

Minutes  
Meeting of the Planning Board  
Regular/Work Session  
Village/Town of Mount Kisco  
Tuesday, March 12, 2013

*Chairman Cosentino called the meeting to order at 8:00 P.M. at the Municipal Building Mount Kisco, New York.*

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

**Members Absent:** Sol Gibbons

**Staff Present:** Whitney Singleton  
Anthony Oliveri

**Staff Absent:** Nanette Bourne  
Austin Cassidy

**Meeting Minutes:**

**January 23, 2013**

**Motion:** Stanley Bernstein  
**Second:** Enrico Mareschi  
**Abstain:** Chairman Cosentino  
**All Aye**

**February 13, 2013**

**Motion:** Stanley Bernstein  
**Second:** Doug Hertz  
**Abstain:** Vice Chairman Sturniolo  
**All Aye**

**Final Action:**

**29 East Main Street  
(Little Crepe)  
PB2012-17 (SBL) 69.81-2-5  
Site Plan Approval**

*No one from Little Crepe was represented.*

Chairman Cosentino: We have before us a final resolution.

Ralph Vigliotti: On the second floor, there is a door that is typically locked on a daily basis that provides an emergency exit. My suggestion would be that they install a panic bar on the inside so they can get out in an emergency, but at the same time it would be locked

on the opposite side so no one can gain entry. I would like this placed in the final resolution. They (*the applicants*) were in agreement to doing that at the last meeting.

Chairman Cosentino: On Page 2, #5, we have to make sure that the consulting fees were paid before a Certificate of Occupancy (CO) is issued. On these backflow devices, I know it's a building department item but I want to be sure it's properly engineered. Since it's on our resolution, I believe this should be a condition. The problem is these are on every resolution that we look at. We don't know if it's been completed or not, but it's on our resolutions.

Whitney Singleton: Those are conditions of approval.

Chairman Cosentino: So, we want a condition of approval on this that it is going to be completed, inspected and engineered properly.

Whitney Singleton: Do you want a report back to your Board that it was completed?

Chairman Cosentino: Yes.

Whitney Singleton: I believe the building inspector and village engineer had a punch list of items.

Chairman Cosentino: This is what has to be remembered. Some buildings have four or five units. It cannot be designed for the one applicant that we are looking at. It has to be designed for all the stores for the building itself. It has to be on the main water line coming in.

Anthony Oliveri: Before the Certificate of Occupancy is issued, we sign off on it.

Chairman Cosentino: I will be asking that question before I sign off on it. The waterline that feeds that building is the water line that has to be sized with the backflow. Please get back to us so that we know that has been done.

Whitney Singleton: Mr. Vigliotti, for purposes of the conditioning we will insert, "the building inspector and/or fire inspector shall inspect all access points of the building to confirm compliance with the New York State Building Code."

Ralph Vigliotti: That would be fine.

Chairman Cosentino: The last item I have is that no final Certificate of Occupancy should be issued until everything on Page Two is completed.

Vice Chairman Sturniolo: I am looking back at my notes, and the last time Little Crepe was with us was January 23. I have three notes. One is the bathrooms, and Mr. Vigliotti brought that subject up. The other note is for Anthony. Are the doors of the restaurant and the doors of the spice shop supposed to be interconnected or separate?

Anthony Oliveri: If that is the way they represent them to be. I thought there was an interconnecting if they are showing an opening in between Spice Bazaar and Little Crepe Restaurant.

Vice Chairman Sturniolo: An interior connection?

Anthony Oliveri: Yes.

Vice Chairman Sturniolo: What have they proposed with the exterior lighting?

Anthony Oliveri: We had nothing proposed on exterior lighting.

Whitney Singleton: Any changes to the existing lighting would require approval. If they propose something (*other than existing*), they would need to come back to your Board.

Stanley Bernstein: Taking up on the comments that Vice Chairman Sturniolo made, there is a door between the spice shop and Little Crepe. The tenant also owns the next restaurant, which is Little Kabob Station. There is no door between Little Crepe and Little Kabob Station. That is because it's a different owner and a different building, which is a demising problem, I do believe. That brought up the discussion that we had about health issues in the fact that they are delivering meals from one to the other going on the street. I don't know what the Westchester County Board of Health thinks about it, but I think at a minimum, they should have a covered tray with domes to walk through. She represented that the fact that it is on a foam "take-out" tray, which is not true. I've been there twice sitting at that front table, and a half-dozen waiters and waitresses walked out uncovered dishes into the street and back into the other space. I think that is unacceptable. I don't know if you want to put that in the resolution, but something should be done about that.

Vice Chairman Sturniolo: Utilizing the public right-of-way to deliver food from one restaurant to the other.

Whitney Singleton: Your Board is relegated to the site plan itself. You do have a provision in here already that they have to comply and secure all approvals. As long as there are going to be changes made to the existing conditions, an advisory note should be sent to the building inspector prior to any final issuance of any final Certificate of Occupancy; that they shall confirm that existing practices are required according to code.

Stanley Bernstein: We also had a lengthy discussion about parking and deliveries. Of course, I cannot say it's unacceptable because it's being done. It is not good. It clogs up Main Street in the morning, and I know the Village Board has to get involved in this. My suggestion would be that we say in the resolution there is no parking from the hours of 5 am and 8 am for deliveries and garbage pick up only or any other hours the Board feels is proper. As it is now, it doesn't work.

Whitney Singleton: The only problem is that there are already code provisions for private pick up on public right of ways, and the hours are specified.

Stanley Bernstein: What hours are those?

Whitney Singleton: They have to be after or before village hours. I believe it's between 6 am and 7 am.

Stanley Bernstein: There is parking taking up those spaces, so they have to double park. You only have one lane on Main Street at that point, with two directions of traffic.

Whitney Singleton: As you recall, there were several items that came up with regard to this application, and I believe **[over talk]** the promulgations regarding on-street parking and deliveries are all done by hand. There were also some suggestions by both your Board and the applicant as to the suitability of lighting on North Moger and the availability of advertisement of parking in the North Moger lot. Those are obviously things outside of your Board's purview and outside of the applicant's purview, but they can certainly be relayed to the village manager.

Stanley Bernstein: From a planning standpoint, I will echo Mr. Vigliotti's words. We have an ideal situation of a number of restaurants along a small strip, which is a very inviting look in the village. I enjoy it very much, but if it's going to be a traffic and delivery problem it's not going to work well. It is something we should sink our teeth into from a planning standpoint.

Whitney Singleton: Those issues have already been relayed to the village manager. He is aware of them, and he did acknowledge receipt of it and that those issues needed to be addressed.

Ralph Vigliotti: We sent a letter to the village manager. We are moving on this with an understanding that the village may promulgate removing one parking space to accommodate delivery and pick up. Our recommendation is that the village does that. I would like to find out what the status is on that. We also talked about signs indicating where folks can park, as Mr. Bernstein mentioned. There is not enough signage for that. If the village addresses those two items, that will help that South Moger Avenue and Main Street corridor. It will help this application move forward. I would like to get a memo back indicating what they are considering. Additionally, Mr. Bernstein mentioned the lighting on South Moger Avenue. It is very dark there. If we are inviting people into our village because we have additional restaurants, we have to make it safe and well lit. We have plenty of parking on North Moger, and many people don't even know it exists.

Vice Chairman Sturniolo: The point that Mr. Bernstein brought up about the food and covered delivery how does that get conveyed to the building inspector?

Whitney Singleton: I am putting it in as a condition to the resolution. As the chairman requested, these will all be conditions of final Certificates of Occupancy. The building inspector shall confirm with the Board of Health that if the existing practices are in compliance with the regulations as far as food delivery.

Doug Hertz: The resolution states, "Since no approved site plan exists, the submitted site plan has been presented for Planning Board approval," and we are also referencing it in site drawings as A 1. Can we approve a resolution before we approve the site plan? What is the process?

Whitney Singleton: By approving the resolution, you are authorizing the Planning Board Chairman to sign the site plan as approved.

Doug Hertz: So the resolution includes accepting the site plan as the approved site plan of record with the conditions, and we are comfortable that this accurately represents the conditions on the site? Has this been verified?

Whitney Singleton: I have not done a field survey, but the back-and-forth between your Board and the owner/applicant's architect seem to confirm that the work in the field is consistent with the record. She went through all the records in the Building Department and resurrected this from a 100 year-old building to the best of his ability. It has been reviewed by the Building Department and inspected.

**[Over talk]**

Vice Chairman Sturniolo: This is predicated on what is before us and the verbal changes that we recently made to it.

**Motion to Approve the Resolution for Site Plan  
29 East Main Street  
Application Number PB2012-17**

**Motion: Vice Chairman Sturniolo**

**Second: Ralph Vigliotti**

**Aye: Enrico Mareschi**

**Aye: Stanley Bernstein**

**Aye: Doug Hertz**

**Aye: Chairman Cosentino**

*At this point, Mr. James M. Palmer, Village Manager joined the session.*

Whitney Singleton: The Board had relayed through me to you the issues on North Moger as far as the lighting and the potential of what might be done on East Main Street relative to that area in front of Little Kabob Station as far as deliveries and perhaps enhanced signage to the North Moger lot. They want to make sure they are being conveyed to you, as they recognize it is outside of their purview.

James Palmer: Yes, most definitely. Thus far, recognizing some of the lighting issues and some additional lighting might already be at that location, since it can be somewhat darker. We are planning on putting some new lighting to make it more attractive in the North Moger lot. Since it happens to be one of our greater expenses, switching that over to LED lighting. This is something I am proposing to the Village Board. Again, some additional lighting into that alleyway heading up North Moger Avenue should already be in place. I will look into doing promulgation for some parking changes.

Whitney Singleton: Do you know what the provisions are for municipal pick up and non-municipal pick up for garbage right now?

James Palmer: It does have a time restriction. I believe it's 7.

Whitney Singleton: They will have to comply; whether it's a municipal pick up or private pick up. That is provided for already in the resolution.

## **Continuing Review**

**Maya Restaurant  
37 East Main Street  
PB2012-16-(SBL) 69.81-2-4**

**Present:**

**Theodore Strauss, Theodore Lawrence Strauss Associates,  
Architect for the project**

**Alex Gregorio, Owner, Maya Restaurant**

Anthony Oliveri: The comments we had made previously involved bringing the site plan up to code in terms of all the informational elements on the plan. Essentially the information is there, but as we looked at earlier, there are discrepancies in terms of the property line and the building line. We are going to need to get that resolved on the site plan before we go further. In particular, it shows alleyways heading out to North Moger, and I'm not sure it's quite configured that way. That will have to be verified.

Theodore Strauss: I believe we are compliant with the items mentioned in the memo.

Anthony Oliveri: We discussed that they are compliant, but there are a couple of discrepancies on the configuration of the corner building and how it relates to your building, which we identified earlier this evening. That will have to be corrected on the site plan.

Doug Hertz: We are currently seeing that the site plan of record for the building next door that we just accepted does not connect with your depiction. We are seeing that your building ends there (*indicating*) and you show a continuous alleyway that goes through.

Theodore Strauss: I will amend my drawing accordingly.

Anthony Oliveri: One issue is that the site plan is really not based on a current survey. You should look in the file and try to find a more recent survey that you can base your drawing on and the adjoining property as well so this is accurate. You should produce a historic survey, or if you need a new survey, to identify these things.

Theodore Strauss: Any other comments? I think you made a comment about the tabulation of the areas.

Anthony Oliveri: Yes, the square footage, and the use tabulation on the site plan. The other issues were the garbage pick up and delivery issues the Planning Board may want to get into.

Theodore Strauss: I think that was at least partially addressed at the previous application, which would apply here too. I thought you had an excellent suggestion.

Anthony Oliveri: I'm not sure the Planning Board really discussed the new layout of the restaurant.

Theodore Strauss: Either time limit on public parking or if the village is willing to devote one space to pick up and deliver. I thought that was an excellent suggestion. Did you want further discussion on that?

Ralph Vigliotti: In your earlier conceptual you were showing a full working bar in the new facility, and in the one you're showing us now there isn't a working bar.

Theodore Strauss: There is no new bar. We are leaving the existing bar where it is, and there will be no change.

Ralph Vigliotti: Because a number of us had some concerns with two working bars, for the record there will be no working bar in the new facility?

Theodore Strauss: Correct.

Chairman Cosentino: I would like to clarify something for the minutes. No new working bar. He has an existing bar. Is that working?

Ralph Vigliotti: This plan doesn't show any bar at all.

Chairman Cosentino: So you're taking out the bar?

Theodore Strauss: May I suggest from this point that we delete that old drawing from the record, so we will eliminate any confusion, because the new drawing shows both units, and the total seating and total layout for both.

Chairman Cosentino: So, he wants to eliminate the new bar but keep the old bar.

Theodore Strauss: That is correct.

Ralph Vigliotti: You have lots of tables and lots of chairs in this space. I know it's a large space. I want to make sure that the square footage matches the number of tables, and you don't have any more tables than the square footage will allow. I will bring that to *(the attention of the)* staff.

Anthony Oliveri: We will consult with the building inspector on that.

Theodore Strauss: We do have in excess of 20 square feet per chair, which is in excess of the code requirements.

Ralph Vigliotti: It looks close, but I want to make sure that whatever we approve in the final resolution is the number.

Chairman Cosentino: When the final resolution comes, it will be calculated.

Theodore Strauss: For the record, I want to note that we are going to have an entrance, not only through the dining room but also through the kitchen and have service in this new segment of the facility as well for food service.

Chairman Cosentino: On both sides?

Theodore Strauss: Correct.

Enrico Mareschi: Like tapas?

Theodore Strauss: Exactly, yes.

Chairman Cosentino: You are not eating in the kitchen?

Theodore Strauss: No. We are providing a steam table, which is on the plan. There is a connection not only through the dining room, but through the kitchen as well.

Chairman Cosentino: Now you're confusing me. People are not going to be walking through the kitchen?

Theodore Strauss: No. Only the staff will go through the kitchen.

Ralph Vigliotti: You changed your concept. Maybe you can share with us the new concept - what your vision is for this space now.

Alex Gregrio: [*paper rustling – unable to decipher*] ...to make tacos or burritos right there.

Enrico Mareschi: Right on that table?

Alex Gregrio: Yes.

Chairman Cosentino: It will be more of an eatery than a bar.

Alex Gregrio: Yes.

Chairman Cosentino: I do not want for you to spend more money, but when we were there on a site visit, weren't we going to make the (*façade of the*) buildings look the same?

Theodore Strauss: We did. We already went to the ARB and got our approval.

Vice Chairman Sturniolo: Was that after January 8?

Theodore Strauss: Yes.

Vice Chairman Sturniolo: January 8 was the last time you were in front of us, and we had discussed the idea of a commonality with the façade of the two locations. You are saying you went to the ARB, showing them the continuity of the space from one to the other?

Theodore Strauss: Yes.

Vice Chairman Sturniolo: Thank you.

Theodore Strauss: You had also mentioned on the site visit the fact that there was not a handicap toilet. We are providing a fully compliant handicap toilet. Between the two we will have two fully approvable handicap toilets.

Chairman Cosentino: Where do we go from here?



Anthony Oliveri: If I can just suggest that when the corrections are made to the site plan, submit a complete set for final approval so we have the elevation plan.

Theodore Strauss: I believe I submitted 13 complete sets with the elevation, with the last changes to the site plan.

Anthony Oliveri: The elevation plan was not included in that last set.

Theodore Strauss: I will make sure they are submitted completely.

Chairman Cosentino: You will be coming back for the next meeting. We will prepare a draft resolution for that meeting.

Theodore Strauss: We would appreciate that very much.

Anthony Oliveri: In the meantime, you should work with us.

Doug Hertz: The site plan is going to have to be fully compliant.

Chairman Cosentino: Everything is going to have to be fully compliant before we act on the draft.

Stanley Bernstein: May I make a suggestion? You have all these break lines, which is very confusing because they don't really orient the viewer to exactly what is there. You can see that it does not comply with what is there. Make a smaller scale drawing; get the entire building on the drawing including the walkway in the back. It doesn't conform. It's supposed to represent the site plan. If it doesn't agree with the site plan of the other tenant, something is wrong.

Theodore Strauss: I will make sure it is compliant. Is there anything we can do to expedite the issue of the parking and deliveries?

Chairman Cosentino: Mr. Palmer is going to have to take care of that. It's up to you to get all of that done.

**Formal 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**

Brian Hildenbrand: This submission is basically a supplement follow-up to our conceptual submission. We were asked to submit the formal application and start that process moving forward, but before that you were advised to compare the existing conditions versus the grandfathered proposed design, which is what we submitted for this meeting. I know a lot of the comments were pertaining to the incomplete submission and missing sheets, but I think a lot of those will be addressed once the entire package is submitted. Does

everyone have the tables we generated with the comparison? If you want to go through that we can. We can also go through Mr. Oliveri's comments.

Anthony Oliveri: Basically we noted comments from our conceptual review for the most part really have not been addressed with this submission. The site plan has to come up to site plan requirements for the code, as far as the elements on the site plan. We mentioned previously that a DEP permit is required for this and it has to be incorporated into the process. There are things that have been changed and submitted with this. There is a zoning compliance table that was added to the site plan. The dimensional items still don't comply, and the reasons for that. Also, of course there was a photometric plan that was submitted. I will let you go through that zoning table for the Board.

Brian Hildenbrand: This table outlines and compares the existing. The first column is the requirements of the village for the building compared to the existing conditions, which is the grandfathered setbacks, the required buffers. The parking requirements are approval, which had the 81 parking spaces on it. The entire lot was basically paved and then compared that to our proposal, which has 20 less parking spaces. The increase in green area, the larger drive aisles. I met whatever setbacks, not pertaining to the building, because there were no building changes to the footprint being proposed. Any existing, non-conforming items will remain as is. Any other landscape buffers and setbacks we've met. In the last column is the percentage of net change comparing our proposal to the existing conditions in what will change with our proposed condition? You can see there is a decrease in development coverage; it is decreased by 16 percent, but still is over the 80 percent threshold. We also have an increase in the green and pervious space throughout the site.

Doug Hertz: If I can make a few comments for the table. I think your color coding is close, but not 100 percent accurate. You are using green to denote compliance, red to denote non-compliance. If you go down to the seventh line side setback 10 feet, those should be listed as non-compliant, even though there is no net change. Those zeros, I would suspect would be in red instead of black. On front landscape buffer, I understand there is no change, but where you are showing existing grandfathered, it is still non-compliant, although you are not suggesting change to it. I would suggest you make the table consistent throughout its color-coding. My question to Whitney is, at the end of the day, this will call out variances that are going to be needed? You are defining development coverage; where they are certainly making it better by going from 98 percent down to 82 percent, but they are not yet in compliance with the code. What is our responsibility and what are our options as a Planning Board as opposed to a Zoning Board?

Whitney Singleton: For a situation where we have a pre-existing non-conformity or non-compliance; and here we have a non-compliance with dimensional requirements as opposed to use requirements. Nothing in our code requires them to make everything compliant, but they certainly can't make it any more non-compliant. So, we have asked them to demonstrate to us what is going on with the plan, what is required by the code, what is existing now, and what will be the net result. The marching orders that they were given was that they were

to delineate all these items for us, and no items of non-compliance are supposed to increase in the degree of non-compliance. Any items that are going to become less non-compliant or more compliant should be called out as such. I think that is exactly what they provided. Your Board obviously does not have the ability to grant your answers, so there will be no waiver of any rights associated with this application. In the future, remember, they are not tearing down a building and coming in with something new. They are simply changing certain components of their existing site. If they were to tear their building down and come in fresh, they would have no variances, they would need to comply with the underlying ----- . They are taking development coverage from 98 to 82, decreasing it by 16 percent. That is entirely permissible. Your Board may entertain that. They may not go back up to 98 percent in the future. They are doing that to provide you the landscaping buffer, the setbacks and everything else that you would normally want in a site plan application.

Doug Hertz: Thank you.

Whitney Singleton: As long as I sort of have the floor, I realize that the applicant is still in the process of finalizing their plans, but last Friday the building inspector, Planning Board chairman and myself had a meeting with regard to various applications, and it was noted that there was no provision for any sort of a retaining wall because you are going to be changing the grade against the building. That should be addressed as well.

Michael Russo: It can be addressed today by our architect.

Whitney Singleton: The Board is not going to want to hear it without a plan before them. I am just identifying the fact that it should probably be part of your next submission.

Doug Hertz: I would like to make a comment to the other part of the submission, which is the photometric plan or the site lighting plan. When this is finished, there should be cut sheets that show that these are full cut-off fixtures that are being used. Also, I want to call out something that doesn't make sense to me. You are specifying four different luminaires; three of which are at 4,000 kelvin and one of which is at 5,000 kelvin. My guess is hopefully that is a typo. If it's not, it's not going to fly. It is not something that we would ever recommend you do; certainly if you are putting in new fixtures you should keep them all the same color temperature. Otherwise, you are going to create a garish mistake. As well as the photo metrics, would like to see what those fixtures are.

Brian Hildenbrand: Those details will be included.

Doug Hertz: A preliminary look at the photo metrics seem like they are very close.

Vice Chairman Sturniolo: The higher the kelvin temperature, like 5,000 versus 4,000, the whiter, the bluer the light is, and that will show a very distinct contrast between the other fixtures at 4,000. A normal, incandescent light bulb is around 2,700. It's the warm orange glow versus higher color temperatures.

Doug Hertz: There is no one color that is recommended; it's just that they all be consistent.

Brian Hildenbrand: Understood.

*Calendar discussion followed.*

Brian Hildenbrand: The reason here is that we are looking for an okay on the parking layout before we move forward with the final lighting plan, drainage, grading and retaining walls.

Chairman Cosentino: I didn't think there was any problem with the parking, because it is existing.

Michael Russo: In order to design the drainage, we have to know that.

Doug Hertz: How does this building work in terms of deliveries? Are these turning radii going to make it?

Chairman Cosentino: Before we go any further, I'd like to correct something here. You are right, Tony, a memo was supposed to have been sent out to all the members saying that (*the calendar*) was voted on and approved, and that there are no more work sessions. Why she did not do it, I do not know.

Whitney Singleton: That is my fault. I apologize.

Chairman Cosentino: I apologize for her.

Doug Hertz: I missed a meeting, so maybe this was discussed at the last meeting. My question had to do with turning radii for delivery vehicles because there is a loading area.

Brian Hildenbrand: We show a truck turning movement throughout the site (*where delivery vehicles*) that pulls in and then is able to back perpendicular to that loading space.

Chairman Cosentino: That was discussed at the last meeting.

Doug Hertz: The fact that there was a crossover. You have traffic coming in on the right and then crossing over here (indicating), coming back around and crossing back over. What is the control for that? Is there signage?

Brian Hildenbrand: There would be striping and some type of signage.

Doug Hertz: I would recommend going forward to come up with a plan that you think would work for safety for whatever traffic indicators that you are going to put on.

Steven Giner: Are you referring specifically to where this crosses through?

Doug Hertz: Yes. We would normally come around this way. I'm sure there is a compelling reason for design purposes, but we have to make that crossover safe.

Stanley Bernstein: Are the spaces still nine feet instead of nine-six?

Michael Russo: Yes.

Stanley Bernstein: And you had long-term parking? That remains to be seen.

Ralph Vigliotti: Have you started your landscaping plans yet?

Brian Hildenbrand: We had a detailed schedule of screening, filling in the existing holes along this parking line, screening the dumpster, a hedge rope along this (indicating) property line and then ornamental trees to break up to the adjacent building.

Ralph Vigliotti: How are you going to screen the trash area?

Brian Hildenbrand: Typically some type of vinyl fence in conjunction with the landscape screening. It will be tucked in behind because the grade rises up.

*At this time, Mr. Vigliotti recommended and Chairman Cosentino agreed that the following comments by Nanette Bourne be incorporated into the minutes:*

- 1. The existing conditions are not apparent from the site plan material provided, so that it is difficult to determine what exists, what is being proposed, and what is being modified. An as-built site plan and/or existing survey of the property would make this review possible.*
- 2. The proposed landscaping plan (on the Overall Plan) is too general to substantively review. The landscaping plan should be revised to include greater detail, including types, sizes and location of proposed plantings and ground cover.*
- 3. If there are improvements proposed within the public right-of-way, including landscaping, these details must be shown.*
- 4. Details for a proposed dumpster and snow removal area must be shown.*
- 5. The site is within a NYCDEP Designated Main Street Area, so the ability to conform to NYCDEP's requirements must be provided.*
- 6. A short-form EAF, at a minimum, must accompany the site plan so that the Planning Board and conduct the appropriate SEQRA review.*
- 7. The applicant should provide specs for the sight lighting.*

Chairman Cosentino: Unfortunately, Ms. Bourne did not send somebody tonight. She was supposed to send somebody.

Brian Hildenbrand: I guess she did not have a chance to review the conceptual packet for our last submission because she was questioning why we only submitted one sheet. We submitted six sheets. There is a little mix-up. She asked for existing conditions and a survey, which Anthony noted on his first memo. We have the whole existing conditions sheet, which will be incorporated in this site plan package.

Chairman Cosentino: Since she is not here, it would be better to discuss it with her so she gets it first-hand. This would expedite things.

Michael Russo: Our planner was advised that we did not have to re-submit all of the drawings. Only if some of the drawings had changed would we have to submit all of the drawings the second time. Apparently Ms. Bourne didn't know it. She never reviewed the whole six.

Chairman Cosentino: I know she didn't. She wasn't prepared.

Anthony Oliveri: She wasn't here for the conceptual.

Chairman Cosentino: And she is not here again tonight. The applicant has questions and I don't have answers, and this is not good and not fair. To expedite things faster for you, call Ms. Bourne, get your answers and give her everything she wants. We will put you down for the next meeting.

Brian Hildenbrand: So at our next meeting we will have the whole site plan with the drainage, grading, retaining walls, etc.

Michael Russo: I want to be sure that we are able to design the drainage.

Doug Hertz: To be fair to them, they want to know that we have no general problem with the overall circulation plan.

Chairman Cosentino: Not at all. You're doing a great job. You are putting in a new road, new parking. You're making the building look nice. That's what we are looking for.

### **Conceptual Application**

#### **Diamond Properties**

- A. 295 North Bedford Road  
Site improvements, define parking, landscaping, and  
improve building and site access  
PB 2013-3 (SBL) 69.50-2-2**
  
- B. 666 Lexington Avenue  
Site improvements; reconfigure parking,  
landscaping, new curbing, sidewalks, outdoor  
seating area  
PB2013-4 (SBL) 80.72-4-2**

### **Formal Application**

**333 North Bedford Road  
Site Plan Approval  
Field House  
Create easement on south access corner  
PB2013-2 69.50-2-1**

**Present: Michael Gallin, AIA - Principal, Gallin & Beeler Design Studio**  
**James Diamond, Diamond Properties – Property Owner**

**Counsel: Michael Landler, Senior Associate, Fredrick P. Clark Associates, Inc.**

*Mr. Hertz is recused from the 333 North Bedford Road section of the application*

Michael Gallin: I'd actually like to talk about 295 and 333 in succession, because they are intimately related. I would like to start with 295, but 333 will be brought up as part of the conversation with 295. We presented the 333 application to the board a month and a half ago. At the time, we also presented the general concept of 295. The 333 application has now been resubmitted as a formal application. There is a bit of a blur between the two, so let me just walk you through both as a reminder. Obviously you are familiar with the 333 North Bedford Road site. 295 is the old Ice House Building here (indicating), the tall tower. The application is to re-configure the access to that site to provide legitimate parking to that site, legitimate access to that site. I would like to focus in on that plan that shows the bulk of that area. The reason why I think it's important to speak about both at the same time, it's because what we are proposing at 295 is an access aisle that comes off of the 333 property. Currently access is off of Ice House Road, and it skirts right along the western edge of the building and comes to sort of a loading, paved area in the back. There is no legitimate parking lot. The dog place used to be here (indicating) but has been re-located to here (indicating). Currently there is an access drive here that brings you to that back paved area. There is parking along Ice House Road. We would like to continue to improve the experience along Ice House Road by creating landscaping here (indicating), creating a bit of a buffer in front of this building, and relocate the access to the west through the 333 parking area, up a hill to a more legitimate parking lot in the back that serves this building. We are going to provide legitimate handicap parking spots, handicap ramps to enter the building and bring it up to code, and there is a new proposed staircase on that side of the building as well. We are showing maintaining three parking spaces along Ice House Road. Those spaces are in existence now, but for the most part we are cleaning up this whole area and creating landscaping.

Chairman Cosentino: What is it going to be?

Jim Diamond: This part of the building is currently Satellite Music. We are anticipating they will remain. The rest of the building is Diamond Properties. We use it for our maintenance and construction shop. For now, that is the plan, and there is nothing else in the plan right now. We just really want to improve both this site and just as importantly, 333. The objective here is to improve Ice House Road.

Chairman Cosentino: When you go out that access, isn't there a road going down towards the Saw Mill River Parkway?

Michael Gallin: Yes. This (indicating) is the main drive aisle of the 333 property.

Chairman Cosentino: Is that dog tail going to stick out into the road?

Michael Gallin: No. That existing road flows through here. That is the north/south access road that carries you all the way from the north end of the property down to the ball field. We don't encroach on that at all. This new drive aisle is lining up with the parking aisle on the opposite side of the street.

Chairman Cosentino: How many feet will you be away from the parking aisles?

Michael Gallin: This access drive aisle is 24 feet.

Chairman Cosentino: When you leave the new driveway, you have parking cars right across the driveway.

Michael Gallin: Correct. This main drive aisle is 28 or 30 feet wide.

Chairman Cosentino: It seems like more sense to come out someplace there than on the main road coming down.

Michael Gallin: That is our thought as well. We are trying to get the entrance to this off of this main Ice House Road and allow us to landscape Ice House Road. We have already landscaped the eastern portion of Ice House Road. This allows us to continue that landscape down the hill and into the property. A portion of this application, obviously this drive aisle, is on 333.

Chairman Cosentino: How many cars will you be able to park there?

Michael Gallin: We end up with six cars over here and an additional three over here by Ice House Road, and we have parking on the 333 side. For formal calculations, the 333 parking is allocated for 333.

Chairman Cosentino: Depending on what you are going to have here later on will predicate your parking at 333. You have to be very careful in what you do, because I think you are up to your limit on 333 now.

Jim Diamond: Yes. Right now this site has essentially zero parking spaces.

Michael Landler: They are over their limit now for 333. They will be losing three.

Chairman Cosentino: Predicated on the parking that you have there now, you have to be very careful what you put into that building.

Jim Diamond: From a zoning perspective, yes. From a practical perspective, if you go down to 333 at any time of the day any day of the week, we've got probably 200 or 300 extra parking spaces.

Chairman Cosentino: Yes, if you want to take a bus to the north side. I was there Saturday. The cars were parked from when you come down the main road, to the right a little bit, all the way down to the soccer field. You could not get a parking space. That's a fact.

Jim Diamond: We still have a tremendous of overflow parking.



Chairman Cosentino: I'm not saying you don't. Keep in mind, when you do come back, that is what we will be talking about.

Michael Gallin: At this point, we are not proposing changing the use of the existing building. We are simply proposing improving it.

Chairman Cosentino: That is an improvement.

Vice Chairman Sturniolo: I would like Mr. Oliveri to explain his February 4 memo regarding 295, briefly explain the verbiage on page one the fourth comment, 110-38 and 110-45 that you cited.

Anthony Oliveri: There is no site plan of record on file, so no building permits, Certificate of Occupancy, Change of Use type permit can be issued without a site plan on file. The point of this comment is that this will serve as the site plan of record. All the elements required for site plan per the code needs to be all on here.

Vice Chairman Sturniolo: When you say no Certificate of Occupancies can be issued until the site plan, does that also include a TCO (*Temporary Certificate of Occupancy*) in the same category as a Certificate of Occupancy?

Whitney Singleton: There is currently Certificate of Occupancies for the building.

Vice Chairman Sturniolo: I'm saying the code, not the applicant.

Whitney Singleton: The code provides a temporary Certificate of Occupancy can be issued for uses not to exceed a period of 90 days.

Vice Chairman Sturniolo: Regardless of whether there is a site plan on record or not?

Whitney Singleton: It's hard to speak in the abstract, Tony.

Vice Chairman Sturniolo: I think you know where I'm going with this.

Whitney Singleton: A building that pre-dates zoning may not necessarily have a site plan, and the village code requires when you either seek a Change of Use Permit by changing the intensity or the nature of the use, or you wish to alter your site, you are going to trigger a requirement that your site have a site plan. So, even though an existing use may be at the site, if you're going to change the use and change the site plan, you are going to be required to get a new site plan. If there is a use that it is changed to, it is required to have a new site plan and it is possible in certain situations to be issued a TCO pending the securing of that site plan approval, but it cannot exceed a period of 90-days.

Vice Chairman Sturniolo: Thank you.

Michael Landler: Development coverage for this is already at 100 percent, maximum for this district is 80 percent, but as was proposed (they are) actually reducing the development coverage from 100 down to 90.8, which actually improves the existing non-compliance for this property. Also, non-complying are the front and side yard setbacks; however, those setbacks are not proposing to be reduced any further.

The existing building coverage already exceeds the maximum permitted for this district of 30 percent, but that is also not being increased in anyway. Also, personal service establishments are permitted on lots of 20,000 feet or greater. The subject property is 15,000 square feet in size, so it's not conforming. Also, they mention the continued usage as storage, which is a non-conforming use for the CL district as well. We request that full-scale plans be submitted along with the EAF. I would also like to bring to your attention that the three parking spaces on Ice House Road still back out into Ice House Road.

Stanley Bernstein: Three parking spaces backing out into a main egress will cause a problem.

Jim Diamond: The issue is that we have a tenant on that side of the building. If we eliminated those parking spaces, they have literally no parking spaces.

Stanley Bernstein: Backing out into a main ingress/egress road is not a good situation. It happens all over the village, I'm aware of that, but it is something to be concerned with.

Michael Gallin: The good thing is that there is very good visibility there. There are only three spaces and there is nothing to obscure the view. You can easily see cars coming down the hill from either direction.

Chairman Cosentino: You will only have three marked spots.

Michael Gallin: Yes, and it will be organized. Right now it's really haphazard.

Jim Diamond: We have actually also improved the visibility to some extent, though I don't think it was a big issue before. When Canine Kindergarten was there before, they had the enclosed outdoor fence area. When they moved out we removed that fence and opened it back up.

Michael Gallin: Moving on to the other items, at 333 there are two other aspects of the current application. The second item after the improvements that were associated with the 295 improvements that we are proposing at 333, are improvements associated with the municipal soccer field. It was always discussed as part of this application that Diamond Properties would construct restroom facilities for the soccer field. Diamond Properties has conceived of these as being an amenity that is above and beyond just providing the bathrooms. They are proposing a building at this location that includes two bathrooms, a storage room, and then also some terraced landscape features that will allow people to sit on the hill and observe the soccer fields so that the building becomes more sculptural as opposed to just putting an erectile linear building at that location. The proposed building, the site plan of which is blown up here (indicating) and what is happening underneath is shown here. It is accessed from the northern side of the building. There are two bathrooms, a men's and a women's facility, a small janitor's closet with a built in sink, there are two vending machines that will be incorporated into the structure that will be open to the elements, and then there is a storage room associated with it as well. This building is being built so that it is

open to the north, but to the south it is actually set into the hill into a series of terraced grass features, such that people can walk up onto these features and sit and watch the ball game.

Chairman Cosentino: Where do the bleachers go?

Michael Gallin: No bleachers, per se, just more of a grassy knoll than bleachers.

Chairman Cosentino: And the fence?

Michael Gallin: There is no fence.

Jim Diamond: The damaged fence along the field will be replaced.

Michael Gallin: There is a fence along the eastern edge of the property, which will be replaced.

Ralph Vigliotti: How much space will there be from the last tier to the roof?

Michael Gallin: Each of the tiers is 30 inches or less.

Ralph Vigliotti: When you get to the top tier, how many feet will that be until you get to the roof of the facility?

Michael Gallin: We are designing the roof of the facility with a terrace up there, so from the last grass level up to the very top is 30 inches. That top level then has a 42 in tall parapet around it as a guardrail. After reading through the comments, we are going to add an actual low pipe rail right on top of this to discourage people from trying to sit up there. This will add another level which will bring the total to four feet, and will also make sure that there is no flat surface where people would want to sit or walk, which will add a level of safety.

Chairman Cosentino: Are you working with recreation on this?

Jim Diamond: They were given a copy of the plans, and we have a copy of their comments here, which we will make sure we will incorporate into the plans.

Michael Gallin: Most of their comments were related to durability and ease of maintenance. The final aspect of the 333 application is regarding what has been dubbed "Easement One," which is southernmost easement that the property holds. From the original planning, we have always shown the ability to provide access to the southern portion of the parking lot from Easement One with the anticipation that at some point in the future it would be good to open up that easement to give another option for ingress and egress out of the site. The main exit in the ingress and egress points will continue to be to Ice House Road and the northern entrance point, but the idea here is that by providing another access point, this will allow a few cars to exit out of Easement One onto Bedford Road and will help alleviate any congestion that might be occurring on Ice House Road. The proposal is to provide curbing along the western portion of this easement and a little bit of landscaped area on there to start defining Easement One, so that over time we can start creating a much nicer experience along Easement One. There is a limit to the type of

improvements we can do on the eastern portion of Easement One because the existing buildings there are actually encroaching into the property. They have access doors and the like around that area so we are not proposing any significant modifications on the eastern portion. We are very interested in hearing the opinions of the Board.

Chairman Cosentino: I think it's going to be touch and go on the ingress and egress on that road.

Jim Diamond: My perspective on this is that if everyone goes back seven or eight years to Ice House Road, when we first changed that road remember there was parking on both sides of the road and it was essentially treated as a parking lot. We found by starting to define it as a road and treat it like a road and talk to the adjacent property owners that it was going to be a road, not a parking lot, everyone actually respected that, and we never had an issue with any adjacent property owners with abusing their right to that area. This is very similar.

Chairman Cosentino: It's not similar.

Jim Diamond: I think it is.

Chairman Cosentino: You have a light over there; you are not going to have a light here. You have 300 or 400 cars parked to go to the Saw Mill. Which exit do you think they are going to use? They will use this exit without a light.

Jim Diamond: A substantial number of people will use it for right-hand turns out, which I think is not difficult.

Chairman Cosentino: There will probably be no left turn there. We need to talk about this. This is a conceptual, and we have no problems with anything else. This is more in depth. I'm not going to say that we love it right now, and we need to talk about it.

Jim Diamond: This part of the application is actually a formal submission right now.

Michael Gallin: It is, technically.

Whitney Singleton: Things are a little awkward right now with a medical leave in the building department, but we do need to make sure that whether they are conceptual or formal applications that there is building department review for zoning compliance for each of these applications. Anything per se along with this one, for both 295, 333 and 666, that is a measure that will need to be undertaken and your Board, as far as I can tell does not have the benefit of that other than comments that have been made by Anthony and Michael's firm. Ultimately that needs to come from the Building Department.

Vice Chairman Sturniolo: I am addressing this to my fellow Board members. Two of the advantages of utilizing Easement One – one, we just heard what Jim described Ice House Road was cleaned up and that is the intent of cleaning up the mess that is one Easement One. Secondly, there has always been a long range village goal to have a parallel access road running through the property into Bedford to bypass Route 117, and that is the key starting point for it. I think in

addition to benefitting Diamond Properties, and in addition to benefitting the soccer field, which is a facility that Mount Kisco is going to enjoy greatly at almost zero expense, that Easement One makes a hell of a lot of sense for those three reasons. To have it in place, cleaned up and dressed up so it looks like Ice House Road, and it continues the long-range goal of a parallel road to 117. This is my observation on looking at the plans and reading our notes and comments from our planners.

Jim Diamond: Also, one of the key points is that there is no new traffic that is getting generated by the site as part of this proposal. All of the vehicles that are currently leaving 333 North Bedford Road will still be leaving 333 North Bedford Road. John Collins' last traffic study at 90 percent occupancy showed that two-thirds of the people leaving our site are actually taking a right, not a left, and heading south. Right now we have a traffic light at Ice House Road that only allows somewhere between three and five cars per cycle to get out of the site, depending upon how quickly people react when it turns green. With two-thirds of those people turning right, oftentimes there will be one car waiting to turn left with three or four cars behind it waiting to turn right. For the most part, we do not have a problem, but there are certain peak times, like when Saw Mill Club exits, where this would be tremendously helpful.

Chairman Cosentino: Maybe you're right, but at first glance, I cannot commit myself.

Michael Gallin: One thing of important note is that we are not proposing any new signage at that entrance. We are not going to purposely encourage people from entering. This is going to be something that frequent users of the site will learn to know about but certainly we will not try to put signage at that location advertising Saw Mill River Club, or any of the other facilities.

Ralph Vigliotti: We keep calling this an easement. I happen to agree that this will help to move traffic out of the site a little smoother, making the right-hand lane turn. Using the site, I think it can work. My concern is that it be treated as a road and meet all of the standards of the village and DOT as a road, not as a driveway, and that we take a very close look at that. That may be unrealistic in some terms, but we need to look at this. We keep calling it an easement. I'd like to call it a road, because that is really what it is. I don't want it to be a confusing road with cars parked on both sides of it to frequent both of these establishments when they really have plenty of parking in the back. We need to address the curbing. Are we using the curbing to keep all cars off of the road or just some? How is the curbing being used? I know there is an entrance area for moving cars into those facilities. I don't know how they are being used now. We are caught in a Catch 22 here. You are trying to create a road, but at the same time you have driveways going into the buildings, and that might work. We need to look at this as a real road.

Jim Diamond: Absolutely. We definitely don't want cars parked on the road, and I think that if we build this it will become aesthetically a much nicer part of the village. We call it Easement One just because there were four easements. We actually own that land. That land is part of 333, and those adjacent property owners have an easement to use it for ingress and egress only, not for parking. We are adding

curbing at the western portion of the road in order to define it as a road so that it really is not possible for anyone to park there.

Chairman Cosentino: This makes a difference to me. Am I hearing, as you go down that road, both sides are going to be cleaned up?

Jim Diamond: Yes. That is the idea. Same exact thing as Ice House Road where it used to be cars parked on both sides of the road, that all disappears.

Chairman Cosentino: I'm talking about the land on the bottom you just said you own. You're going to clean that up?

Jim Diamond: The drive aisle. We don't own this land to the south and to the north. We own the drive aisle. We own 50 feet across, all the way down. There will be no parking on there. Here (indicating) we are adding curbing with the intent to keep people from parking there. We obviously cannot add parking without curbing here because these buildings have use of the road, but it's very similar to Ice House Road again where the back of the old Nissan building there is a service area where a roll-up door is. Cars pull into the road. The Simone Building, the Clement Building – all those buildings still had roll-up doors where people access the road from there.

Chairman Cosentino: Will you be putting trees going down someplace?

Jim Diamond: Landscaping on the western side of the road.

Chairman Cosentino: On both sides of the curbing all the way down?

Jim Diamond: Passed the buildings, yes.

Michael Gallin: To be clear, it's only the western half that we are able to provide the landscaping.

Chairman Cosentino: I'm talking about both sides.

Michael Gallin: Yes.

Ralph Vigliotti: You keep saying west – are you saying south and north really?

Michael Gallin: The western half of the easement. It's on the north and south side of the road.

Anthony Oliveri: There is no curbing proposed at the area between the buildings.

Ralph Vigliotti: There is no curbing proposed between the buildings. Are we eliminating parking?

Jim Diamond: Yes.

Ralph Vigliotti: There will be no parking between the two buildings. Why can't there be some curbing where there isn't an entrance to the building to further delineate it as a road? Meaning, if there is a dock in which you need to back a truck up, obviously that would not be curbed. If folks wanted to walk into the front door, there would be a

space to walk between the curb. I think there should be some curbing up there to delineate that.

Chairman Cosentino: I bet those buildings are probably encroaching on that 50-foot front now.

Michael Gallin: They are encroaching.

Ralph Vigliotti: I think you need some curbing to prevent people from parking, because they will.

Michael Gallin: We can do that. There was a discussion about whether the previously approved site plans for those sites were trying to utilize those parking spaces.

Ralph Vigliotti: You know there will be a tractor-trailer that will be parking in that roadway blocking 6, 8, 12, 15 inches while they are delivering if there is no curb. Otherwise, they will do the right thing, come down and back in.

Vice Chairman Sturniolo: They deliver the cars on 117.

Jim Diamond: We are not sure if that's the worse thing in the world in the overall scheme for Mount Kisco. Right now it's not really feasible for those truck carriers.

Ralph Vigliotti: I wouldn't go there, Jim.

Jim Diamond: But it's better there than on 117 is all I'm saying.

Chairman Cosentino: I'd like to see something in landscaping. If you're going to dress that up all the way from top to bottom, I see something different.

Jim Diamond: That is what we are trying to do. There is a lot of similarity what we are doing here at 295 and what we are trying to do here with Easement One or the new road – continue to improve the surrounding area; expand the improvements out.

Chairman Cosentino: I would like to see landscaping because now you're making it a road and not just an easement.

Anthony Oliveri: As a suggestion, in the area between the buildings, I don't know if it would make sense to do something with striping maybe to define a drive aisle. There is a wall that does stick out into the easement and a few fences that stick out. I'm not sure if there is anything planned with those, but maybe something to define a drive aisle.

Jim Diamond: Yellow striping worked very effectively on Ice House Road when we painted both sides of the curbing yellow. That had a big impact.

Vice Chairman Sturniolo: And the village promulgated no parking, meaning the police could give a ticket if anybody is in those areas on Ice House Road.

Chairman Cosentino: That could make a nice road, meaning not an easement.

Michael Gallin: Why don't we take a little more look into what we can do on the eastern portion in terms of curbing and striping and we will put the actual landscaping on the plan to give you a real sense of the scale and number of trees and meet again.

Michael Landler: Is there anything you can do about the side retaining walls, the terrace?

Michael Gallin: We spoke about that a little bit. We are talking about adding a rail on top of those to make them another six inches taller and also discourage people from sitting on top of them. We will add that into the application as well.

### **666 Lexington Avenue**

Michael Gallin: Even though the numbers sound like they are doubled, this application has nothing to do with the previous ones. This is the first time anyone here will be seeing this application. 666 Lexington Avenue is where Mrs. Green's is, and there is a medical office building. There is the newly renovated Dunkin' Donuts, and across the street is Ben & Jerry's and that other development. In general, this application is an attempt more to what Diamond Properties has accomplished at 333 to upgrade the building in terms of its functioning and aesthetics in terms of the parking lot. This (indicating) is the existing site plan. A lot of the parking spaces are small and tight. The drive aisles are relatively tight, and anyone who has been there and parked at the site can attest to the fact that it is not the most user-friendly in terms of maneuvering vehicles. There is an existing quasi landscaped buffer/island that separates the parking spot on either side. That prevents people from driving through. It eliminates some flexibility in terms of snow plowing and other things. There is a series of parallel parking spaces along the face of the building here (indicating) and this drive aisle doesn't maintain a consistent width. It comes fairly consistently through here, and then it gets widened up because these spaces are not parallel to the arc of the spaces to match Lexington. There is some kind of landscaping here, but it's really not particularly nice right now. This whole back area here (indicating) is not nice and not well-finished. The proposal is to keep the same number of parking spaces but reconfigure them in a way that is more functional and provides clearer circulation. We are actually reconfiguring the parking spaces so that this whole edge along the building follows the same arc as the street, as opposed to right now where it is sort of arced and then steps back. By providing the same arc here, here and here (indicating) it allows us to create uniform drive aisles throughout the parking lot. In doing that we are creating perpendicular parking spaces along the building here, which we think, is going to be much easier to access and maneuver around than those parallel spaces. Most importantly, it allows us to get all the spaces to be more uniform in size and code compliant in that regard. We created a sidewalk along the entire length of the arc that is immediately adjacent to the parking spaces. We are also reconfiguring this area at the end to allow these parking spaces to extend past this end of the building and create a little bit more of a service port here as opposed to the way it's just open up to the more public parking area in the front. We are adding landscaping here. We are configuring these landscape islands



and eliminating the islands in the middle. The net is a very slight reduction in terms of the amount of green area, but its pretty close. We are creating a terraced area here in front of Mrs. Green's to allow them to put some outdoor tables there, which is something that they have requested, creating a more formal planting area at this location. There will be new site lighting across the lot. Like I said, all of these sidewalks are new and will be handicap accessible with curb cuts and the like.

Chairman Cosentino: We need to see a landscaping plan on this, and the other ones.

Michael Gallin: Of course.

Vice Chairman Sturniolo: Will the people that work in the medical office building also have the capability of utilizing the outdoor seating?

Michael Gallin: Yes, the anticipation is that it will be opened to them. It's not going to be secured in any way. It will be for anyone who is on the site.

Stanley Bernstein: In the upper left hand corner, which would be southwest, isn't there a big electrical unit?

Michael Gallin: Its right here, we are keeping that. We will screen it a little by creating some landscaping.

Stanley Bernstein: I thought it was more to the east.

Michael Gallin: We are keeping the drive aisle through there and keeping the bollards around. We are providing a little landscaping around it so it will screen a little.

Stanley Bernstein: That area is not strictly outdoor dining there for Mrs. Green's because they don't have enough tables inside. This is just an area for anyone who wants to sit.

Michael Gallin: Yes. It's an amenity to the site.

Stanley Bernstein: There is no service?

Michael Gallin: No.

Chairman Cosentino: Next, you need to come back with a landscaping plan. We will put you on the agenda when you're ready.

Ralph Vigliotti: I will have lots of questions when you come back formally. I will ask about parking, reduction of the existing landscaping by three or four percent, and questions on the size of the new parking spaces. Also, I think it would benefit the Board if we had an overlay of the existing placed on top. Generally speaking, I certainly understand what you're trying to do. But at the same time, I do recall three and four years ago when there was plenty of parking for that facility when it was medical/office. It has outgrown its use from office to fully medical, and that is why there is a parking issue. There will be a parking issue long after you make the improvements that you are proposing. A general comment is, as you upgrade your leases and bring on new tenants that they be less intense in use, that

it be more of a mixed use rather than fully medical. I live two streets away. Mrs. Green's has become much more popular over the years and they are taking up much more parking than they did at one point. I am concerned to see what the Lexington Avenue Executive Center was. It had a nice look at one point, a very nice landscaped executive look that was let go, and it's the worst I've ever seen it. While this is an improvement, the aisles that you want to eliminate to create the parking helped to create that look, and I'm concerned about that. You need to do something with the relocation of your trash area. There is no reason to have a trash area on and abutting the sidewalk. What is there now doesn't even work. You want to move it closer to the sidewalk. It is unkempt as it is. It's broken down. The place needs to be cared for. It needs a full-time person there. The last two years, I don't know when it was purchased, but nothing has been done.

Jim Diamond: We probably bought the building in 2008 or 2009. One of the reasons parking wasn't that much of an issue before because the building was 40 percent empty. Under previous ownership, they had problems with roof leaks, the bathrooms were very old, and mechanical systems were falling apart. The first thing we did was put a new roof on the building, upgrade part of the façade, reduce windows, put in new heating and cooling systems, etc., with the expectation that once we stabilized the building and got it back to almost full, we would then do the exterior of the building. That is where we are today. We recognize the exterior is not where we'd like it to be, and this is our chance to make it better. One of the challenges is that it is not a big site. The garbage area there is really for Mrs. Green's and needs to be in close proximity to them.

Ralph Vigliotti: I understand that. I just don't think it's a good spot. Try to remember it is one of the major entrances to the village. That is pretty well-defined. The properties that are adjacent to it are very well landscaped. The bank and the Cohen's property and even the Dunkin Donut property are nicely landscaped. Unfortunately, we are going to see more asphalt here and less landscaping. We really need to be concerned about how we are going to address this.

Chairman Cosentino: You should try to do something with that vestibule. We have no jurisdiction on that, but some furniture and plants would really look nice there.

Jim Diamond: That's a good idea. Thank you and goodnight.

### **Special Discussion:**

**Letter from Whitney Singleton to Nancy Placona, Planning Board Secretary, and Anthony Oliveri, P.E., dated February 22, 2013 re 16 East Hyatt Avenue, owner Antonina Demaio re Zoning Board of Appeals Application ZBA13-2.**

**Present: Antonina Demaio, Owner of the property  
Frank Demaio, brother to the owner of the property**

Whitney Singleton: The applicant has submitted an application for a building permit. The building permit was issued. It was for a two-family house located at 16 East Hyatt, and it is a replacement of a prior smaller home that was there. It is a two-family home and the building permit was issued based upon the representations of the

applicant. It was subsequently discovered by the building inspector that the representations and the drawings were inaccurate, and a Stop Work Order was issued for the site. The Stop Work Order was issued because the application turned out to be non-compliant in three respects. The building coverage is fine. The development coverage exceeded the maximum amount allowed under the Village Code:RT6 zone by approximately eight or nine percent. The maximum development coverage for the RT6 zone is 50 percent, and it is at 58 point something percent.

Antonina Demaio: That was after the issue with the Deed, because the Deed says that the property is 100 by 70, but then when we tried to close the property after the foundation survey, we found out that the Deed was not correct, and the lot was actually slightly smaller, making the maximum development coverage slightly larger.

Whitney Singleton: Either way, it's not compliant of the code. Also, the location of parking spaces is prohibited under the code in that there is one space provided in the vicinity of the rear property line when the code does not allow any parking spaces to be situated within ten feet of the rear of the property line. This is an uncreated buffer (sic) for the adjoined properties, and there is also not to be any required parking spaces in any required side yard or front yard of the house. The two of the four parking spaces are proposed along the easterly lot line within a foot of what the exact number is, and therefore, the application to the Zoning Board is for relief from an additional eight percent of maximum development coverage, a waiver of the setback requirements for the required parking spaces from the side yard, and a waiver of the location of the parking spaces from the rear yard. The Zoning Board felt that in reviewing these items, there are certain aspects of the application that required a certain technical aspects that were more suitable for your Board and village engineer than they were for the Zoning Board, and before they render a determination on the applicant's request for variances, they would like your input and Anthony's input as Village Engineer as to the suitability of the plan, turning radii, etc.

Vice Chairman Sturniolo: Why were we not provided copies of these so we could come here briefed?

Whitney Singleton: As you see in my letter, I reference that these plans could be provided through the Building Department, copy of the denial letter, copy of the plans, and copy of the application. For whatever reason, they were not provided, and rather than adjourn this for a full meeting for another two weeks and start fresh at that point in time, the Planning Board chairman asked me to make sure that copies were obtained. I got copies as soon as I realized that this was not in your packet. This is the fastest I could get them in for you. I also have copies of the denial letters.

Chairman Cosentino: I don't understand something. If these are the parking spaces and this is the egress and ingress, do you just pull in the parking space?

Antonina Demaio: Yes, if you would come in this way (indicating) you would come into these spots.

Chairman Cosentino: How do you turn around?

Antonina Demaio: For these spots, (indicating) you turn around here. You back into here. Then for this one there is a turn-around here and you back out that way.

Ralph Vigliotti: That turn-around won't work.

Chairman Cosentino: You don't have the room for that.

Ralph Vigliotti: The two cars in the back of the building won't work that way. Mr. Chairman, with the two parallel spots, one will work, but if there is a car in that spot, it won't work. If a car is in one of the spots, the second car will have gray area (sic).

Anthony Oliveri: We would have to see some turning radius diagrams here to demonstrate how that is going to work.

Chairman Cosentino: It appears to me that the house is too big for the lot.

Vice Chairman Sturniolo: Is there a snow storage area?

Antonina Demaio: Right here.

Ralph Vigliotti: How big is that area?

Antonina Demaio: Looks like it's 8 by 8 1/2 .

Ralph Vigliotti: That is not going to do very much.

Whitney Singleton: Sorry to interrupt, but I was able to pull out the denial letters that serve as a predicate for the application to the Zoning Board. Instead of me rounding off, I will tell you exactly what it is. "According to the building inspector," and the applicant may be right. It may have changed depending upon the subsequent calculation of the total square footage of the lot. "Maximum development coverage for the zone is 50 percent, and the proposed coverage is 58.1 percent. The side yard setback for parking is supposed to be eight feet, and she is proposing at the nearest point, .41 feet. The rear yard is supposed to be 10 feet, and she is proposing two feet one inch. So there is an eight-foot variance in the back, an eight-foot variance on the side and an 80 percent development coverage inside.

Chairman Cosentino: So this house is put sideways?

Antonina Demaio: Yes.

Chairman Cosentino: Any reason for that?

Antonina Demaio: The way the architect put it on the property.

Ralph Vigliotti: Who was the architect for this?

Antonina Demaio: The original architect was Ted Strauss. I don't have him as an architect now.

Vice Chairman Sturniolo: Did you sign off on that verbally?

Antonina Demaio: For me it didn't really matter that the house was sideways.

Vice Chairman Sturniolo: Are you going to live in the house?

Antonina Demaio: I am.

Vice Chairman Sturniolo: Where do you currently live?

Antonina Demaio: Right now I'm technically homeless. I live with my parents.

Ralph Vigliotti: There is a full basement.

Antonina Demaio: There is a wall that separates the basement because it's two units.

Ralph Vigliotti: What are you proposing to use the basement for?

Antonina Demaio: There is a laundry facility there. I am actually going to throw my treadmill and my gym in my basement. I don't know what the tenant will use it for.

Ralph Vigliotti: The basement will not be occupied except for a laundry area?

Antonina Demaio: Yes. Laundry and boiler. The normal stuff that is in a basement.

Ralph Vigliotti: I usually do this, and I'm going to do it again. For the record, you are saying that the basement will not be occupied in any way except by the tenants for laundry use, storage and in your case, a small gym of some sort.

Antonina Demaio: That's correct.

Ralph Vigliotti: I want to make sure that is on the record.

Vice Chairman Sturniolo: As a follow-up to Mr. Vigliotti's question, what is the ceiling height in the basement?

Antonina Demaio: It's nine feet, and the rest of the house is eight feet and then whatever the roof is.

Vice Chairman Sturniolo: What is the reasoning for the nine feet?

Antonina Demaio: Only because of the air circulation because I knew I wanted to put my gym down there, so I wanted to make sure I could circulate the air enough. You don't have the benefit of the plans, but the majority of the basement is underground. So, you see the height above ground. The house is pitched like this (indicating), coming down to the street.

Vice Chairman Sturniolo: Are you planning on having any type of hi-tor injector pumps in the basement?

Antonina Demaio: There are sump pumps already in the basement for the washing machine.

Chairman Cosentino: So they are not underground pumps, they are above-ground pumps.

Frank Demaio: They are above ground.

Chairman Cosentino: I would like to prepare for an inspection here. How is it for this Saturday?

*At this point, the Board and the Demaio's agreed on a site visit for Saturday, March 16.*

Chairman Cosentino: The house is not in compliance. The parking is not in compliance.

Antonina Demaio: Why isn't the house in compliance?

Chairman Cosentino: As the attorney just explained, and didn't you get a letter?

Antonina Demaio: The building coverage for the house is fine. It's the maximum development coverage for the driveway.

Whitney Singleton: I think it's safe to say the site is not in compliance because the building doesn't have the supporting parking in a compliant fashion.

Vice Chairman Sturniolo: If the house were made a single-family home, what issues would be eliminated for the property owner?

Whitney Singleton: It would obviously be easier.

Antonina Demaio: That would create a significant hardship for me, because the only way I can actually afford the house is with the rental income.

Whitney Singleton: I know that is something the ZBA discussed. When the Zoning Board entertains an application, they evaluate five factors in determining the benefit to the applicant versus the detriment to the character. One of the charges of any Zoning Board in the State of New York is to see if applicants or property owner's objectives can be achieved without the necessity of a variance. That is always your goal to get zoning compliance. To see if you can develop this site in a fashion which is compliant with zoning? If a variance is granted, the Zoning Board is further charged with the responsibility of granting the minimum variance necessary to achieve the applicant's goals. In reviewing this application, the Zoning Board has a couple of things. How can we go about this? You can make it a single-family home, is that viable at this point in time? I'm not answering that question that is for them to decide and you to make recommendations. There is also discussion about the possibility of putting parking in the basement and whether or not the ceiling height was sufficient to accommodate that, or was there engineering issues – again, I'm not going to address that. I'm not the engineer; I'm not the Planning Board. These are just things that came up. The applicant's architect raised the issue of if you do come in the basement for parking, how do you get out?

There are a number of different issues, and the Planning Board would appreciate as you roll up your sleeves and get familiar with the constraints of this site and the constraints of the existing condition, what is an appropriate resolution for this house? Now, I will make sure you have available copies of correspondence from the building inspector with regard to the extent of the variance and the denial letters. There is a survey of the existing conditions for your site visit.

Chairman Cosentino: There is one problem here. How is this Board going to recommend giving her a variance?

Whitney Singleton: I don't think the Zoning Board is asking you for a recommendation as to whether or not they should grant a variance. That is not what they are asking you. They are asking you, given the constraints of the site, given the opportunities of the site, given the different options that are available for this property, for the permitted uses and everything else, what recommendations does your Board have? Your Board's recommendation may be, make it a single family home. That solves all the problems. Not suggesting that should be your recommendation. Your Board may make a recommendation that this doesn't really present much of an issue, the turning radius is fine, there is no site distance issues, I don't know. It's not my job. I'm simply relaying to you the issues that were referred to you by the Zoning Board. The Zoning Board as you recall, recently did this on another matter and it's not unusual for them to seek your and Anthony's input on issues that are somewhat beyond their purview.

Chairman Cosentino: What is the size of the parking spaces there?

Antonina Demaio: Whatever it is to meet the code.

Whitney Singleton: These are 18.5 by 9 foot spaces. These are 20 by 8.5. I will have to look to see if they meet the code. There are different requirements for residential.

Anthony Oliveri: That is something that we are going to review.

Chairman Cosentino: Showing us something like this is ridiculous, because right now we'd say, make it a one-family house. That would be our recommendation.

Ralph Vigliotti: You have two choices. A one-family houses with two parking spaces under the building, because you cannot put the four parking spaces where you have them.

Antonina Demaio: I cannot afford that. If I had known when the original plan was submitted that it was not correct.

Ralph Vigliotti: You are at 58 percent coverage when it should be 52. There are a lot of issues here.

Antonina Demaio: I know.

Frank Demaio: I own the adjacent property at 24 East Hyatt. If I were to sell a piece of my property to her, would that solve any problems?

Chairman Cosentino: Then you would make yours illegal. He needs a lot of 2,650 square feet. If his house is that size, and he takes land from that, what does he do with his lot?

Whitney Singleton: That is one of the things that can be explored. If it makes his lot more non-conforming, then it does not solve the problem. If he has an oversized lot and an undersized house, it's a possibility.

Chairman Cosentino: Do you know the size of your lot?

Frank Demaio: I do not. But it is something we are considering.

Antonina Demaio: It's 100 by 89. The 100 is here. If you take away this (indicating) then this lot becomes 90 by 89, and then it's not a conforming lot under the zoning rules. What if he gave me an easement to use and change his lot size but allow me to use 10 feet on this side? Then, the only thing that I would need a variance for is this (indicating).

Doug Hertz: An easement doesn't change the building coverage.

Antonina Demaio: With an easement here (indicating) would I still have a setback issue here?

Whitney Singleton: Yes. The setbacks run from property lines, not easement lines.

Ralph Vigliotti: So it would have to be an outright purchase if there is enough land.

Whitney Singleton: It would not have to be an outright purchase; it would have to be a subdivision of his land.

Vice Chairman Sturniolo: This strikes me as something really fundamentally wrong with this. My understanding is that this is a modular house. It was bolted together, which basically means it can be unbolted, put back on a truck and gotten the hell out of Mount Kisco and build something decent that is code compliant and has a front door facing the street. This right now is an abomination.

Antonina Demaio: I don't have the money to do something like that, and it was approved by the building department.

Whitney Singleton: I've heard that come up more than once. I want to be clear not so much for you, but for the Planning Board and for the record. Any approval that was issued by the building department was predicated on one thing and one thing only – erroneous information supplied by you. Saying that the building inspector issued a permit is really of no consequence for purposes of this meeting.

Antonina Demaio: I hired an architect to put together plans. He met with Mr. Cassidy before he took ill many, many times. The plans that were approved were probably the third or fourth version of those plans that were approved by Mr. Tarchine, who I would have assumed would have reviewed the plans and re-done all the calculations to ensure before issuing a building permit that they were correct and in



compliance with the zoning. My assumption, when I got my building permit, was that I was fine and in compliance with the zoning.

Whitney Singleton: I want to back up. When an application is received, there are certain certifications or professional representations made by your retained professionals. There was a representation that this application was fully compliant with the development coverage. It was a hand-drawn plan, and there was absolutely no way without going back and doing full-scale engineering to determine whether or not the representations of your architect were correct or incorrect. They were substantially incorrect. It was not one-tenth of one percent. They were 20 percent off.

Antonina Demaio: But I would have had no way of knowing that. I relied on his representations just like the building inspector.

Whitney Singleton: That may go to whether or not it's a self-created hardship for purposes of a variance. But for purposes of this Board, and the reason that there is a referral to this Board is to find viable solutions. They are not here to debate the merits of your variance request.

Antonina Demaio: So then it doesn't really matter what I can and cannot afford, because if your determine is to find solutions, then you need to find solutions.

Chairman Cosentino: We don't know enough about it right now.

Doug Hertz: It sounds to me like a very good case to sue your architect, but that is another (story).

Stanley Bernstein: You have a very good case against your architect.

Chairman Cosentino: It's a thing where you're damned if you do and you're damned if you don't. It's non-compliant.

Antonina Demaio: And when you come to visit on Saturday, you will see that the house is pretty much done. The kitchens are in, the bathrooms are almost complete. The only thing that is missing in the kitchen is the appliances and the floors.

Ralph Vigliotti: The kitchens and the bathrooms came with the modular?

Antonina Demaio: Yes.

Vice Chairman Sturniolo: This is the first time any of us are seeing this and hearing it. I think Saturday may be premature to do a site visit until we get the letters from the building inspector, we get individual copies of this, and we do our own individual homework so we are prepared when we go out there with knowledge.

Chairman Cosentino: I agree, but I think we have to know what the land is so when we read what we get we know what we are talking about. I would like to look at it and see what it is. I've never been on the property.

Doug Hertz: How long would it take to get copies of the plans?

Vice Chairman Sturniolo: I'd like to go educated than non-educated.

Whitney Singleton: When the packages went out, the chairman phoned me and stated to me, "I see I have a letter in here from you, but I don't have anything else in there." That prompted an inquiry on behalf of the chairman by myself to the Planning Board secretary that the Planning Board doesn't need just my letter, they need a copy of all the denial letters, the memorandums from the building inspector, the review memos and the plans. They were not included in your packet. They were assembled today by the building department for us, and they are now in the packet with you. There are still some old plans that are prior plans but are not part of the current plan. Those can certainly also be provided for you and have everything available for whenever you choose to do your site visit. All the information can be made available for you, and will be available to bring to the site with you to review in advance of going to the site or to review in the building department, whatever suits your Board's pleasure.

Doug Hertz: From my perspective, I do not disagree with Joe or Tony. I'd like to get this done as quickly as possible. If the plans were assembled today, if they could get delivered tomorrow, we would have a few days, at least, to look at them and become familiar enough so that Saturday would be valuable. Do you have any idea if that is possible?

Whitney Singleton: I can make sure that happens.

Ralph Vigliotti: I'd like to see if you have available the original plans that were drawn up by your original architect. (Looking at this) we are seeing a product now that is much different than what was presented to the village. I'd like to see what that was originally.

Antonina Demaio: The Architectural Review Board plans?

Ralph Vigliotti: Whatever Mr. Strauss drew up for the building department originally. This is not the original. I'd like to see that. As a resident of the village, I am trying to be somewhat kind but not. I am unhappy with the architecture of the building. This is just a personal thing. As the first house that goes up into that residential neighborhood, it was just thrown there without any thought at all. You may have put a lot of thought into it, but I look at it as it is lacking character. It lacks the character of the neighborhood. You have a beautiful historic house next door and one up as you go. It's a historic neighborhood. You tore down a home which may be needed to be torn down. I don't know that. However, there was no design put into the house. I've seen modular that are just gorgeous. You would never know they were modular. Front porches, porticos, just wonderful things. This is - someone said an abomination - as far as the parking, it's going to be all asphalt, all cars.

Antonina Demaio: The whole front (indicating) - this is all going to be green and landscaped.

Chairman Cosentino: What is this room over here? Is it a living room?

Antonina Demaio: I think it's a living room/dining room.

Chairman Cosentino: Hypothetically, would you put a porch in front of it to make it look like the front of the house?

Antonina Demaio: If you guys wanted me to, yes.

Chairman Cosentino: Just so it looks like the front of the house, with a nice railing.

Antonina Demaio: This all came up when I went to the Architectural Review Board that the house is facing sideways. I said, "if you guys want me to swap, I will," and they said that was fine, so I figured it was fine and I just moved on. For me, I'm going to live here and I didn't really care because I knew this was all going to be green space anyway. I think I could do a porch, but I think I need another variance, because this has to be 25 feet back from the front.

Doug Hertz: Let's not put the cart before the horse.

Chairman Cosentino: I have to ask these questions. There are reasons for it. (Going forward) will we do a site visit first or wait for the plans to come in?

Vice Chairman Sturniolo: I am still in favor of individually educating ourselves with the file, with the plans, so we know what we are looking at once we walk out.

Ralph Vigliotti: If I can get a copy of a set of plans, I can really look at it on the site. I'd rather move forward.

Enrico Mareschi: Site visit.

Stanley Bernstein: I'm with Tony. I'd like to see what's there before.

Doug Hertz: If I can get the plans tomorrow, and Jim says we can, I am fine with the site visit as long as I have enough days to review the plans.

Chairman Cosentino: I want to schedule a site visit, because right now (to the applicant) you have problems. There is no doubt about it, because the site is non-compliant.

Vice Chairman Sturniolo: Created by other people, not this Planning Board.

Chairman Cosentino: We are trying to solve it, but I don't know what we can do.

Antonina Demaio: Whitney's letter asked for suggestions on switching the property around; whatever suggestions you have. I think they just wanted another opinion, and you (the Planning Board) have done lots of concept reviews, maybe you have more ideas.

Chairman Cosentino: The problem is that they are sending us something that is non-compliant.

Enrico Mareschi: Did you always live there?

Antonina Demaio: No. We lived in the brick house around the corner.

Chairman Cosentino: So we know what we have to do. It's a tough road right now, and you need to know that.

Antonina Demaio: I would not have built a house that big if I had known. That was not my intention at all.

Vice Chairman Sturniolo: I'm sure it wasn't, but you're still the responsible party for your professional consultants, whether it's an architect, engineer or site planner.

Antonina Demaio: I understand.

*At this point, a site visit for Saturday, March 16 at 9 am was planned for the applicant and the Board members.*

Frank Demaio: Thank you for your time.

**Correspondence:**

- Memorandum from James Palmer, Village Manager, to Chairman Cosentino and members of the Planning Board dated February 14, 2013 re: proposed zoning text amendments Chapter 110-10, Special Discussion – Zoning Proposal

Vice Chairman Sturniolo: Mr. Chairman, I have two comments on that zoning proposal. I attempted to go through it, but I found it very difficult. It is copied on two sides, and then you need to take this packet, turn it around to read the other side of the copy. It's poorly presented to the Planning Board, and I stopped after trying to read it after a page or two. I don't know why it was put together in this manner.

*The Board agreed with Vice Chairman Sturniolo.*

Vice Chairman Sturniolo: There is one thing I'd like to add into that proposal. Basically this deals with proposed code changes. I'd like to see this re-presented to the Planning Board in a way that highlights the old code from what the proposed changes are, so it stands out and you can understand the changes.

Doug Hertz: It is. There are cross-outs and underlines.

Vice Chairman Sturniolo: I see it, but it doesn't lead you to believe cross-out and underline. The second thing I'd like to add is that language that any Certificate of Occupancy or Temporary Certificate of Occupancy issued by the building department is done in conjunction with and the approval of the Planning Board chairman.

Whitney Singleton: For all non-residential uses, it's already in there.

Vice Chairman Sturniolo: I'm saying in general. Not non-residential. Any TCO and CO.

Whitney Singleton: That cannot be done. You can't confer upon the Planning Board chairman jurisdiction over a matter he does not have jurisdiction over.

- Letter from The Hearth, Mark P. Miller, Esq., to Chairman Cosentino dated February 28, 2013 re The Hearth at Mount Kisco project update,
- Minutes of the Mount Kisco Beautification Committee February 6, 2013 meeting.

*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