

Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, June 24, 2014

Chairman Cosentino called the meeting to order at 7:55 pm in the Municipal Building.

Members Present: Chairman Joseph Cosentino
Vice Chairman Anthony Sturniolo
Sol Gibbons
Ralph Vigliotti

Members Absent: Stanley Bernstein
Doug Hertz
Enrico Mareschi

Staff Present: Jan K. Johannessen, Village Planner
Rob Melillo, Asst. Building Inspector
Anthony Oliveri, Village Engineer
Whitney Singleton, Village Attorney

Minutes:

May 13, 2014

Vice-Chairman Sturniolo made a motion to approve the minutes of Tuesday, May 13, 2014 as presented; seconded by Sol Gibbons. All aye.

May 27, 2014

Ralph Vigliotti made a motion to approve the minutes of Tuesday, May 27, 2014 as presented. Vice-Chairman Sturniolo seconded the motion. All aye.

Chairman Cosentino changed the order of the agenda. First application before the Board is Northern Westchester Hospital.

Formal Application:

- a. Northern Westchester Hospital – 400 East Main Street
Phase 3 – North Parking Lot Amended Site Plan
PB2003-02E, SBL: 80.49-1-14**

**Present: Scott Blakely, Insite Engineering
Mike Caruso and Chris Shopinsky, Northern Westchester Hospital**

Mr. Blakely said they received a copy of the draft approval resolution prepared by Jan Johannessen, which his office and the hospital reviewed; and they have no issues with it. Mr. Vigliotti asked if the hospital is getting excited about the wall. Mr. Caruso said it is a financial cost but he thinks it will look very nice. Chairman Cosentino said he had a question about the cuts in the front wall. Mr. Blakely said there are two cuts, one closer to the entrance and one by the bus stop (indicating on plan). Chairman Cosentino said he thinks the cut closest to the entrance should be eliminated because we don't want to invite people to cross a main road, where here (indicating) there's a crosswalk. Mr. Caruso said he agrees and it was discussed last time as a concern that people park there (indicating) that they do come out over there. He added that they just learned that DOT is putting in 4 crosswalks across 172 and 117. Chairman Cosentino asked is it going to be where that cut is. Mr. Blakely said the DOT is planning on eliminating the two right turn slide-throughs and making a 4-way intersection at the hospital. Chairman Cosentino asked when is that going to happen. Mr. Blakely said we don't know. Jan Johannessen said a notification came across in an email the other day that they are milling and paving from Smith Avenue to Pleasantville. Maybe it's going to be associated with that project. Mr. Caruso said they don't have a problem eliminating that cut. It allows the hospital to have better crosswalk availability. Chairman Cosentino also asked about the cut by the Boys and Girls Club. Mr. Vigliotti said

it makes sense for one in that location. Mr. Caruso said if we don't put the cut in the wall, people will climb over the wall. Mr. Blakely said they will keep the one by the bus stop and eliminate the one by the main entrance.

Chairman Cosentino asked if the Board had any questions on the wall. Mr. Vigliotti said he thinks Jan has answered most of his questions. He said a stone wall is an art form and building a stone wall is not like putting up concrete block. There is no real assurance that who you hire has that artistic talent to put up the beautiful stone wall. Mr. Vigliotti asked how can we ensure that it's built correctly? Mr. Blakely said there is one condition in the resolution that we build one pier and 10 feet of wall, which we're going to build in place. Mr. Vigliotti said that's one thing he and Jan discussed. We want to make sure that what you're paying for is what you're getting – that it has a nice look to it. Mr. Caruso added that the specifications are being put out the wall are going to ensure it too. They don't want to make changes to it after the fact. Chairman Cosentino asked if that needed to be reworded. Mr. Singleton asked if the applicants are ok with building the mock wall. Mr. Caruso said they didn't have a problem with that. He said they are going to build it in place and have the Board look at it. Mr. Blakely asked if the Planning Board would be signing off on the wall. Mr. Singleton said he suggested to the Chairman that approval should be delegated to a professional, not the Board retaining jurisdiction after the approval. He is suggesting the Planner and Engineer to do an inspection to ensure consistency with the approved plans. He added if the Hospital would like the Board to be the reviewing agency - that is up to them. Mr. Caruso said no, they would like the process to be through the professionals who'd look at it, so as best as they can get it through the process – the best way of doing it and the most expedient way of doing it with consideration given to the financial outlay so it doesn't delay them and they don't go back and forth switching stones around.

Mr. Caruso said they are going to take the rendering (the wall was photographed) and they are going to match the stone as best as possible to try to negotiate the use of that stone wall and that look. Mr. Vigliotti asked if that is native stone to the Hudson Valley. Mr. Blakely said he didn't know. He said they drove through Bedford, Katonah and Purchase and this wall is down on Purchase Street.

Mr. Vigliotti said he had another question on the pavers. He asked if the pavers were concrete. Mr. Blakely said they specked out Uniblock Ecoblock pavers. It is a porous paver and it has a joint in between the pavers that is filled with fine gravel. The reason they chose that is to get the water to the root system of the trees they planted in that parking area. Mr. Vigliotti asked about the paver on top of the wall. Mr. Blakely said they were originally looking at a granite cap. Mr. Vigliotti said so it won't be concrete. Mr. Blakely said no, it's going to be stone or some type of granite on top of the piers. As you go across the top of the wall, it's just stone. Only the piers have caps. Mr. Vigliotti said that is terrific, we don't want anything disintegrating over the years. Chairman Cosentino said just put one on the 10 foot section so the Board can see it.

Jan Johannessen said at the last meeting we talked about reducing the width of the cut through. He said he thought it was specked at 10 feet and the Board was looking to bring it down to 6-ish. He asked Mr. Blakely if that was something he was able to accomplish? Mr. Blakely said down by the bus stop, he believes that is an existing cut through there. He said they could narrow it up. There's a light pole that sits to the south of that cut but that could narrow that up. They will have a 4 foot walk and they will bring the pier right up to the light so they may get it down to 7 feet. They will minimize the cut to the maximum space that they need. Mr. Vigliotti said when folks go through that cut, are they working their way between parked cars or are we doing something to make that easier for them. Mr. Blakely said they would like to put a sidewalk up on one of the parking stripes so they'll be able to get through the cars. Mr. Vigliotti asked how wide would that be. Mr. Blakely said about 3 feet. Mr. Vigliotti said we've make it easy to get through, he doesn't want them having to turn sideways to get through the first row of cars. Mr. Caruso said they were hoping people don't utilize that as the way in. The cut is there so people aren't scaling the wall.

Chairman Cosentino said he needed a motion.

Mr. Vigliotti said he would move on a motion for Phase III, Amendment to Site Plan Approval, for Section 80.49, Block 3, Lot 14, Application #PB2003-02E on this date

June 24, 2014. Chairman Cosentino asked if there is a second. Mr. Sturniolo said going back to the wall, at the last time together he asked a rhetorical question on how you've chosen the material and how come the material does not match the building brick; although it's not the Planning Board's purview to get involved in whether it's brick or stone or if the side of the building gets painted yellow – that's all the ARB. Having said that, the thrust as with any commercial business we may want to encourage the applicant to do what they are going to do to enhance that side of the building so the Village can capitalize on it. I think that is going to be done here easily by the Hospital no matter what material is chosen. Mr. Sturniolo said, having said that, he views a major thrust of what the Hospital is doing is giving quality care on a 24 hour basis and that's where the dollars and cents should go. Everything else is nice and pretty and if they can afford it – that's great. His major concern is the Hospital's mission to provide the quality care and service to the resident of northern Westchester. That's where the dollars should be spent. **Chairman Cosentino asked if there was a second. Mr. Gibbons second the motion. All ayes.**

Public Hearing

- b. The Hearth at Mount Kisco – 270 Kisco Avenue
PB2012-15, SBL: 69.49-4-1
Site Plan, Special Use Permit, Steep Slopes Permit and Wetland Permit**

**Present: Mark Miller, Veneziano & Associates, Attorney for applicant
Charles Utschig, Langan Engineering**

Mr. Miller said when they were before the Board a couple of weeks ago they presented the Board with a revised driveway layout, which was generally met very favorably. The one issue that remained for the Board was the increased in size of the DEP detention basin to the right of the driveway. The Board asked for a rendering looking into the site and how that was going to look. The Board has received the rendering. Mr. Miller said they are looking for the Board's go ahead to take this revised driveway layout; go to the DEP to get their approval. He said they are also going to the ZBA to have them amend the resolution for this revised layout. He added their issue was strictly for the amount of the road grade and that hasn't changed.

Chairman Cosentino said what he would love to do is when this project is completed, to put that picture on the wall. Mr. Utschig said they have gotten better over the years with the representation of vegetation so the plant material that is shown is a real picture. The rendering shows vegetation at about a two-year growth. He said they tried to do their best to give the Board something they thought was as real a representation as they could physically demonstrate. Chairman Cosentino said he wished it was to scale so you could really see what it looks like. Mr. Utschig said the problem is if you take the perspective of standing by the road or from a car and you look into this, you don't get the depth and you can't tell what goes on behind it. He said it is a struggle of what's the best way to show you. They have provided as much information as they could, which is why they decide on this approach. Mr. Miller said they also added some human beings to give it a measure of scale.

Vice Chairman Sturniolo asked what this entrance is specifically facing across the street. Mr. Utschig said it faces the opposite road – Holiday Drive. Mr. Vigliotti asked how are the sidewalks ending at that crosswalk – are they full sidewalks. He said they appear to be wide going up to that point. Mr. Utschig said the sidewalks curve and stay 5 feet wide with the handicap drop but they end there. They do not extend the sidewalk the full length of the interior section.

Mr. Miller said once they get the go ahead, they will go away for a while. They want to come back with DEP approval, ZBA amended approval and come back to the Board's professionals with a full set of plans, addressing all the issues raised some time ago from the consultants memo, so what the Board sees next is it. Mr. Singleton asked if there is a set of plans currently in the hands of staff and the Planning Board that reflects development coverage, building coverage, road profiles, etc. under this revised proposal. Mr. Utschig said not yet. Mr. Miller said they actually just got the revised road profile for submission to the ZBA. They want to come back with a fully engineered set of plans.

Chairman Cosentino asked Jan Johannessen if he feels this rendering is what the Board is looking for as this rendering is a down view of the site entrance. Mr. Johannessen said the perspective is somewhat of looking down at the site and gives the appearance that it looks more gently sloped than it is going to be. Mr. Utschig agreed. Mr. Johannessen said he agrees with Mr. Utschig. It is not an easy task to have a rendering that is going to cover all the bases and he doesn't know if it's easy enough to provide multiple perspectives. He said the Board is interested in maybe a view from the sidewalk that looks across the basins looking at the walls. Chairman Cosentino said that he wants to see a natural view of what of what we're seeing down here (indicating), when people drive by, what they're going to see. It looks like a park. Mr. Johannessen said there are three walls 6 feet high apiece. Mr. Utschig said when you take a perspective from eye level, you see topography changes but there's a sight distance with things blocking it. You won't get depth in the picture. Chairman Cosentino said he wants to see a view from across the street of what you're actually going to see at eye level. Mr. Utschig suggested a view from the opposite side of the street because on the entrance side of the street, you would be too close to everything. Chairman Cosentino said the rendering presented looks nice but he also wants to see from the other side of the street.

Mr. Johannessen said asked if the first wall will be cut stone. Mr. Utschig said yes, the first wall will be rock cut. He said to create a rendering they take real topography and then modify the topography as a result of the road and put them together. He said they then create a true two-scale model of that in 3 dimensions and then superimpose this picture. Mr. Johannessen asked if you think you'll see the drainage swale. Mr. Utschig said it's there but you'll see less from this direction.

Chairman Cosentino asked about the comments. Mr. Oliveri said when they come back with fully engineered plans he presumes they'll have answers to the technical staff comments. Mr. Miller said his goal is to meet with staff and get memos that every comment has been addressed. Mr. Singleton said he had a message from Board member, Stanley Bernstein, who has been out for a while with an amputation. He called Mr. Singleton tonight and said he wanted him to weigh in on two applications. Mr. Bernstein wanted Mr. Singleton to repeat for the Board how outraged he is with The Hearth application and its violation of Steep Slopes regulations.

Mr. Johannessen asked if the Board is looking for a rendering submitted in advance of the full submissions or connected with the full submissions. Chairman Cosentino said he would want it before the full submission. Mr. Oliveri asked Mr. Utschig where the point of view is or could they have maybe two points of view. Mr. Utschig said he just wanted the Board to understand that these are not easy, nor inexpensive to do, not that that's not a good reason, if the Board finds it useful. Mr. Johannessen said the line of sight is good but it should just be dropped down to eye level. Mr. Oliveri asked if we would see past the road looking up. He would hate to see them comeback and go away again. Mr. Utschig said each rendering is a separate and distinct creation. Chairman Cosentino said he would like a view from across the street at eye level. Mr. Miller added that this also becomes a timing issue and said the Board has been gracious about extending the submission date. He said he did not know when the packets would go out for the July meeting. It was noted that the packets would go out on July 2nd. Chairman Cosentino told Mr. Miller to just submit the renderings.

Formal Application:

- c. **Boys and Girls Club of Northern Westchester – 351 Main Street
PB2014-0258,
80.41-2-9, 80.41-2-10, 80.42-4-1, 80.42-4-2, 80.42-4-3, 80.42-4-4, 80.42-4-5 (SBL)
Subdivision, Amended Site Plan, Steep Slopes Permit**

This application withdrew from this agenda.

- d. **Oriental Foot Reflexology – 153 Main Street
(Space Formerly Used by Bellizzi Restaurant)
PB2014-0261, 80.25-3-30 (SBL)**

Site Plan and Change of Use

**Present: Vincent Franze, Franz and Franze Architecture
Yao Ming Wu and Steven Yang**

Chairman Cosentino said this application is for a Change of Use permit and Site Plan approval. Mr. Franze said he believed that they have addressed all of the Board's questions and concerns and have had meetings with staff. Chairman Cosentino asked Mr. Singleton and Mr. Johannessen if they have any questions. Mr. Johannessen said that the Board had discussed limiting the number of employees and stations as indicated on the plan. Mr. Franze said there would be 6 stations in the front and 4 in the back of the space. Mr. Johannessen added that there is to be no more demising of space of the first and second floor space without Planning Board approval. In addition, the applicant, prior to the issuance of a Certificate of Occupancy for Oriental Foot Reflexology, is going to apply for a building permit to legalize some demising of office space on the second floor. He said the plans will also note that the second floor uses for professional offices are restricted to non-dental, non-medical offices. Mr. Franze said they agree to that condition.

Mr. Vigliotti said we're talking about not dropping off employees on Main Street. He asked if there is a location where they will be dropped off. He shared a concern he had on North Moger Avenue, which was causing a backup into the intersection, which he observed, waiting for employees to get out of the van. In knowing that employees are transported by a van by the company, he would like to have on record where they will drop off the employees. He does not want to see Main Street backed up as the business is located right at that traffic light. He asked if there can be a location where the van can drop off the employees and let them walk up the sidewalk and cross over – maybe Green Street or behind the former Borders. Mr. Franze said for him and for his client, they'd like it to be a location that the Village would be comfortable with. An obvious opportunity would be the parking lot behind Borders. It's a very big parking lot that is not very congested and it's a half a block away. Mr. Vigliotti asked if that could be part of the resolution. Mr. Johannessen said he would add that as a condition.

Vice Chairman Sturniolo asked how much of the former Bellizzi restaurant are the applicants taking over. Mr. Franze said it is currently vacant space that has been demised already. It's about one third of the space Bellizzi used to occupy, approximately 1800 square feet. Vice-Chairman Sturniolo asked if the rest was going to stay the restaurant. Mr. Franze said yes, as it currently is. The space is a completely separate space and Bellizzi will be unaffected. Mr. Sturniolo asked if there were any arcade machines in that area. Mr. Franze said he didn't know as they've long since been removed, but there still are a number of them in Bellizzi.

Chairman Cosentino asked for a motion on the Change of Use and Site Plan Approval. **Vice Chairman Sturniolo made a motion to approve the Change of Use and Site Plan Approval for Oriental Foot Reflexology at 153 Main Street, with the added condition of employee drop off and pick up area will be located in the parking lot behind Borders. Mr. Vigliotti seconded the motion. All ayes.**

**e. Rockin' Jump – 333 No. Bedford Road
PB201-0264, 69.50-2-1 (SBL)
Site Plan and Change of Use**

Present: Jim Diamond, Diamond Properties

Mr. Diamond said this application is for Rockin' Jump, which is an approximately 18,000 square foot trampoline park located between the Target Warehouse and the Cosentino facility at 333 No. Bedford Road. Chairman Cosentino asked if Mr. Diamond had received a copy of the draft resolution. Mr. Diamond said he had and he has some questions and comments on the resolution. Mr. Diamond said on Page 3, the third paragraph down where it says subject to the below conditions, right above the bullet point, he didn't know if that referred to the bullet points or the conditions listed below that. Mr. Johannessen said that refers to conditions 1 through 19 listed below the bullet point. Mr. Diamond asked if that could be clarified as it was a bit confusing. Mr. Johannessen added that the bullet points are a list of the plans that Mr. Diamond submitted and he could enumerate them.

Mr. Diamond said in general, in terms of operating restrictions, he was unsure. He said we have 17 different spaces at the site. The only two with operating conditions as part of the site plan are the ones with special permit uses – Grand Prix New York and Saw Mill Club East. None of the other businesses have operating condition. Mr. Diamond said he wasn't sure if this is a new policy or an intentional decision to apply operating conditions to this specific business. Mr. Johannessen said the Board has included the operation condition on all sorts of applications. In preparing this resolution, he said he used the prior resolution for the space, Sports Arena, which not a special use permit; it was a change of use permit and has very similar operating conditions as you'd find in this resolution – i.e. certain number of participants. There is a restriction on the number of participants because it is tied to parking. The Planning Board needs to control that. The hours of operation, food and beverage consumption and sale on premises are similar conditions in the prior resolution that he took as moved over to this resolution. And that information came from the submitted business plan.

Mr. Diamond said his concern about operating restrictions, unless they have some justification, just become burdensome on the business. He added that they had done a parking analysis where they counted the empty spaces in the parking lot at key hours, which are weekday hours. They demonstrated there are 352 empty spaces at 10:00 am and 395 empty spaces at 4:30 pm on a weekday. He said on a weekend, there are substantially more parking spaces because Photo File and the Wine Enthusiast are generally closed for business. Mr. Diamond said there is never really a situation where they are parking constrained at the facility in the sense that there are no parking spaces available. People may have to walk over a couple of aisles and not parking directly in front of the business they are going to. So putting a hard limitation of 100 visitors inside this business doesn't seem to have logic and just acts to restrict their business when there are parking spaces available to support more. Mr. Singleton said to Mr. Diamond, in order to double count space, under Section 110-28, the Planning Board has to consider with its consultants what's required on the site, what's existing as an availability and what's likely to happen in the future. They went based upon your tenant's proposed operating business plan. In making that determination, our professional traffic consultant based his review on this in the context of what your tenant said they are doing at the site. To say those parameters shouldn't exist is putting the cart before the horse.

Mr. Diamond said in submitting their business plan, he doesn't think that they were proposing those to be hard limits on their business. They were describing what they anticipated. These are anticipated hours. In terms of operation they said they expect those to be their hours of operation. Mr. Johannessen said he didn't feel the hours of operation needed to be required to be included as much as participants. He said he thinks the number of participants should be restricted based on parking and the parking works because of the number of participants. He said, in his opinion, the hours could be flexible. Mr. Diamond said if parking is the primary concern in terms of occupants, he could propose two things – one, we limit the parking spaces instead of the occupants Monday through Friday and two, we only limit spaces not occupants during Monday through Friday because it's clear that we have double or triple the parking spaces we need in the facility on the weekends. He said the parking analysis chart submitted as part of the application showed for physical training studios 82 parking spaces covering 27,163 square feet. The pro rata number of parking spaces for this application would therefore be 56 parking spaces, which is relatively similar and slightly higher using the Town's zoning code calculations. The applicant also talked about 100 visitors at 3.8 per vehicle and 20 employees, which is going to bring in 48 or 49 vehicles. There are 57 approximate vehicles shown in the parking analysis submitted as part of the application. If there was a limitation to be tied to parking, rather than visitors, Mr. Diamond said he thinks it would be reasonable. For example, 50 people could come in one bus, school children after school, which would have no impact on parking. Mr. Johannessen asked how that would be enforced. Mr. Diamond said that would be up to the Village. The Village could count cars that are parked in the lot. Mr. Johannessen said that seems to be a burden on the Village. Mr. Singleton said there is one thing to keep in mind – as an applicant, this is not a special use permit, this is a principal use, which means any tenant can go in there. It's not just a question of how Rockin' Jump's business plan is today, we've got parameters on how the space can be operated period. This could be another facility where everyone drives their own car and has a parking demand of 150 cars at any one time. Mr.

Diamond said that's more reason why he's saying if the concern is on parking than the limit should be on parking. Mr. Singleton said if you have 100 people coming in 100 cars, that's more of a concern. And there's no way to monitor that – are we going to follow each person as they get out of their cars. It imposes a burden on the applicant as opposed to the Village.

Mr. Vigliotti asked if there is an occupancy rating by the Fire Department in the space. Mr. Diamond said it will likely be substantially higher than the numbers that the Board has said. Mr. Vigliotti said he somewhat agrees it's about parking and if we say x spaces added to the entire site, that's really going to give you an answer you want. It may limit what else goes into future vacant space. Mr. Diamond said just to remind the Board, we're the only site in the entire Village that has a trip count limitation where we periodically measure the number of trips coming in and out of the site. Chairman Cosentino said this is the largest facility in the Village. Mr. Diamond said he has a line in place to keep us from being an over intensive use overall. The key is we have gone back many times over the past 8 years with 17 tenants and 600,000 square feet; these all even out between the tenants. He said there is no conceivable way that a 3% tenant can have a major impact on site. Whether it's 40 cars or 60 cars isn't going to matter, it's 3% of the square footage of the building and to put an artificial limit on a business to make it that much harder to succeed is an unfair burden. We are isolated from any other site so it can't have an impact on anybody else. We limit the number of cars that come in and out. Mr. Vigliotti said we're down to talking about parking. Mr. Johannessen said he doesn't think it's worth putting a condition on parking. He doesn't see how you can possibly monitor it. Chairman Cosentino said you're not going to monitor either use. Mr. Johannessen said he doesn't think you should include limiting this use to a number of spaces – it's worthless words on a piece of paper.

Mr. Sturniolo said he finds the resolution onerous on the applicant and the site is unique – it is 38 acres with over 600,000 square feet and there are certain limitations we have put on it. It's the largest commercial property in Mount Kisco and we need to be realistic. We need to separate two things – one, what does rock climbing really need and that's a totally separate issue from the stored cars in the process of being removed. We can't mix the two together and this has nothing to do with car storage. I'm not saying give away the store but have to be intelligent and flexible. Mr. Sturniolo said he believes the amount of parking spaces the applicant proposed is very reasonable and it is also underscored by how do you monitor – who monitors. Why penalize the applicant if monitoring can't be handled. Chairman Cosentino said he doesn't think the Board wants to penalize the tenant, but Mr. Diamond has had a lot of problems down there. The cars are a violation and he doesn't have CO's for some of the places he has there now. The track record down there is not good. The cars were only supposed to be stored for 6 months and they are there almost a year. Mr. Diamond said it was more like 8 months. Chairman Cosentino told Mr. Diamond that he's made the Planning Board look like a fool because everybody comes to the Board to complain. With regard to the car storage, the violation has to be fixed. He said he understands it's going to be fixed. Mr. Diamond said he believes all the spaces have CO's. One tenant has a Temporary CO. He added, in terms of the car storage, it was supposed to be 6 months. It has been 8 months and termination notices have been sent. Mr. Singleton said the reason that the Saw Mill Club does not have a permanent CO is that there are uses advertised in the space that are not permitted. They are advertising for performing plastic surgery in an athletic club with more sophisticated procedures being handled at Northern Westchester Hospital.

Mr. Diamond said going back to the trip limitation for the site is really key think. He said they have 17 tenants and it's one thing to have special conditions that apply to special use permits but if all 17 have separate conditions that apply to each individual use, it's impossible for us to enforce. It's like taking an office building where there are 20 tenants and limiting each tenant to 3 or 4 spaces per 1000 square feet of space. He said his site should be different because they have a hard trip limit for the overall site. Mr. Johannessen said he doesn't know how you demonstrate, now or moving forward, zoning compliance in terms of parking without restricting participants and knowing how many participants there are. The parking calculation is based on the number of participants. There needs to be some restriction at this site. If 100 is not the right number then lets talk about it, but all the documentation and everything our traffic consultant reviewed is based on a 100 person maximum. Mr. Diamond said the 100 limit is shown Saturday from 2 pm to 6 pm. Mr. Johannessen said the parking calculations were double counting spaces at 100 person max. If 200 max doesn't work, there has to be some number from a zoning perspective going

forward so we have a base line. Chairman Consentino agreed. Mr. Johannessen said if 100 is not the right number, tell us what Rockin' Jump needs. Mr. Diamond said the double counting of spaces is not at all based on the 100; it's based on the Mount Kisco Zoning Code per participants for parking spaces. The 100 on Saturday between 2 and 6 is when the lot has hundreds of extra spaces. Mr. Diamond said we have demonstrated that our site has plenty of excess parking and on Saturday, when this use is peaking, two thirds of the site is empty.

Mr. Singleton said it was not fair for Mr. Diamond to spring this on the Board now. The Village's parking consultants asked for an analysis of the parking and it wasn't ready. In an effort to not delay this application any further, you prepared a report, which was predicated for the traffic consultant's review. He said to simply raise the issue now, or say I don't want to be subject to conditions or the operating plan I proposed is very difficult, the Planning Board has to evaluate parking based on the Code. If some of the requirements are not used by the business now does not preclude parking demand in the future. Mr. Singleton added that Mr. Diamond also has a current proposal for another road because traffic is so backed up on the site. Mr. Diamond said that has nothing to do with this application. He said there is a backup of 8 to 10 cars at 6 pm when a Saw Mill Club class gets out.

Mr. Vigliotti asked what is the formula for the parking requirements at this facility? Mr. Singleton said 1 space per 2 occupants in a maximum class plus 1 per employee. This is the same formula as we used at 145 Kisco Avenue. Mr. Vigliotti said that's our baseline; let's follow the baseline if it's the same at 145 Kisco Avenue. Mr. Singleton added that the Village Board is considering changing that formula to 1 space per 1 occupant. Mr. Vigliotti said right now, as he sees it, if square footage dictates how many parking spaces, what is dictating the parking spaces. Mr. Singleton said the occupancy. Mr. Vigliotti said with 100 plus employees equals whether you're successful beyond that or not, we don't know. He asked what is the baseline of required parking for this business? Mr. Singleton said there's 50 for maximum class size plus 20 for employees – 70. Mr. Johannessen said the resolution lists the maximum visitor level of 100 plus 20 employees because that was what was represented in their business plan. Mr. Diamond said he is fine with the parking limitation saying 70 or 57 but he doesn't believe there is a logical reason to have a hard limit on the number of people at 100. They're both hard to enforce. Mr. Johannessen said the parking spaces are harder to enforce.

Mr. Vigliotti said there are plenty of spaces on the north of the site, and it's not that the site has 32 spaces total. As you begin to add the parking spaces, when you get to the last tenant, that dictates the type of tenancy you can have there. Mr. Diamond said three or four years ago, they were 50% occupied and here we are 97%. We are below the trip count and half of the parking lot is empty. Mr. Vigliotti said you have to be mindful that more than half is warehouse, which is fine. But if one of those facilities walks away and you're looking to do something beyond warehouse, that's not going to happen. Mr. Diamond said he would have to come back to the Board. Mr. Vigliotti asked what is the number of spaces required for this business? Mr. Johannessen said based on the Code, 70 spaces is what this use requires. Mr. Singleton said what the applicant is saying is that he wants you to double count more spaces and up this maximum occupancy. Mr. Johannessen said right now we're double counting about 132 spaces. Mr. Diamond said he was ok with limiting the number of spaces. This use is not allowed to use more than 57 spaces. 70 spaces are if you take the Saturday projection of 100 occupants. He said 57 is the number that makes sense per the parking chart. Mr. Diamond said he took the chart from PB02- Zoning Chart for physical training and blending the two spaces for 270,000 square feet. This is taking 2/3's of the space so I'm taking 2/3 of the 82 spaces to get 57 spaces.

Mr. Oliveri asked if there some way to condition the occupancy level and allow it to be exceeded with a special event, to allow the exceeding of 100. Mr. Diamond asked if we could get creative. If the Village is concerned about parking, that's what it should be – parking. Mr. Sturniolo said he would like to clarify one point. When he was talking about separating the cars, he is not condoning nor addressing the car storage. He was trying to be specific and just concentrate on what Rockin' Jump needs. All other stuff, the applicant has admitted is being phased out and the violation will disappear. He said the applicant is willing to limit to 57 parking spaces but not be penalized for the number of occupants coming in and out of the business. It's not a big issue but it's an important issue. So let's move forward.

It's a technical issue that plays into 333. We've monitored for a long time and the nuances of 17 tenants. This is the last one. He said let's get beyond and finish this.

Chairman Cosentino said we've done a lot of work on this and he needs to go along with the Planning and the recommendation he makes. I'm going along with 100 occupants and 70 parking spaces. It's fair. It's been approved before and restricted before and there's no reason not to put a restriction on it now. If the business is successful, they can come back. Mr. Diamond said he doesn't want to be in a position of coming back. He doesn't want to worry about a violation if there are 115 people in the place. He has learned to be cautious about what he agrees to. Chairman Cosentino said he's not monitoring in. Mr. Sturniolo said monitoring without definite procedures in place makes it practically impossible to monitor. Mr. Vigliotti said conversely, the business can go on high success. You can come back and appeal the parking. Mr. Sturniolo said the issue is the cap on people. Mr. Vigliotti said we can't cap success. He suggested pick a number. 100 may be too low. Base the parking on 150. Mr. Diamond said there are two issues. This calculation is in terms of spaces, asked to waive is 70 spaces, which is based on concurrent use. Separately we're looking for an occupant limit. The problem if the number is 150, we're now at 95 spaces that the Board is waiving. That's an artificial creation. Mr. Vigliotti asked where the 100 came from. Mr. Diamond said the applicant did a projection of people each time of the day, each day of the week. On Saturday and Sunday between 2 pm and 6 pm – they project 80-100 occupants. Those are peak hours. It's not a real problem because at that time of the day there are 450 empty spaces. He said if there are 130 people at the business, he doesn't need a violation notice. He knows he'll get one. Parking is not an issue. There is no logic in this.

Mr. Sturniolo said we're closing our eyes to not realize what's available on the site during off peak hours. There is more parking than it will ever need. We are going back and forth and accomplishing nothing. Mr. Diamond said this site is different than others. They have a trip limit amount. Two thirds of the parking used is not in business when the others are at peak capacity. He said there is a unique character here that ensures they have plenty of parking, which when at 97% occupancy, we have 389 empty spaces at 4:30 pm in the afternoon. Mr. Sturniolo said the 97% is key. Mr. Vigliotti said he's comfortable with 70 parking spaces knowing there are spaces available on site and the warehouse uses.

Mr. Johannessen asked when Mr. Diamond comes back for the next change of use application and when he's providing zoning parking calculations, how will he be analyzing Rockin Jump. If the parking calculations are based on participants and we don't know the number of participants, how do we analyze this going forward? We would have to have a parking utilization study done. He asked Mr. Diamond if he'd be agreeable to do a study for the next change of use. Mr. Diamond said he didn't know what a parking utilization study is. He said if it's counting spaces every day for seven days, it makes sense. He said the key for this site is there are 17 tenants. It's difficult to look at one tenant; you have to look at it as a property. Mr. Johannessen said the Code doesn't allow for that. If the Code is based on participants and we don't have the number of participants, how do you analyze that? Mr. Diamond said the Code is to show that the parking lot has adequate capacity and that's the point, we don't need anything more complex. He said he's stuck on the logic of having the limit. Mr. Johannessen said the limit is on the participants. Mr. Diamond said the Board would be waiving additional parking spaces and he has two issues – what the business believes it will be and the limit on what it could be.

Mr. Singleton said to give a comparison on a restaurant, when we approve a restaurant with a capacity of 78, you're saying you don't want any cap. The occupancy based by Building Code will be in excess of 1000. Mr. Diamond said Grand Prix's occupancy is about 1500. Mr. Singleton said the Board has to tether your use limitation to a parking requirement and we have an issue. The Planning Board does not have the authority to decrease parking. If you double staff and participants to 140 – we are waiving an additional 70 spaces, actually double counting spaces. We still have to go by what the Code requires for parking. Mr. Diamond is approximately 200 spaces over what he's got on site right now. The required parking exceeds available parking by over 200. He will be further increasing that differential. Mr. Diamond said it makes it look further in the hole and that we don't have adequate parking. Mr. Singleton said the Planning Board doesn't have the authority to change the requirement. Mr. Diamond said they don't have the authority to limit the applicant either.

Mr. Vigliotti said we are very familiar with the site and the capacity of the site. We know that parking is currently being used at 96% capacity and we know what the site can hold and what it is holding. He said he is fine with 70 cars. He's against putting a cap on the participants in this business. He said he has been to the site and there is plenty of parking as it exists now. He wants to be fair and reasonable. Mr. Vigliotti added that we have been on top of the site for years. Now it's at capacity where we wanted it to be and we know how the site is being used. He asked will things change – yes and we may have to limit use or type of business. For right now let's figure what the parking should be. We're not waiving anything. We know what that property can handle. There are 800 parking spaces, not 35 and it is working. Are 6 or 7 cars backing up at the light? Absolutely! He wants to be fair and reasonable as we get to the end.

Mr. Singleton said he would like to caution the applicant that he is required to have 4 positive Board votes, if he wants to defer. He also told the Planning Board that they do not have the ability to downward modify parking requirements for this use. Mr. Diamond said 70 spaces is not an issue if the Board doesn't limit the number of participants. If the Board is waiving spaces and places hard limits on the space, no counts are being changed. Mr. Singleton said he respectfully disagrees. Mr. Johannessen asked how can you calculate parking without knowing what the participant count will be. That's how we create parking counts. Mr. Diamond said you have physical training studios throughout the Village that don't have limits on them. MMA Fit doesn't have a hard limit on participants. Mr. Singleton said yes they do; our Code requires it. Chairman Cosentino said in good conscience, we agree on 70 cars. There could be 100 people coming in separate cars. Mr. Diamond said he thinks there'll be fewer. The 70 spaces are based on the code. Mr. Singleton said it can't be decreased, it can be increased. Mr. Sturniolo said in looking at the Traffic Consultant's memo, the facility will have 90 participants plus 20 staff. Mr. Johannessen said he believes that is an error. Mr. Sturniolo said we should stop quibbling over this. Let's come up with a reasonable number that we can support and justify. If Rockin Jump is a huge success and they max out on spaces, they have to come back to the Board and explain it. He doesn't think the Planning Board has made any mistakes in all appearances from 333 No. Bedford Road.

Chairman Cosentino asked to clarify – would the Planning Board be violating the code if there were no participant count. Mr. Johannessen said the 70 spaces are tied directly to the number of participants. Chairman Cosentino asked if it's determined, aren't we violating our own rules and regulations? Mr. Singleton said if you are determining 70 spaces required based on a maximum class size or maximum occupancy of 100 plus maximum of 20 employees, you are adhering with the Code. If you change the numbers to make it more lenient, you have no authority to do that. What you can do is increase the required parking in accordance with the code and increase the class size in accordance with the code but waive additional spaces. He added that Mr. Diamond doesn't want that because that makes it look like he's further in the hole than he is. Mr. Diamond asked if the Board's obligation to put a cap on this use. Mr. Singleton said the Board is obligated to make a parking determination based on the maximum participants. That's how you determine parking for this use; just like was done for 145 Kisco Avenue and all other applicants. Waive is not the appropriate term, it's to double count spaces. Mr. Sturniolo asked if this is something the applicant does not want to do because if he comes back before the Board, we'd be prejudiced toward the concept of double counting spaces. Mr. Singleton said the applicant does not want to have that appearance. Chairman Cosentino said the car count is always based on what's going on inside and now we're basing it on we don't know what's going on inside. We're just given a car count of 70. He said our professionals based the 70 with 100 participants. Mr. Sturniolo said they didn't do anything based on a memo of 7 lines. Mr. Singleton said to Mr. Sturniolo, to be fair we were trying to keep this application on the agenda. The Village's traffic consultant said to do a further analysis they would need a parking study done over a 10 hour period on a weekday and a 10 hour period on a weekend. That would have put Mr. Diamond's application into July or August. We were trying to be accommodating in that regard, so to put it on the traffic consultant is not fair. Mr. Sturniolo said it is misrepresenting fact with a signature.

Mr. Diamond said he is still confused on one point. He asked if the Board needs to say in the resolution that the participant limit is x? If that's what the Board has to do than he will have

to agree with that. He said he didn't think that was what the Code required. Mr. Oliveri said if it's not connected to the participant number, it's arbitrary. Chairman Cosentino said he has to connect it to something but it does not have to limit it forever. The 70 car count is based on 100 participants. Mr. Diamond said he is going to give up. If it's a problem, he'll have to come back. He said he would ask that the resolution get clarified and be worked 100 participants. Now it is visitor/guest. Mr. Johannessen said that is how it was presented in the application. Mr. Singleton said in the definition of health club, a participant is a visitor or guest, defining anyone in the facility as a participant. We said we do have a definition of what a participants is, we've used in the past. Mr. Diamond asked if we could agree to make it 150 participants, however defined, and to adjust the parking waiver accordingly. Mr. Johannessen said Condition 15 is revised to change visitors/guests to participants. Chairman Cosentino said 100 participants, 70 cars. Mr. Diamond asked if the number could be increased. Mr. Johannessen said the numbers are based on participant level. It's not fair to throw out numbers without having us review. Mr. Singleton said the Code says 1 space per 2 participants. We are changing visitors/guests to participants. Mr. Diamond asked if the Board agrees to remove the hours of operation. Mr. Johannessen and Chairman Cosentino said ok.

Mr. Diamond said on Page 5, there's a prohibition of the sale of alcohol. He said he's fine with the prohibition of sale and there will be no liquor license. He asked if the Board would remove the prohibition on the consumption of alcohol, in the event there is a corporate event or something. Mr. Vigliotti said that is pushing the envelope. Mr. Diamond said Condition 16 also prohibits pay for play video games and a limit of ready to consume food and beverage items. Mr. Johannessen said Mr. Diamond didn't show a food court on the plans or an area where food is to be sold or consumed. Mr. Diamond said there wouldn't be a restaurant but rather sandwiches, sales and snacks. Mr. Johannessen said snacks are allowed but a restaurant is not allowed. There can be a limited menu of snacks. He added that the resolution does not include the number of cars to be parked. It will be 70 cars for the 100 participants.

Vice Chairman Sturniolo made a motion to approve the Change of Use and Amended Site Plan application for Rockin Jump at 333 No. Bedford Road, with the contained stipulation of a maximum 70 cars and 100 participants and other verbal changes made to the existing draft resolution pages 6 of 6. Mr. Vigliotti seconded the motion. All ayes.

**f. Mount Kisco Medical Group Urgent Care – 360 No. Bedford Road
(Mount Kisco Square Building/Former Tuscan Oven Space)
PB201-0268, 69.51-2-1.2 (SBL)
Change of Use**

**Present: Leslie Jackson, Sr. Director of Operations and Chief Nursing Officer at Mount Kisco Medical Group appeared for Chris Sclafani, Chief Operating Officer
Vincent Franze, Franz and Franze, representing property owner**

Chairman Cosentino asked Mr. Johannessen for his comments on this application. Mr. Johannessen said that something the Board has been looking for at the conceptual level is the submission of the site plan of record for this property. Chairman Cosentino asked Vincent Franze if he had done something on that. Mr. Franze said he thought that the applicant had provided that information to the Board. Chairman Cosentino said he thought Mr. Franze was going to ask the property owner if he could participate in the application. Mr. Franze said he has been authorized by the property owner to make himself available to discuss this application if necessary but that he is not here representing the Medical Group. Chairman Cosentino invited Mr. Franze up to the Board table.

Chairman Cosentino explained that Chris Sclafani came here as a conceptual application and is now here as formal application. To his recollection, they only had one thing open. The car count was fine. Mr. Johannessen said as far as he is concerned there are two open items – one, the submission of the site plan of record so we can compare the existing condition to what the Board had approved in the 80s; and the second was a parking calculation. There

was a separate table submitted, which Rob reviewed and found to be inadequate. He asked that they go back to look at the existing uses and for the spaces that are vacant, the last approved use. This still needs to be done. Chairman Cosentino said once that is done, he is going to ask for a draft resolution of approval for the next meeting on the condition that those two things are done. Mr. Johannessen said in the interim between this meeting and the next meeting, someone has to develop a plan that shows the demising walls, all of the uses and the parking calculations. Mr. Franze said as far as all of the demising walls, he's confident that the Board has been provided them. It has been shown for each existing tenant. Mr. Johannessen said we need to develop a parking calculation based on those uses. Mr. Franze reiterated so you need a parking calculation for each of the occupied spaces or vacant spaces based on the most recent uses of those spaces. Chairman Cosentino said he is going to ask for a draft resolution for the next meeting. If those things are not done, the Board will not vote on it. Mr. Franze said, just to be clear, the two items being discussed are the original site plan of record. He said he was surprised it hasn't been submitted because he obtained a copy from the Village and provided it to the Landlord. Mr. Johannessen told Mr. Franze that he needed to make copies for distribution to the Board. Chairman Cosentino suggested Mr. Franze meet with Jan Johannessen and Rob Melillo to straighten this out. Mr. Franze said he understood what needed to get done. Chairman Cosentino said we want to get this off our plate but we need the proper documentation.

Mr. Johannessen asked Mr. Franze if he had copies of the staff memos. Mr. Franze said he didn't but he would get them. Mr. Singleton asked if we could go through the open items so the next time here is productive and complete. He said the plan that is before the Planning Board, prepared by Vincent Franze, is going to reflect the parking calculations for the various demised spaces and compare the parking spaces per the uses against what's available on site. He said we are not certain that they have a sufficient number of spaces based on the current code but, however, Mr. Franze will demonstrate the proposed use of 5413 square feet of medical office space has parking requirements less than what the prior use had. Mr. Johannessen told Mr. Franze it would be helpful to know what Tuscan Oven had for their approved seating. Mr. Singleton said, in addition, get a copy of the last site plan of record for staff to compare to this plan what was previously approved. Mr. Singleton asked if anything else was needed from the applicant. Mr. Johannessen said this has been referred to the Westchester County Planning Board but we haven't heard back from them yet. He added that we would need an updated floor plan for the Medical Group space because it has changed from the conceptual plan.

Mr. Franze told Mr. Singleton that he was not certain there have been site plan approval for some of the occupant changes on the site over the years. Mr. Singleton said we don't need that. The tenant changes aren't pertinent. But for example, when Blockbuster went in there was a metal railing shown on the plan, landscaping was shown on the plan. This would give the Planning Board staff the opportunity to compare what you are proposing against what was originally approved. Mr. Franze asked if Blockbuster was part of the original approval. Mr. Singleton said he believes it was. He added if you walk to the southern end of the site, there is a huge drop off at the curb. Blockbuster was required to have a railing there but they took it down because they felt it discouraged customers. The Board wants the ability to compare what was approved as opposed to what you're proposing because if it's grossly inadequate, it can be addressed.

Chairman Cosentino said the next Planning Board meeting is July 8th. Mr. Johannessen said the staff memos are due the Thursday before, July 3rd, so they can be distributed in the packet. He asked Mr. Franze if he thought it would be reasonable to submit by the end of this week so staff has a copy of days to review. Mr. Franze said it was very reasonable and he believes the stuff exists and nothing has to be created or originated but rather assembled and submitted. Mr. Johannessen said to Mr. Franze if you submit hardcopies to the Board, please email a copy to him so he can work on the resolution.

Conceptual Application:

- g. Patricia's Hair Salon and Space – 125-131 Main Street
(Former Comics Plus Space)
PB201-0271, 80.25-3-34 (SBL)
Site Plan and Change of Use**

Present: Rosaura Paguero – business owner

Chairman Cosentino said Ms. Paguero wants to open a hair salon. Ms. Paguero said that was correct where the comic book store was located. Chairman Cosentino said this is a conceptual application. There's no parking involved. He said there is nothing really to talk about in terms of the use. It's probably less of a use than the previous business. Mr. Johannessen said the issue is that the property doesn't have an approved site plan. We believe the owner has been notified and has retained a design professional to prepare a site plan but not has been submitted to date. The owner needs to apply. Mr. Singleton said this is a straight forward application. We don't have the threshold issue of a site plan of record. Chairman Cosentino said the Board would have to wait until the landlord makes his submission. Mr. Singleton asked if the floor plan that the applicant has submitted was done by the same person preparing the site plan. Ms. Paguero said she had used a different engineer. Mr. Singleton said it would be helpful to package her floor plan together in the same package the landlord submits for the site plan.

Planning Board Procedures:

Chairman Cosentino said there are only four Board members present. Did anyone want to add anything to the Board's rules and procedures? Vice Chairman Sturniolo said it worked last year. Why don't we keep it the same? Mr. Johannessen pointed out that the Planning Board Rules and Procedures identify a regular meeting and a work session meeting, which he believes was the Board's previous practice. He said the Board has been operating both meetings the same. He asked if the Board wanted to make that change. Mr. Singleton said he thought the last time this was discussed the Board wanted the regular meetings and work session meetings with the exception of the summer months where there is only one meeting per month and both meetings were regular meetings. Chairman Cosentino asked doesn't that hold applications up? He said he would like to eliminate the work sessions since that's the way the Board has been working and he has no problem with that. Mr. Johannessen said the document would have to be revised to reflect that change. Vice Chairman Sturniolo asked if the submission dates would be changing from 21 days. Chairman Cosentino said that would remain the same.

Chairman Cosentino asked for a motion. **Vice Chairman Sturniolo made a motion to adopt the Mount Kisco Planning Board Rules and Procedures as modified tonight showing no distinction between the regular meetings and work session meetings. Mr. Gibbons seconded the motion. All Ayes.**

Correspondence:

Chairman Cosentino indicated that there was nothing under correspondence.

Mr. Vigliotti made a motion to adjourn. Vice-Chairman Sturniolo seconded the motion. All ayes. The meeting was adjourned at 10:00 pm.

Respectfully submitted,

Sol Gibbons
Acting Board Secretary

/pat