take a long period of time to do the same thing.

Chuck Utschig: We have to look at those visuals and make sure that we are presenting to you a visual impact from across the valley that you are comfortable with.

Ralph Vigliotti: And you will submit those visuals; the photo simulations?

Mark Miller: We will update the photo simulations just as you've done before. That will be part of the submission.

Ralph Vigliotti: It will be prior to the cutting versus the actual cutting?

Chuck Utschig: We can compare in essence the visual impact of these two plans.

Doug Hertz: From where I see it, while I think it's a positive thing to remove material from the site for any number of reasons, you really do have to look at the balance of preserving some of that mature tree lot that will act as a screen.

Mark Miller: As I indicated before, we would like this public hearing left open to the November 12 hearing.

Chairman Cosentino: That's fine, but you need to go over all of this with staff.

Mark Miller: Part of what we are going to be doing in the interim is go to the ARB and the ZBA. I don't know what the policy of this Board is as far as making recommendations to the ZBA. We will be seeking the

maximum road grade permitted by your code, which is ten percent. Some codes permit the Planning Board to vary that, your code doesn't. We have always had 12 percent. Based on discussions with the building inspector and your attorney, we are proposing a limited number of tandem parking spaces, which are not addressed one way or the other in the zoning code. The recommendation was made, and we think it's a good one. We also asked the ZBA to bless that. I don't know if it is appropriate for your Board to make any recommendation to the ZBA with respect to those two issues.

Chairman Cosentino: I don't want you to leave with the feeling that the Board is with this concept.

Mark Miller: We understand that we have to submit to you the full set of engineered plans.

Chairman Cosentino: I will carry the public hearing over to the November 12 meeting.

Whitney Singleton: They are asking if you want to make a positive, negative or no comment to the ZBA with regard to their application. Before you answer that, I didn't see your plans tonight. Do your plans change any aspect of requested relief from the ZBA?

Mark Miller: None whatsoever.

Whitney Singleton: They don't change your road grades at all?

Mark Miller: No, not at all. The tandem parking hasn't changed either. Zero change.

Whitney Singleton: The tandem parking is not allowed under the code as best as I could tell.

Chairman Cosentino: We have never allowed tandem parking.

Whitney Singleton: Yes, but they want to seek that for a portion of this development to the tune of 19 spaces.

Carl Guy: The tandem spaces are within the garage proper, and they are for a lot of residents who don't drive their car but want the car on site. Staff will move it out for them if necessary. That is tandem parking.

Doug Hertz: Is that a form of valet parking?

Carl Guy: It's a form of valet, but we tandem it. As far as you're concerned, it's valet.

Chairman Cosentino: Will the record show that they are going to have valet parking.

Ralph Vigliotti: This for the inside of the garage?

Chuck Utschig: Yes. 19 spaces are tandem. In essence, one aisle of

the four aisles in the garage is tandem.

Carl Guy: There are 91 spaces in that garage; of 129 units we have in the building. 40 of those units will never have a car. Typically, certainly less than half of the 89 units will physically have a car there. We provide transportation as part of our service. Out of the 90 spaces, we are going to expect only 40 cars in the garage. Whether they ever get used – it may be only during a party or a Christmas event or something along those lines. I want you to understand where the tandem is and how they are being structured.

Doug Hertz: If it's valet, and let's just call it that for the moment for lack of a better term because it's not expected that the driver will go directly to take that vehicle, does that change anything?

Whitney Singleton: No, it does not. The parking regulations provide for a schedule in parking requirements, spaces sizes, stalls widths, aisle sizes, all of that nature. It says that parking shall be in compliance therewith, and there are some modifications between commercial and residential, short term, long term, things of that nature, but there is no provision for tandem parking. If your Board is comfortable with what they are proposing, then you can make a recommendation one way or the other, or you could remain neutral on it.

Chairman Cosentino: But we're setting a precedent here. We've never had tandem parking before.

Whitney Singleton: By the same token, this is for a particular use.

Chairman Cosentino: I understand, its valet parking, and I'm going to put that in the resolution.

Whitney Singleton: When are you going to the Zoning Board of Appeals?

Mark Miller: Our plan is for the October meeting.

Whitney Singleton: If the Board wants to think about it before the next Zoning Board of Appeals meeting and determine whether they wish to endorse/no comment/ propose, or the more traditional way has been for the Zoning Board to seek your input one way or the other. The question is whether it's going to be solicited or volunteered. Whenever it comes to parking or access, they always solicit your input.

Doug Hertz: Mr. Chairman, for me it would be helpful if they submitted a narrative as to how that would function, who would have the responsibilities, and how they would administer that.

Mark Miller: That would certainly be part of our ZBA application.

Doug Hertz: We could then understand whether it's something that makes sense for us, and we could decide if we would endorse it or not.

Mark Miller: With the hearing not coming back until November 12, we

can be here on October 8 just to discuss their recommendation.

Whitney Singleton: That would mean they would not make the submission lead time for the next meeting. Is that okay with your Board?

Discussion followed.

Mark Miller: We will give you a copy of our full ZBA application.

Chuck Utschig: And, there will be a plan so everyone knows where the tandem spaces are.

Public Hearing

**Mount Kisco Country Club
10 Taylor Road
PB2010-17, 80.62-1-1 (SBL)
Site Plan and Wetland Permit**

**Present: John Kellard, P.E., Kellard Sessions Consulting, P.C.,
representing Mount Kisco Country Club**

Mr. Johannessen was Recused from this discussion.

John Kellard: At the last meeting we had a comment letter from Mr. Oliveri's office, in which we addressed all the issues that were in that letter. We provide a revised set of plans. The major modification to the plan was including a reforestation plan, which includes the planting of 40 trees on the property, which is in conformance with the village tree ordinance, to replace the 147 trees that are being removed for the de-camp base on top of the hill. The club is not thrilled to plant additional trees, but they understand the village has this ordinance, and we will plant them, if need be. We would just ask if they were to be planted in the area – we are proposing it in the area that is to be disturbed, that area will be...

Chairman Cosentino: We did not necessarily say we want to plant them on the course itself. We can plant them in the village some place. The village will plant the trees throughout the village and eliminate the planting of trees on the golf course. You do not need trees on the golf course itself.

John Kellard: I would think that the country club would agree to that.

Anthony Oliveri: We can take that up with the Building Department.

Doug Hertz: Although we reviewed the code with regard to the replacement of trees, it seems in this instance that the village would be on the short end of the deal if we were to follow the letter of the law. You are proposing to remove trees as large as 40-inch oaks, 32-inch cottonwoods and 36-inch wild cherries. When you look at caliper

inches, you are in order of magnitude or two above in removal; like you are proposing to replant. I would ask that you go back to the club and review what is being removed. I do not think it's going to be beneficial to the club that you are not being asked to replant it on club grounds, where you don't really want nor have room to do that. In terms of what the village is losing as far as tree space and what we'd like to recover, I think we'd have to be a little bit more even-handed in how the village is recompensed. When the Building Department and Anthony look at this, I would take a very serious look at what that is going to look like. I would ask that you speak with the club and see what they are willing to do and have a more serious discussion than 40 small trees.

John Kellard: As you know, it is clearly, exactly what the ordinance requires. One tree per 2500 square feet, one tree per 50/50, plus several trees for any specimen tree, which we decided several is five per any specimen tree. Any large tree that is being lost, we are proposing five trees in its place. There is no other property in the village that has more trees than this property. The club is very fine stewards of the environment with the turf and the trees.

Doug Hertz: I understand what the code suggests. I look at the number of caliber inches of trees we're losing; it's significant. We have asked other applicants in the past to do some very significant reforestation in other parts of the village.

John Kellard: We will discuss it with staff.

Chairman Cosentino: Understand we want to beautify the village.

John Kellard: I understand that.

Ralph Vigliotti: Be mindful, it's not just 40, 50 or 60 trees. It actually includes the planting of the tree itself. It is whatever costs are associated with planting them.

Robert Melillo: A 40-inch tree is probably 200 years old. You have to take into play that that's an old tree now.

Doug Hertz: And replacing it with five, 4 inch trees – I'm not seeing the math here.

Robert Melillo: It will be 200 years, even if they last that long. I see your point.

Doug Hertz: Conceptually, we have no desire to force you to replant on property as long as the village has a need in other areas.

Motion to Close Public Hearing

Motion: Doug Hertz
Second: Enrico Mareschi
Aye: Sol Gibbons
Aye: Ralph Vigliotti
Aye: Enrico Mareschi

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Aye: Doug Hertz
Aye: Chairman Cosentino

Chairman Cosentino: I will direct staff to draft a resolution for the next meeting subject to the conditions raised by staff and the Board tonight. You need to work this out by the next meeting.

John Kellard: Thank you and I appreciate it.

Public Hearing

New Cingular Wireless, PCS, LLC (A T & T)
304 Lexington Avenue
80.39-1-1 (SBL)
Amended Special Use Permit and Amended Site Plan

Present: Neil J. Alexander, Esq., LEED AP
Cuddy & Feder, Attorneys at Law

No one from the public appeared to speak on this subject, and no written comment was received.

Neil Alexander: I made a presentation last time about this co-location on the existing pole and all of the changes that are occurring within the existing fence compound and the existing tower. I will ask that you close the public hearing this evening and take action.

Chairman Cosentino: We have read this thoroughly and will make a draft resolution subject to the engineering report that is coming in.

Neil Alexander: I appreciate where we are. Not belaboring this application, can we talk a little bit about future applications, just to help everybody get what they need to make the process a little faster?

Chairman Cosentino: We have counsel to explain to us what we have to do.

Neil Alexander: I do not mean it that way. By comparison, many other municipalities that are as Tony as yours, we've had a discussion with and worked it out where it takes one meeting. I want to try and have a discussion with that.

Chairman Cosentino: This is the second meeting and you still don't have the engineering report.

Neil Alexander: It's not our fault. I want this to be productive.

Chairman Cosentino: It's not our fault. You said you want this done in one meeting. How could we have done this in one meeting if we still don't have the engineering report?

Neil Alexander: Because there is no reason to send it to an engineer. First of all, this was originally approved as a 12-antenna site. We only put six out there, now we are putting three more of the 12 that were

originally approved. Secondly, you can't regulate in this area. You know that, and we all agree on that. So, you're sending it to somebody to make sure somebody didn't have a fat thumb. It's one percent. We are categorically exempt under NEPA because we are more than 10 meters tall. The report you were given was sworn and certified by someone who is a professional, and the methodology is set by the federal government. It is a computer model at this point.

Ralph Vigliotti: Okay, goodnight. We have a process. We are going through the process. This is the second meeting.

Neil Alexander: Yes, but as you know, as a matter of federal law you cannot deny it. You must approve it.

Ralph Vigliotti: Who said we are denying it? It's a process this Planning Board goes through.

Chairman Cosentino: If you want it done in one meeting, and the law says we have to do it in one meeting, we will check with our counsel. As of tonight you do not have an engineering report back to us.

Neil Alexander: We sent you everything electronically on August 28, and I was promised at the last meeting, and it's in the minutes, that the report would be here by the next meeting. That was the dialogue. That is why I said I don't want to talk about this application.

Chairman Cosentino: Then you talk to our counsel, don't talk to us. We're not attorneys. We're planners. Our counsel will advise us what to do.

Neil Alexander: It is an important dialogue for us to have. I know you don't want to have it.

Chairman Cosentino: I don't want to have it. Talk to our counsel, and counsel will bring it back to us.

Neil Alexander: I understand that. There are four other members of this Board and I want to at least have the opportunity to speak to them as well. It's important. We don't know what else you could possibly want as planners. You were given an emissions report. You were given a structural report, you were given drawings, and you were given photographs. All work is occurring within an existing, fenced compound in this situation. We are trying to give you a package, so that way you get it, and you say, "Oh, it hit all of our concerns." Remember, this industry is doing this in every municipality – five or six sites – in every municipality across the country. They are trying to give municipalities what they need in order to get through a process in a heavily regulated industry as quickly as possible. No one is saying they didn't want to give you something. There is no fight over sharing of information here, that's important to note. We are trying to get it pre-certified as to what that information is and give it to you, so that way you can spend a little bit of time checking it, making sure that it meets what you're looking for, and then we can come to a meeting that is a public hearing – I'm not trying to get around the public

hearing – and have you in a position that you have all the information in front of you beforehand, have the public’s input if they want it so you can take action in one meeting if it’s appropriate, based on the scope of that application. That is all we are trying to accomplish. I will talk to counsel in the future. I just want it understood that that is all we are trying to accomplish. We recognize that we are heavily regulated.

Whitney Singleton: I’ve discussed this with Neil. We have endeavored to get the RF engineering report in a fashionable way. It was dual tracked so that it would get here in time. It did not happen. It’s not your Board’s fault; it’s not the applicant’s fault. It just didn’t happen. The fact of the matter is your Board is putting on for approval as is your standard practice not to approve something the night of the meeting, but to see a draft resolution before you approve it. You’ve directed that be done for the next meeting subject to receiving the engineering report. I don’t see any problems with the way you have preceded. You are in compliance with the law. I don’t think Neil is telling you that you are not in compliance with the law, and I can assure you Neil is in other towns, preparing in excess of a year before he gets approval, if he gets approval.

Neil Alexander: That is for a tower. But that is separate. I’m not taking issue with anything you said. If you notice, I put this application to the side. I don’t want to talk about this one. What I’m really trying to do is get to a more expeditious process that is just as thorough. That is all I’m trying to do.

Doug Hertz: Would it be useful to simultaneously engage our engineer to do the review at the same time as the submission?

Neil Alexander: That would be great. We would love to come to the first meeting and have it be a public hearing, which is what ZBA does because their jurisdiction is appellate in nature. I’m not trying to throw anybody under the bus here. I’m just trying to expedite a process.

Whitney Singleton: Your Board does not have the authority to retain a consultant. It’s got to go through the village, which it has gone through, and the consultant has been retained. I understand that the report is complete; it has not been forwarded yet.

Jan Johannessen: That’s correct. The materials were submitted to the RF consultant the day after the last Planning Board meeting, and there were some agreements that needed to be put in place between the consultant and the village. That is what the waiting process is. It is not anything this Board did or did not do.

Neil Alexander: I am not trying to talk about this application. You are going to be seeing my face a lot of times over the next bunch of years or someone from our office or industry. I’m only trying to make it less bumpy. I hear what you’re saying. If you could just take to heart – I understand you don’t want to talk about it in the flux of this moment, but there are some things that we could work on, and that’s all I’m

asking.

Chairman Cosentino: I understand. I accept your side of the story. Let me tell you our side. Every applicant that comes before this Board is reviewed by our professionals. There is a process here. When I'm reading my agenda, and I need engineering report that has never been seen, I can't approve it tonight. Hopefully, by the next meeting, when we have a resolution, we'll have it and we can approve it. Since you're not talking about this one in particular, I understand what you're trying to say. I have counsel that I speak with everyday. We will have this on for approval for the October 8 meeting, subject to the engineering report.

Doug Hertz: I would like to make a comment that is apropos to Neil's, but not just about this. I think it's a reasonable thing for this Board to consider ways in which we can streamline processes. Not just this type of application, but all types of applications.
Whitney Singleton: I will leave that up to counsel.

Neil Alexander: Thank you for hearing me out. I know you didn't want to, but I appreciate it.

Chairman Cosentino: You're always welcome here; you know that.

Formal Application:

**Kisco Smith, LLC – 75 Smith Avenue
80.41-1-4
Site Plan and Change of Use & Wetland Permit**

Present: Michael Macri, Structural Engineer, Grossfield Macri Consulting Engineers – Engineer for the Applicant

Chairman Cosentino: You are purchasing a residential home now, and you want to convert it into an office for yourself.

Michael Macri: Yes.

Chairman Cosentino: I know you need some variances. 15 feet is required and you only have 10.6. We also need to talk a little bit about parking. You are not going to have many cars there.

Michael Macri: We need both side yards and we did do a narrative, as requested. We believe that no more than six employees can be in the structure because of the layout of the building. In our narrative it explains that there are five extra spaces for buildings less than 5,000 square feet is sort of onerous in the fact that we probably cannot get 12 people in there. The zoning code requires that we have 12 spaces for this small house. We feel if there was a way to do this it would be to limit the number of employees in the building, we'd be open to six employees, seven parking spaces, and we feel if we had 5,000 square feet and 20 employees there is not an actual place for visitors anyway.

Chairman Cosentino: How many employees do you have?

Michael Macri: Right now, only three and we might not have more than three for the next five years or so. If our business decides to grow quickly, maybe we'll add another employee or two, but I don't see us getting to six. I know anything is possible, and we certainly don't want to limit it to three employees. There is also an investment piece to this, too. We believe our design is a good balance between the lay of the land, keeping the wall height down, the amount of fill that we're bringing in, staying away from the steep slope because the slope does drop off quickly right near where we want to put our wall. If we stick to this number of parking spaces, we don't have to cut down any trees, and quite frankly we feel comfortable that no visitors or employees would ever have to park off-site. We feel there is more than enough there. I know you don't condone tandem parking, but there is the possibility of someone pulling straight down; we are a small office, if we had to move a car it's not the end of the world, we are not going to put five or six cars on the street at any time, ever.

Chairman Cosentino: Since there is a steep slope in the back and he's going to put a wall, didn't we talk about pervious vs. impervious for parking?

Anthony Oliveri: He is proposing a drywell to take up the excess runoff from the paved parking area. He has the drywell on the plans.

Chairman Cosentino: Besides the drywell, do we need anything like what we did behind Target on the parking area?

Anthony Oliveri: Nothing out of the ordinary. It's a paved area that will be collected into the drywell system. He is showing an overflow pipe that goes to the rear of the property with a bric-a-brac outfall (sic), and that would go down to that little stream in back. He is in the buffer of the stream. We went out to look at it. He did apply for a wetlands permit as well. With the wall, he is kind of right at the edge of steep slope. If he expanded further, you would end up with a much higher wall.

Michael Macri: The wall would be closer to ten feet. Right now, we have it below six, around five.

Chairman Cosentino: So the water doesn't have to retain on the property?

Anthony Oliveri: It will perk into the ground under the parking lot by using the drywell, and anything in excess of that would go out on the overflow pipe. That is typical.

Chairman Cosentino: In addressing the parking, it is five spaces short.

Michael Macri: It's actually four and change. I think the square footage we are required to have is 6.2 parking spaces, so then it comes out to 11.2, which is 12 spaces.

Chairman Cosentino: What will you be doing for landscaping?

Michael Macri: In the buffer right now there are some invasive plants.

We discussed with staff that we would remove that and put in the proper plantings that need to be on that slope.

Chairman Cosentino: We will need a landscaping plan.

Jan Johannessen: They are proposing eight giant green arborvitaes on the side property line. As part of the wetland mitigation, the slope is really overgrown with vines, (so they will be) removing those vines and re-planting the wetland buffer with shrubs and native grasses.

Chairman Cosentino: And the front?

Jan Johannessen: There are some existing evergreen foundation plantings on one side of the building that has to get removed to facilitate the driveway, which would be replaced.

Chairman Cosentino: I was visiting the site. For some reason, it's too small to look like an office building. You want to keep it looking residential, because the building is small.

Michael Macri: We have no intentions of changing the look of it. We want to keep it looking like that. The way the property lays out, the main entrance is going to be the rear. People are going to come into the back and walk into the back of the building and up the stairs into the office space.

Chairman Cosentino: Is there no Architectural Review Board review? Are you proposing any changes to the front?

Michael Macri: No. We want to keep it the same. If we do have to replace anything, we will replace it in kind.

Doug Hertz: The photometric plan basically shows a single light on the back of the building, and as you move off towards the rear parking area you are down below lighting. I understand it's a mixed neighborhood and we don't want to over-light anything, but it doesn't meet our code. If the employees are working till 5 pm in December, it is going to be pitch black out. I think you should think about how to light that in a way that will give you some safety.

Michael Macri: We already thought about that. In fact, it was a question. We will install a pole in the back in the middle that would shine back. The same photo metrics that will overlap and give you exactly what you want and will stop at the ends of the property line. We are happy to do that.

Jan Johannessen: A spotlight?

Michael Macri: Yes, facing back at the rear wall in the center. Because the distances work out that the photo metrics would overlap, and it would give you the same amount of light.

Jan Johannessen: On a pole?

Michael Macri: I have to put it on some kind of a pole. There is nothing back there as far as trees. The trees are too far down.

Chairman Cosentino: What about the building?

Doug Hertz: There is one on the building, but as you get back to space seven, it doesn't carry.

Chairman Cosentino: Can you get a light on the building that carries?

Doug Hertz: No, because it will end up shining right at the rear.

Jan Johannessen: You wouldn't typically install a floodlight on a pole. That would almost be in contradiction to the village code as well.

Doug Hertz: I wouldn't do a floodlight. You need to do something that is full cut-off.

Jan Johannessen: You need a conventional, downward facing light fixture.

Michael Macri: I am happy to do whatever you guys want. If you do that type of light, it's taller, and I don't think it fits in with the neighborhood. As you notice, that light we are putting there is eight feet. With the light that you are talking about, in order for it to carry back into the property again, it has to be much taller, probably 12 feet.

Doug Hertz: There are other solutions. You could put two smaller poles along this edge.

Michael Macri: I have no issue with that. I would think if I was a neighbor, I would rather not see a pole at the property line. But if that is what you guys want, I'd be happy to do it.

Doug Hertz: It's really a safety thing. If you have a slip and fall on a piece of ice back there...the solution, as I'm sure you know, doing one big pole versus multiple smaller ones are much subtler and much less industrial. You can do a bollard type light as well. I don't think you can do it right in front of the parked spaces because it will be blocked, but certainly on the corners where you are not parked would function.

Michael Macri: I appreciate we are all on the same team here.

Anthony Oliveri: Another item on my memo that I think the Board should give feedback to is that I noted that the gravel driveway was in very good shape, and if you wanted to maybe reduce some of the runoff, you might want to leave the driveway as gravel.

Chairman Cosentino: I know what happened in the back before. If you look at it, in the rear, I almost think instead of blacktop and having all that runoff, we leave it to gravel and see how that works out.

Michael Macri: We'd be happy to do that. Gravel is not an issue.

Chairman Cosentino: It would only be because of the run-off. I don't normally like to do it, but under the circumstances, this is a particular situation.

Anthony Oliveri: You could match the type of gravel in the expanded area. I don't see any problems with it. It's impervious surface. If that's the case, you want to designate the handicap parking with a sign and designate the parking spaces with signs, because you can't paint lines.

Michael Macri: We are happy to do that.

Anthony Oliveri: You have to have a paved area for wheelchairs, so you might want to look at partial paving.

Jan Johannessen: You could put the handicap parking space and access aisle right up to that first door.

Chairman Cosentino: I feel better having it graveled.

Doug Hertz: It's a maintenance issue for you.

Michael Macri: I've had a gravel driveway for many years, and in terms of plowing, if it pleases the Board, although the nice gravel is on the driveway we might want to just pave the driveway to the second parking space and leave the back gravel. That is where you'd want it to drop, and the plowing wouldn't be as much of an issue, keeping the front looking cleaner. Also, it seems somewhere in the code it says curbs have to be concrete. I don't mind that so much, but the question is do we actually need a curb? The curbs look very commercial.

Chairman Cosentino: Belgian Blocks look nice.

Jan Johannessen: There is almost a berm between the two properties, along the left side.

Michael Macri: It is certainly up to however you want to do this. The requirement for the width of the driveway is a lot. It's great if you're in and out all the time, but we mostly come in the morning and leave at night. That berm is all planted.

Anthony Oliveri: I think the intent of the curb is to discourage cars from going up on the grass and parking. In this case, you are going to have a wall in the back. Maybe you just want to do curbing where the cars are pulling in.

Chairman Cosentino: I'd rather see Belgian Bock than concrete curbs.

Michael Macri: Whether it's concrete or Belgian Block, I have more of an issue where we don't need the curb. I think the curb is going to be intrusive to the plantings.

Anthony Oliveri: The driveway looks residential. It's really not necessary.

Doug Hertz: Also, to Anthony's memo, the back of the driveway was talked about. The 26 feet versus the 24 feet.

Jan Johannessen: That would increase the landscape buffer setback.

Doug Hertz: Anything we can do to decrease that parking area but keeping it still functional and put that back into landscape buffer would be beneficial.

Jan Johannessen: The code requires 10-foot setback landscape buffer in this district, and they are down to 6 or so. They can pick up a couple of feet by reducing the aisle width from 26 to 24, which is permitted by code.

Doug Hertz: I would make that recommendation that you do that, because it will reduce your zoning variance and serve what we want, which is more planted buffer area.

Michael Macri: I understand the buffer is not Zoning, but Planning.

Jan Johannessen: The landscape buffer is the Planning Board. Try to comply with it as best you can.

Michael Macri: Absolutely. If a little more space there is more comfortable for you, that is fine with us. Certainly if you want more space, we can do that.

Chairman Cosentino: This is a unique building because it's small, and you want it to look residential. There is not much you can really do with it.

Michael Macri: That is one of the reason we are not even putting a sign up. Our number is good enough – people know how to find us. We don't need to make this into a commercial piece of property.

Chairman Cosentino: With the Board's permission, we can prepare a resolution for next meeting. You need to get the variance first, of course.

Whitney Singleton: I need to verify precisely for what they are going for a variance. If they are going for the building setbacks, which are existing conditions but they are converting residential to commercial, that is a little bit extended. With regard to the parking, there are some issues. Outside of those issues, you've discussed tonight how essentially the parking lot is going to be handled. Diminishment of the travel width, a portion being paved/not paved, issues as to whether you are having curbing/not curbing, there are buffers that are required to be here that he is not going to be providing. Is there any landscaping fencing or any other features that you want to see? To make it productive for the applicant, he will go off to the Zoning Board with our without your blessing on the variance issues. The question is,

when he comes back to you, what are you going to see from the final plan as far as the parking lot itself, assuming he gets the variances. Do you want to see a portion of this being not paved? Do you want to see elimination of curbing?

Chairman Cosentino: Yes. That is what he is going to work with Anthony on, and then he will have to put it on the plan by the time he gets back.

Whitney Singleton: I don't want to have the applicant to have to come back and find out that what he has now proposed was not actually passively sanctioned by your Board.

Chairman Cosentino: I understand and you are right. Anthony, you are going to have to work very closely with him on that. We will get a resolution ready, but if he doesn't have everything done what we said on the plans, we can't do anything with the resolution.

Anthony Oliveri: We will review it on a staff level and make sure he's hit all of those points. If it's not ready, we won't bring it back.

Michael Macri: The biggest thing here is getting your blessing on the parking number. That is the impasse here.

Whitney Singleton: ironically, what happened historically began on Smith Avenue. When the village decided to have conversion of residential homes on a particular scale occur to office buildings, Smith Avenue became a haven for medical, law and various use offices. What was experienced on Smith Avenue was that you could have one doctor working in one little tiny house, a waiting room of 10 people, a nursing and administrative staff in a very small building, having a tremendous impact on parking. To address this issue, the village said for medical and dental; let's have -- for buildings under a certain size, a kicker of an additional five spaces. That was put in. Then, without protracting that provision in the code, they differentiated subsequent to that the parking requirements for medical and non-medical. They differentiated by the parking requirement itself, but they still had the remnants of that kicker for the five extra spaces. So, your Board has entertained recommendation to the Zoning Board in the past to eliminate all or a portion of that five-space kicker for uses other than medical.

Chairman Cosentino: We would like to do that again. In this case, if we recommend that, it will help him. Am I correct?

Whitney Singleton: Of course it will help him.

Chairman Cosentino: I'm willing to recommend to the ZBA the kicker on the five spaces. He's going to go for it anyway, so why not recommend it?

Doug Hertz: I'm fine with that. What the applicant has put forward is in all his documentation and his narrative is the number of employees anticipating. As long as that makes it through the resolution -- that we have some limitations on the building use should it change hands, I

would have no problem with it.

Chairman Cosentino: Can we write a letter stating that for this limited purpose, for this kicker?

Whitney Singleton: I can formulate something.

Michael Macri: Thank you.

Ralph Vigliotti: Should there be a provision if the building should cease in its current use or be sold it would have to come back before us?

Whitney Singleton: When you say "cease in its current use," is it current use categorization?

Ralph Vigliotti: It's non-medical vs. future use to be medical. Does that bring it back?

Whitney Singleton: That would happen by virtue of change of use. That wouldn't happen because of the variance. If he were to sell or rent the building to a law office, theoretically there would be no increase in the parking requirement and they would not have to come back to your Board. There is one other thing, is this a single office or is it multiple?

Michael Macri: Single office.

Chairman Cosentino: We will write that letter to the Zoning Board of Appeals.

Michael Macri: I will put the application in this week for next month. Thank you.

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 9:15 PM.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary
dm