

Minutes of Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, September 9, 2014

Chairman Cosentino called the meeting to order at 7:45 pm in the Municipal Building.

Members Present: Chairman Joseph Cosentino
Vice Chairman Anthony Sturniolo
Sol Gibbons
Doug Hertz
Enrico Mareschi

Members Absent: Stanley Bernstein
Ralph Vigliotti

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

Minutes:

June 10, 2014 minutes held over to September 23, 2014 meeting.

Formal Application:

- a. **Sandy Kids Realty LLC & Sandford Finkelstein Unified Trust – 156 N. Bedford Road (Sherwin Williams) Amended Site Plan Approval PB2009-15, 69.66-3-20**

Mr. Joseph Buschynski of Bibbo Associates, Mr. Elliot Finkelstein and Mr. Peter Finkelstein were present.

Sandy Kids Realty is before the Planning Board for an amended site plan approval stemming from DOT approval work in the DOT right of way.

- DOT approval has been granted.
- The driveway entrance has been shifted to the north, in an effort to avoid truck traffic over the drainage inlet that is located within the right of way.
- Due to the shift in the driveway, there have been changes to the landscaping and the side walk; the curb has been moved to allow for a required DOT snow accumulation area.
- This caused site layout changes and added landscaping with a landbanked parking space. This is a revised layout and landscaping changes.
- The Building Department referred review to the Town Engineer, Anthony Oliveri.
- Applicant's Engineer has submitted an application and plans to NYS DOT for approval, hoping to have a permit within a week or two.
- Two planters are proposed in front of the building, which are required to be shown on the site plan. They will be long but narrow planters at these areas.
- This revised plan will be added to the already approved site plan.
- All outstanding items from the original approval have been completed (French drain drainage connection, parking lot paving, parking lot striping, sidewalks, and fencing erected).

Next Steps:

- Consultant comments are minor, included as condition of approval or resolution.
- Resolution to be drafted for next meeting.

- b. **Tommie Copper (BDM Properties) – 28 Britton Lane/74 S. Moger Avenue PB2013-7, 80.24-3-1 (SBL) Site Plan Approval**

Mr. Peter Gregory of Keane, Coppleman, Gregory, Henry Kensing, esq., Mr. John Diotte of BDM Properties were present.

Tommie Copper (BDM Properties) is before the Planning Board for a Change of Use approval to allow for office space on the 2nd and 3rd levels.

- Parking stall width discussion – Village Code requires 9 ½’ for medical, veterinarian, visitors and short term parking. Village Code requires 9’ for single-family dwellings, multi-family dwellings, employee, and long term parking.
- Applicant had 40 employees move to Armonk location to alleviate some of the parking constraint.
- Applicant’s attorney offered operational plan to ensure Board about parking demand.
- A plan has been compiled that reflects all three parcels being utilized by the applicant.
- Properties are separated by a private right of way that extends off Britton Lane to rear of property with an access easement for 78 South Moger Ave.
- All three properties in question will be utilized to help meet the off-street parking requirement.
- As shown, 10 new parking spaces will be required. 28 Britton Lane which is currently gravel will be improved to Village standards and striped to provide the 10 additional parking spaces. Also landscaping and lighting proposed on 28 Britton Lane parcel.
- Total of 19 parking spaces for all included parcels.
- DEP is involved for stormwater runoff regarding new improvements and new impervious surface that’s being created. DEP has made a site inspection and soil testing has been performed on the front of the Britton Lane parcel for stormwater mitigation. Formal application has not been submitted to DEP for a SWPPP.
- Town Engineer has seen stormwater calculations and requests a copy of the SWPPP that will be submitted to DEP.
- Site layout plans are to include all three lots that are involved, as well as the existing parking spaces.
- Business plan to be provided to help the Planning Board decide if the parking proposed is adequate.
- Applicant is proposing to purchase six Village parking spaces for its employees to help meet the parking requirement.
- Town Planner landscaping comments – 5 or 6 additional shrubs, planter proposed between the retaining wall and parking lot. Applicant proposed ground cover but recommending evergreen shrubs and the installation of temporary water bags for irrigation purposes.
- Lighting discussion – one pole is proposed for the new parking lot. Photometric plan requested by the Planning Board to evaluate whether one light pole is sufficient. One light fixture wouldn’t provide the minimum foot candles required by Code. Existing light would need to be evaluated to see if the new light pole would be sufficient.
- LED lighting is suggested.
- Assistant Building Inspector suggests for future projects that a standard light be suggested for smaller lots.
- No other additional parking areas to be improved or created.
- Parking has been cut considerably over the last month. Applicant has been extremely cooperative.
- Operational plan will be specific to Tommie Copper and the low intensity of the business. Applicant is prepared to submit that.
- Applicant is proposing all three tax lots to equally support the adjoining lots.
- With regard to the second and third floors, this is less to do with the Planning Board and more to do with the Building Department. Is that going to affect the secondary means of egress for some of this office space. We just want you to look at that because it’s going to become an issue for the Building Department.
- Parking counts – your plans show one number and I think it’s a math error, you say you have 19 spaces but on the map it shows 21 spaces or 22 spaces. There is a deficit of three parking spaces. Can the parking spaces be shown in the garage. There is no need to actually provide them there but if you can show them on your plan, the planning board can waive the installation but would require them in the future should there be a need for them at that time
- Applicant’s engineer will confirm dimensions of that building to make sure we can show that space

- Town Planner – the parking spaces, wasn't aware of the distinction, so so he will concede to the 9'
- Applicant's attorney feels that this is not an intensive retail use.
- Ownership of the right of way, street search or title search to be undertaken. Results to be reported to Town Attorney.
- Handicap parking spots to be located. Handicap spots are one for one, to be located according to Code.

Next Steps:

The applicant should respond to comments and keep staff apprised of status.

Draft resolution to be created after comments addressed.

- Tommie Copper opened at this location in September 2012. C.O. not yet received for renovations. Temporary C.O. issued for renovations.
- Kimberly Mallard – the C of O cannot be granted because the site plan is not approved, that is out understanding. The building permit was granted, though it should not have been granted. No one has stopped construction or closed down the business.
- Austin gave them permission to open up but told them to go through the site plan process.

**c. Viktor K. Solarik, AIA for Adam Brodski, EK Mt. Kisco, LLC – 36 E. Main Street
PB2014-0276, 69.81-6-2 (SBL)
Site Plan Approval**

Mr. Vikitor Solarik was present to represent the application.

- Site Plan approval for an existing approval, building has been in existence but does not have a formal site plan approval.
- A new tenant for restaurant part of the building and when signing a lease and coming up with agreements, a building permit could not be issued with a site plan approval. Wishing to move through process and start operating the restaurant. Space is existing, has been a restaurant in the past. Jos. A. Bank is located on same property, building permit and C of O issued.
- Basement discussion – no C of O for basement. C of O for retail. Authorization to change store front, no mention of basement.
- Basement is storage space as far as Village is concerned and despite the fact that it is not the applicant's space, the applicant realizes that it is part of their site and we asked them to reflect what was there and has been done and we have asked him to reflect what is proposed for his space and I believe that the applicant's architect is stating that they are not changing anything substantively in their spaces.
- Simply re-occupying restaurant with slight modifications but not seating capacity. The plan that is before reflects existing conditions, reflects something that is not authorized, basement issue needs to be rectified, a plan is acceptable minus basement issue. Basement of the retail space needs to be shown as storage, not as utilized space.
- Basement requires a fire inspection. Building Department to inspect. Landlord to be advised. Building Department to inspect before approval.
- Basement is being used as a storage, stock and single tailoring area. Building Department does not know offhand the last fire inspection that has been conducted. Basement use for other than storage creates a parking issue.

Next Steps:

- Resolution to be prepared providing that we get comments back from the Building Department for interior inspection and responses to comments.
- Basement to be shown on plans as storage.

**d. Towne Bus Corp. – 343 North Bedford Road
PB2013-14, 69.51-1-1 (SBL)
Special Use Permit, Site Plan and Change of Use**

Mr. Bart Marksohn of Towne Bus, Mr. Brian Marksohn of Towne Bus, Mr. Jerry Marksohn of Towne Bus, Mr. Charles Martabano, esq., and Diego Villareale of John Meyer Consulting were present to represent the application.

- Copy of conditional negative declaration given to applicant.
- Planning Consultant requested operational plan, concerns raised about fueling school buses. 8/5/14 Letter anticipation of business operations.
- Concessions can be made in terms of structuring the fueling of school buses because of concerns.
- Fleet consists of approximately 80 buses to service route, of those buses 50% are vans and 50% are the full size school buses.
- Plan for fueling of full size school buses would take place at off-peak hours, specified in letter, fueled between 11:00 pm and 7:30 am when traffic on North Bedford Road is low. Willing to propose that as a condition to be imposed on their use of the site. The vans represent large SUV's, of those, will only be fueled between 15 and 20 vehicles in total, roughly 7 ½ to 10 vans per day, those vans would be fueled between 9:00 am and 1:00 pm so we're talking about rough 2 ½ vehicle trips. Applicant controls the flow of traffic to the site, so at the end of the day it's minimal traffic flow.
- Fuel delivery concerns – anticipating between 2-3 fuel deliveries a week, if you notice in the letter, offered to stagger them so they take place at night as opposed to during the day. Applicant feels they've mitigated concerns about traffic. Minimal operations at the site.
- July Planner comment letter – site plan issues that can be easily addressed, applicant agrees. Applicant cannot obtain DEP approval until such time as the Planning Board issues a negative declaration which the Board will consider tonight. The Planning Board needs to agree with the operational conditions that were outlined in C. Martabano's letter and they, he went through most of them.
- The number of fuel deliveries per week, the number which he said 1-3, the number of vehicles fueled per day 15-20, number of vehicles serviced per day less than 6. That is generally but on NYS DOT inspection days that number could virtually double because we would be bringing vehicles in for the inspections, I think that's in the letter as well. They can go to 6 on DOT day. The maximum is 6. The number of additional vehicles would be less than 6, page 2, the end of the first paragraph and even then the total of additional vehicles would generally be less than 6. Concern of how many vehicles will be on the site at one time, how many will be serviced in one day.
- The maximum that could be there for service or inspection per day will generally be 12 vehicles, not at one time. Overnight storage, parked behind the building, property would be locked for security. Buses anticipated to be outside, part of the operation. Limited to two vehicles outside of the building, 4 inside, 2 outside. Turning radius concerns, capability of delivering fuel if buses are parked outside, buses will not be parked in a way to prohibit fueling. Buses to be parked behind the building, not in parking spaces.
- Conditions are going to be added to negative declaration – general conditions restricted to maintenance, light repair, inspection and fueling of buses. Number of vehicles serviced or serviced and inspected would be 12. No more than two vehicles stored overnight against the building to be illustrated on the plan. Number of vehicles to be fueled per day would be 20. Number of fuel deliveries per week, maximum of three. The hours of the service operation would be 6:00 am to 6:00 pm. The hours of the full size school bus fueling would be 11:00 p.m. to 7:30 a.m. Hours of fuel delivery 7:00 p.m. to 6:00 a.m. Outdoor work prohibited.

Motion introduced by Mr. Hertz

Seconded by Mr. Mareschi

Upon Roll Call:

Mr. Hertz	-	aye
Mr. Sturniolo	-	aye
Mr. Mareschi	-	aye
Mr. Gibbons	-	aye
Chairman Cosentino	-	aye

Motion carried by a vote of 5 to 0.

- Will be back for the first meeting in October.
- Question about variance from ZBA, status of process. Not a Type II action... Uncoordinated review, ZBA makes their own SEQRA determination which is thought they made.
- EAF submitted to ZBA to have them make decision. Town Attorney to check on status.

**e. Mount Kisco Commons (Vornado Realty Trust) – 195 N. Bedford Road
(A&P/Target Building)
PB2014-0275, 69.58-2-1.2 (SBL)
Amended Site Plan Approval**

Ms. Jan Johnsen of Johnsen Landscapes & Pools present to represent the application.

- Amended site plan approval for landscaping changes to the entrance of Mount Kisco Commons. Issues with regard to the signing of the application.
- Before application can proceed substantively all the property owners need to sign off.
- Planning Board wasn't expecting anyone to appear due to conversations with property owner. Application cannot proceed without the consent of all the property owners.
- Applicant is aware of other issues.
- Amended site plan approval for the entrance off of North Bedford Road, across from Burger King, three tall spruce trees at entryway, about 12' tall, they are blocking the bank from view, bank has been unhappy with lack of visibility.
- Wells Fargo Bank requests spruce trees removed and something lower planted, spruce trees to be relocated to the rear of the site.
- Evergreen hollies and evergreen miniature spruces and evergreen ground cover proposed in place of spruce trees at entrance. Spruce trees to be balled and burlapped and relocated because they are nice trees. Landscaper prefers to cut down and install new trees.
- Planning Board to specify they be relocated. If they cut down the trees, they have to be replaced at 3 for 1, which would require 9 trees be planted.
- Entire site plan to be checked for landscaping compliance with site plan.
- Request for rendering, include existing approved landscaping plan with formal application.
- All staff to make a site inspection, escrow account to be established before site inspection conducted.

**f. 125-135 E. Main Street to Establish Site Plan – 125-135 E. Main Street*
PB2014-0278, 80.25-3-34 (SBL) (Azteca Building)
Site Plan Approval**

Mr. William Besharat was present to represent the application.

- Existing conditions plan, trying to establish a guideline with the Town regarding the plan, the building and the site plan.
- This came about over space number 4 which was proposed to be converted into a hair dressing shop, for personal service instead, originally it was retail space and ever since then, the lease fell through and the deal is no longer in existence but we would like to have the option to rent it as personal service or retail considering the parking requirement is identical, this way whatever tenant comes we don't have to come back to the Planning Board.
- Items from Assistant Building Inspector to be addressed, minor in nature.
- C.O. shows for a deli, you have a restaurant there. Owners bought building approx. 17 years ago and the restaurant/deli was existing. 18 seats were approved, 48 seats exist. Building Department and owner to follow up with C.O. and seating issue.
- No change of use to tenancies at this time, except the vacant store which had a proposal to change it to a service establishment but that no longer exists but would like to keep it due to the identical parking requirements.
- Application cannot move forward until parking for Azteca is resolved, to be worked out with the Building Department.

**g. 13-25 Cary Place Site Plan – 13-25 Cary Place*
PB2014-0279, 80.56-2-1 (SBL) (Reliable Auto & Truck Repair)
Amended Site Plan Approval**

Mr. Randall Lawrence, esq, Mr. George Burns, the owner and Mr. Fisher, the tenant were present to represent the application.

- Permission to park on additional piece of property. Issue is larger than just parking. Site Inspection to be conducted of entire site not just parking area.

- Site walk scheduled for September 20, 2014 at 9:00 am, Board will meet at the site. Secretary to send a reminder to the Board before the site walk.

Special Discussion

h. Saw Mill Club East – 333 N. Bedford Road – Draft Amended Resolution

- Clarification to their use. Code limits the number of accessory uses for an athletic club to three. There are currently three accessory uses operating in Saw Mill Club East; a snack bar, a spa, and a chiropractor.
- They also have a child minding service which is identified in the original resolution on this property as accessory use so there is an issue with the fact that they have technically, in accordance with our resolution 4 accessory uses in operation.
- We want to amend the resolution to identify a child minding service, not as an accessory use but as a customary incidental use, so that the existing operation doesn't run afoul with the code that's all the resolution is about.
- The child minding is specifically for the customers of the facility, not an accessory use for an athletic club. Athletic clubs have change and the village needs to adjust laws to accommodate the athletic club.
- This resolution would eliminate the child minding service as an accessory use, superseding the previous resolution.

Motion introduced by Mr. Mareschi

Seconded by Mr. Sturniolo

Upon Roll Call:

Mr. Hertz	-	recused
Mr. Sturniolo	-	aye
Mr. Mareschi	-	aye
Mr. Gibbons	-	aye
Chairman Cosentino	-	aye

Motion carried by a vote of 4 to 0.

i. §110-28 K Parking Requirments for CB-1, CB-2, & OD Districts

Proposed insertion of certain language and deletion of other language. The proposed language is underlined, the proposed deleted language has been struck through. The Code states that off-street parking for street level uses within CB-1 shall not be required to provide parking. Off-street parking for above street level second floor and above, new construction use within the CB-1 shall be required to provide 100%, off-street parking for street level land uses (first floor within CB-1 shall not be required). It is not stated that you need parking for below street level, this will clarify that only the all levels except street level require parking. Paying for parking spaces alleviates the need for a variance. Applicable for all uses, not just new construction. Referral to the Village Board.

j. §110-30 F Car Rental Amendment

Supplementary use regulations. Regulations require that any car rental dealership be in conjunction with new car automotive sales or gasoline station. In today's reality Avis and National and Hertz ad places like that, they don't go into new dealerships, they're stand alone uses. This code change would simply allow that, it will not change uses that are permitted in the different zones in the Village, it will modify the special use permit requirements to state that. Used motor vehicles sales has to be with new car sales but the rental of motor vehicles does not have to be tied to new car sales. Additional provisions – rental vehicles shall be on paved areas only and not be permitted in the front yard just like the used vehicles are not permitted. That they shall create a plan for vehicle circulations, customer drop-off and pick-up areas, deliveries and vehicles preparation, et cetera, in a manner acceptable to the Planning Board. Vehicles must be well maintained, in a clean and safe condition and not more than 5 years old. Exception to be included, classic or exotic cars.

Research & Development District (RD) – Change to zoning district, basically Radio Circle, they would like to bring Maplewood (Senior, Active-adult housing). Minimum 5 acre site, height limitations, and

other limitations. Zoning petition has been submitted, Attorney reads referral letter into the record. Would this be creating a precedent for the Hearth if they chose to change uses, the response is no. Town Planner comments – setback provisions between the property line and parking structures otherwise specified for other RD uses. The building coverage and the development coverage are reducing slightly; building coverage is 35% reducing to 25%, development cover is 75%, reducing to 65%. On a five acre plus parcel, 25% seems pretty generous. Planning Board directs the village attorney to do a memo to the Village Board of Trustees to make these referrals for zoning changes.

Motion introduced by Mr. Sturniolo
Seconded by Mr. Hertz

Upon Roll Call:

Mr. Hertz	-	aye
Mr. Sturniolo	-	aye
Mr. Mareschi	-	aye
Mr. Gibbons	-	aye
Chairman Cosentino	-	aye

Motion carried by a vote of 5 to 0.

Outdoor dining – tying that to seating and not to tables. Requires a code change.

Site Plan Waiver Discussion - Interim Village Manager suggested to have a site plan waiver provision. For situations where applicants need to move a tree, make a small modification to site plan as opposed to coming for conceptual, full sets of plans, they come to the Board on concept and Board can say they agree and waive site plan approval. Modification will be added to site plan of record. Staff will not make determinations, it will be full Planning Board.

Town Attorney to take Planning Board comments to Village Board regarding the above listed items.

Westchester Burger – Outdoor seating discussion. Building Inspector to have review file. Outside patio is being used currently without a permit. Landscaping was to be completed and then they could apply for outdoor seating.

Additional activity at Mt. Kisco Stone, the former LB Richards Hardware Store, there are trucks parked all over the place, there is a lot of activity in the front of the property, parking is difficult because of the amount of storage in the rear, prevents them front storing trucks in the rear. Wishes NY Stone to come back to the Planning Board. Stop Work order currently on that site, summons and violations will be issued and they will be before the Planning Board.

The meeting adjourned at 9:53 p.m.