

Minutes
Meeting of the Planning Board
Village/Town of Mount Kisco
Tuesday, February 25, 2014

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

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

Members Absent: Stanley Bernstein
Vice Chairman Sturniolo
Doug Hertz

Staff Present: Whitney Singleton
Anthony Oliveri
Jan K. Johannessen

The minutes of the October 8, 2013, November 26, 2013, December 17, 2013, and January 28, 2014 meeting were not approved.

Chairman Cosentino: I am going to try to get through this as quick as possible, because one of our members may have to leave early due to a family problem. If he has to leave early, there is no quorum

Public Hearing Continued

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

**Site Plan Review
Special Use Permit
Steep Slopes and Wetlands Permit**

Present: Mark P. Miller, Attorney at Law, Veneziano & Associates, representing the applicant

W. Charles Utschig, Jr., P.E./Associate, Langan Engineering

Scott Fitzgerald, RA, LEED AP, Senior Associate, Perkins Eastman on behalf of The Hearth

Mark Miller: We are here tonight for a continuation of the public hearing. We were here two weeks ago, and there were two primary issues that were on the table. They were the stonewalls and the exterior skin of the building. Since then, we have found a wall that acts as both a retaining wall and a decorative wall that looks like a

natural rock wall. The request was made that we have the manufacturer build a small section of that wall somewhere here in town where you could see it. That is in the works. We have been reaching out to whoever we need to reach out to determine the location of that wall. Our goal is to have it built before the next meeting in two weeks so that you can all see it. We think you will like it, and hopefully we can move on from there. We will be in touch with the necessary village officials to establish a location. We frankly had hoped to put roughly where our entrance is going to be so you can see it in a hillside. It turns out there is not enough room there, so we will find an alternate location, we will build you a wall, and you can go see it. The other issue had to do with the exterior skin of the building. There was some concern about the materials being used and differences between what was originally proposed and what we are proposing now. This is the original rendering from the Fire Effects Information System (FEIS) under the old plan. The building layout has changed. That material there was a Hardie Plank, which is another alternative to vinyl. Here we have high definition renderings that were approved by the Architectural Review Board (ARB). This shows the vinyl siding in the front of the building. You were welcome to come up and take a closer look at the material. We continue to think that it is a viable product, but we heard you loud and clear at the last meeting. We are proposing Hardie Plank, with a slight lightening of color. We think that color works. This is what we are proposing now. It is a Hardie Plank material. It has the advantages of vinyl in that it is less expensive to install, quite candidly, than natural wood product. More importantly, as with the vinyl, it shares the long-term look and ease of maintenance. So, 15 years down the road it will look exactly the same color. But, color is not really an issue here.

Chairman Cosentino: I agree. We are talking about the material as originally proposed.

Mark Miller: That is correct. That is the Hardie Plank here.

Jan Johannessen: The FEIS findings were that it was clearly to be a natural material.

Mark Miller: And the Hardie Plank is, to my limited technical understanding, wood and is cementations.

Jan Johannessen: I am certainly not opposed to Hardie Plank, but I'll just point out to the board that there are other renderings in the FEIS that clearly illustrated a natural wood siding.

Chairman Cosentino asked to see another view of the building again.

Chairman Cosentino: And the other one is vinyl but the same rendering?

Mark Miller: A slightly different color.

Mark Miller then displayed another rendering.

Chairman Cosentino: Does the building look different from here?

Mark Miller: It's a different building because the building had been flipped. Part of it had been lowered. The building has been significantly reduced in size, flipped; part of it has been lowered story. It is a different overall look, but we are concerned with the exterior skin.

Chairman Cosentino: Do you have a rear-view look of this?

Mark Miller: This is the only rendering of this that we have. It will be the same materials.

Chairman Cosentino: Did you do anything with the rear of the building? Will the whole building be all of the same material?

Mark Miller: It will be, yes, absolutely. The whole thing will be Hardie Plank.

Chairman Cosentino: I want to see on this screen the total rear of the building that we saw on the last rendering from across the valley. We are concerned as to how that changed.

Mark Miller: I daresay you will not be able to detect the difference in materials from across the valley.

Chairman Cosentino: Weren't we going to do something with windows, to dress it up a little bit and make it look better?

Mark Miller: (indicating) this is the side that you would see from across the valley. It is the same. You will not see that from down below.

Ralph Vigliotti: Where is the front?

Mark Miller: (indicating) this is the downhill side that will be visible from across the valley. The entrance to the building is actually on the uphill side.

Ralph Vigliotti: Where would the entrance canopy be located?

Mark Miller: Here, at the porte-cochere, on the other side of the building.

Scott Fitzgerald: It is on the backside. That (indicating) porch is the corner porch seen from the other side.

Mark Miller: It faces the street, but it is technically the rear of the building in terms of where the entrance is on the uphill side.

Chairman Cosentino: That will face Kisco Avenue?

Mark Miller: That is correct, but you won't see it actually from Kisco Avenue. It faces Kisco Avenue. If you are at Kisco Avenue you will not see that. You will see it across the valley.

Ralph Vigliotti: If we are going to see this across the valley, if this rendering represents some of the landscaping, why wouldn't we see more trees?

Scott Fitzgerald: We were trying not to block the view. What you are not seeing here are the trees that are farther down the hillside, the existing trees which are 80 feet tall.

Mark Miller: We would like to get your sign-off, if you will, on this, so we can move forward at the next meeting. Hopefully if we can get the wall built, then I think we are just about set after a few technical items.

Chairman Cosentino: You are getting there. I think there is less maintenance on the material. As far as aesthetics, I don't know. Is it durable?

Jan Johannessen: I think it's a superior product.

Chairman Cosentino: So, we are set on the material. On the emergency access road, the board would like to take a site visit, and we would like you to stake it out.

Mark Miller: We can maybe arrange that at the same time you can view the wall. We will take care of that.

Chairman Cosentino: Please stake out the emergency access road, and even if we have to walk up the hill, approximately where the face of the building is going to be. We would like all that staked out. Just in case the emergency road had to be used, we want to see how (emergency equipment) will get up to the top of the building. That is a big factor on us deciding if we want the road or not. Also, you have still not completed the water situation going up there. We need to know that.

Chairman Cosentino asked the board and staff if there is anything else for discussion.

Whitney Singleton: My comments are the same that they have been every month. I still don't have the emergency access easement, and I still don't have the proposed conservation easement. To be fair to the applicant, some of that is a function of whether or not you require emergency access.

Chairman Cosentino: Understandable.

Anthony Oliveri: We have met with the applicant a month or so ago, and they have all of our technical comments.

Chuck Utschig: We understand what the comments are and we know how to address them. It includes the water and drainage, etc. We have been waiting to resolve the secondary access road, because that affects all of our drawings. Instead of making a submission and

putting an onus on everyone to review them with that still open, we thought it was wiser to wait until that was resolved.

Chairman Cosentino: Keep in mind that the trees that are back here (indicating) are going to have to be full so you do not really see the walls that are behind that. You stated that you can do that.

Chuck Utschig: Yes, this swath (indicating) are existing trees that are staying, along with a certain number that are actually between the road and the property line.

Chairman Cosentino: On the final sketch, show the trees if the road has to go in, because we are going to be taking trees down that are really hiding this now.

Jan Johannessen: The chairman is talking about the proposed trees.

Chuck Utschig: Understood.

Mark Miller: We will request the public hearing continue to stay open until March 11. Thank you very much.

Formal Application

**Field House and Access Improvements
333 North Bedford Road
PB2013-2, 69.50-2-1 (SBL)
Site Plan**

Present:

**Michael Gallin, AIA - Principal, Gallin & Beeler Design Studio,
Architect representing the Applicant**

Jim Diamond, Diamond Properties, Property Owner

Michael Gallin: There were a series of memos that were given to us after the last submission. In this submission, we numerically went through each of those items in the memos from staff and responded to each of those points. Most of them were technical issues. There were a few things that affected the drawings in terms of some of the drainage arrangements. Specifically, the storm water mitigation was modified to one move (sic) work outside of any potential wetland buffer and to meet the DEC (Department of Environmental Conservation) requirements. (Mr. Gallin then presented drawings). Here (indicating) the water collection off the roof of The Field House is now being collected in a small depression right here to the east of it, and that is going to be a rain garden. The overflow of that connects back to the general site. This (indicating) would be landscaped appropriately per the DEP (Department of Environmental Protection) requirements. In terms of the water coming down the hill from Easement One, originally they were catching that in that depressed area and this area. (indicating) That has been modified to be over here to keep it further away from the wetland. The general concept is

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the same as it was under the initial application and is consistent with what the DEP is asking for.

Ralph Vigliotti: Where is the water going now from the driveway up top? Where is that naturally ending?

Michael Gallin: It is just sheet flowing right over the edge into this parking lot and ultimately working its way down into the parking lot. A lot of it is getting caught in the catch basin. Some of it is just sheet flowing off into the grass area.

Ralph Vigliotti: You will mitigate that sheet flow?

Michael Gallin: We are improving that by catching some of it.

Ralph Vigliotti: You keep saying "improving by catching some of it." It seems we need to improve it by catching all of it.

Michael Gallin: For example, this whole parking lot here (indicating), which is not our property, we are not touching. Certainly any of this area that we are curbing here is getting caught into this area.

Chairman Cosentino: There is a stream back there, and that stream has been improved. There were two things Mr. Vigliotti brought up last time. There were cars at the bottom of the parking lot and an outcrop at the top where they enter into a garage. You mentioned there was something sticking out there.

Ralph Vigliotti: Yes, I mentioned it several times. One, when you are driving through the existing parking lot, there is kind of a "through" area to drive through with no cars backing into that "through" area. It is a safe travel lane. My concern is that when you are on that travel lane and you are making a left to go up to exit, there are five or six cars that will be forced to back into that travel lane. That needs to be entertained. We cannot have cars backing into a travel lane. My feeling is that it is going to be used. The whole idea of it is to be a well-traveled lane to alleviate some of the traffic at the other entrances and exits. I pointed it out the last time. I think you know where they are. Safety-wise, it just doesn't make sense. I'm sure you'll figure out a way to re-design and reallocate. Please take a close look at that.

Michael Gallin: What are your thoughts on a stop sign at this location so everyone coming down this way is forced to stop?

Ralph Vigliotti: That makes sense, but you are still backing up into a travel lane. I am hoping you come up with something that will make that exit as safe as possible. It is very safe right now.

Michael Gallin: We absolutely want to make it safe.

Chairman Cosentino: Also, coming up the driveway where you enter into a garage, there is an outcrop. It's like a retaining wall that comes out a little bit. What are you going to do with that?

Michael Gallin: We have amended the drawings to show what we are proposing to do. We are providing a couple of bollards at the end of that retaining wall.

Chairman Cosentino: Does it give you the width?

Michael Gallin: We have plenty of width here. Currently there are some cars parked along here. By eliminating those cars, and creating a "no parking" zone, we are cleaning this up. The wall is already there.

Chairman Cosentino: There will be no parking on either side?

Michael Gallin: Correct.

Anthony Oliveri: The problem with putting bollards there is protecting the wall. It's not doing anything to the driveway. Maybe something has to be done with striping to find a lane. I mentioned that in my memo. That should be looked at. I don't know if the village traffic engineer will look at this at all, but it really needs to be looked at.

Jan Johannessen: Does Ice House Road have a centerline?

Michael Gallin: Only at the eastern edge when you are approaching the intersection.

Jan Johannessen: Do you have any centerline striping on the easement proposed?

Michael Gallin: We do not. Currently there is none. It's only one-way out from here. It's two-way traffic, but there is a sign here saying "right turn only" out, and then there is a "do not enter" sign here (indicating). That is what is being proposed.

Chairman Cosentino: So going out to North Bedford Road you can only make a right-hand-turn?

Michael Gallin: We cannot control what these properties do. The intention is that there is a sign here saying "southbound only." There was a letter that John Collins' office put together. It came in after the deadline.

Chairman Cosentino: If you're going out of your road, per se, and we require a right-hand-turn only, because there is going to be more mitigation of using that road, this may cause problems. Right now, it's only patrons at the dealership making the left-hand turn coming out. You cannot have some do it and some not do it.

Jim Diamond: We talked about this at the last meeting. If you are heading north, it makes a lot more sense to leave from Ice House Road because it's a signalized intersection, its easy-in/easy-out. The disadvantage is that you have all the traffic, including the two-thirds of the traffic heading south there now. If we move that traffic south,

then Ice House Road is going to be very clear and really going to be the fastest way out. We did not want to restrict the ability of visitors to the other two buildings that we don't own to turn left or right, but John Collins proposed, and I guess this did not get distributed, that at the bottom of our parking lot where you enter into that access point, to have a sign there saying "right-hand-turn only."

Chairman Cosentino: I don't think the dealership should be restricted either. Putting a "right-hand-turn" only sign will restrict the dealership.

Jim Diamond: Only at the bottom.

Chairman Cosentino: That makes sense.

Michael Gallin: It will limit people before they even start going up there, and then it would be "do not enter" for people coming this way, letting them know that this is not meant to be an entrance to the 333 property.

Chairman Cosentino: Now I understand.

Whitney Singleton: Really what you're saying is that it's not a limitation, it's a recommendation.

Michael Gallin: Correct. It's all on private property. We are not imagining it's going to be forced, per se.

Whitney Singleton: For purposes of the Planning Board's clarification and elimination, you are proposing to eliminate much of the required parking for the Martabano property without any solution to replacing them somewhere else, correct? You are displacing them where they currently are on their current site plan, and there is no proposed relocation?

Jim Diamond: That is correct.

Whitney Singleton: I understand it's your property, but I want to make that clear to the Planning Board.

Jim Diamond: That is correct. I believe there was a note on the site plan saying that with the site plan there was more parking provided than was required by the code. I don't know if the code has changed since that time.

Whitney Singleton: Right now they have insufficient parking. That is included in the parking. I think Jim's position is that it is his land for his use, but they are planning to displace the required parking on the other side.

Chairman Cosentino: That will make the parking deficient on the Martabano properties.

Whitney Singleton: Yes.

Jim Diamond: Again, the key is that we own that property. The two Martabano properties have had an easement since the 1950s to use our property for egress to reach 117. As long as those cars are parked on our property, then perversely we are actually denied use of our land to reach the same 117. It really is an illogical situation.

Whitney Singleton: Your predecessor cut off your own access by putting up a fence. You were not cut off by the village. Even Ice House Road was the same thing. Grand Union proposed eliminating that access point.

Jim Diamond: That is correct. Those are temporary fences from when Ice House Road opened up.

Whitney Singleton: Yes. When you say that you are being denied use of your property, and you are talking to a municipal board, I want to clarify the context.

Jim Diamond: I'm not saying the village specifically denied us, but the situation on the ground denies us use of our property because there are cars parked on it.

Jan Johannessen: So they use the easement for deliveries?

Chairman Cosentino: I've never seen it. It's always out on the road.

Michael Gallin: I think it would be easier for them to do that with this configuration by eliminating the parking along that easement.

Chairman Cosentino: This board is not going to get involved if it's a legal battle or not. We are going to entertain what you have. You own the property. What you do with the Martabano's is up to you and what they do with you is up to them. You are here before us and we will entertain what you want on your property.

Michael Gallin: There were a couple of points brought up in the latest memorandum regarding the DEP's disposition in terms of their review of the property. We received comments back from our civil engineer stating that he has met with the DEP several times and there is not an increase in pervious surfaces. With respect to water quality, we have met all the DEP requirements on the site. Specifically, they will not provide their final determination until this board takes action.

Jan Johannessen: Until the board issues a SEQRA determination.

Michael Gallin: Correct. We will not be able to get the technical comments from the DEP until the town makes a determination. We will not have the final DEP comments until after this board makes a determination.

Chairman Cosentino: I would like the opinion of the board and staff as to if we need a traffic study. You are going to have more traffic going on to a road that does not belong to the village of Mount Kisco.

Jan Johannessen: I don't know if you need a traffic study per se, but I think you should have a traffic engineer look at the plan.

Anthony Oliveri: A traffic engineer can look at all the issues that Ralph brought up, the issue with the wall sticking out, etc.

Michael Gallin: We have a memo from John Collins. We would like to submit that. If you think that is appropriate, then you can have your traffic engineer review that.

Jan Johannessen: Our traffic engineer should review your complete set of plans and any subsequent submissions from John Collins.

Chairman Cosentino: That will answer some questions that we have.

Jim Diamond: There was discussion at the early January meeting. Has the village retained a traffic engineer?

Whitney Singleton: They have retained a traffic engineer. We are not clear as to the scope of the firm's retainer, whether it's for multiple projects or one project. We will find that out tomorrow.

Michael Gallin: We will make a formal submission of that letter from John Collins. Is there anything else that we could submit at this time?

Jan Johannessen: There is only one comment that requires Planning Board discussion. There are three parking spaces that are going to be eliminated as a result of the access easement, which in my opinion is negligible. I believe the board should make a decision as to whether those three spaces should simply be eliminated or be relocated on the property.

Whitney Singleton: Before you answer that, let me just tag one other thing on. I have not had a chance to look at it yet, and I don't know if Jan has, but there were certain phases and milestones that the applicant is supposed to provide with regard to on-site parking and traffic analysis and everything else as the building became full. I know that they have been diligent pursuing that. I don't know where that was left off. Total number of on-site spaces, total demand, allocation from the village, storage of fleet vehicles on site, etc.

Jim Diamond: The traffic studies have been done. The final one was done last year some time, the 90 or 95th percent occupancy. That was submitted to the village, and we were well below our thresholds on trip counts. The requirement was only for traffic study and not for trip counts. There was no requirement for a parking analysis.

Jan Johannessen: The total number of parking spaces required per the zoning code was 896. The board determined for a previous approval they would accept 799 as being a sufficient number of parking spaces. This would decrease that number by 3.

Michael Gallin: Anecdotally, there just has not been a deficiency of parking on the property. The spaces are available, and certainly

relocating these spaces by putting parallel spaces up on the hill would not solve anything, because those spaces would be so remote that I don't think anyone would ever use them.

Chairman Cosentino: We have to do something with the fleet vehicles. You asked for six months when you originally came, and we gave you permission. You have to do something about them.

Jim Diamond: We don't think it's having any negative (impact).

Chairman Cosentino: If we let you do it, everyone else is going to. It's starting already. There is no doubt about it that they can fit down there, but you have these dealers coming in and they don't have any room. I understand now that you have to take so many vehicles from the manufacturer. They are yours, and you have to store them someplace, and they really have no place to put them. They are going all over now trying to find storage. When spaces are allocated to 333 and you have storage of other vehicles there, it puts you in a site plan violation. When you came before us and are coming back now, if you remember I said six months, it's beyond six months now and there are even more coming in on the south side. We have to think about doing something.

Jim Diamond: Okay. We can work on that.

Ralph Vigliotti: On the north side, you still have the silt fence in place. Please take a look at that, as weeds are growing over it.

Michael Gallin: That should not be there. We will look at it. We will submit that traffic letter. Is there anything else that the board is looking for that needs to be submitted?

Chairman Cosentino: I think the traffic study will give us a lot of information that we need and can work with.

Jim Diamond: I know the board has not seen the letter from John Collins yet, but one thing he did clarify in there is that no Department of Transportation (DOT) approval is required on this because there is nothing changing at the intersection. He did have a comment that they should be notified of the change.

Chairman Cosentino: Even with more, they are not going to have anything to say?

Anthony Oliveri: We note in our memo we would like some feedback from DOT as far as the turning movements.

Jim Diamond: John Collins said since no changes are proposed to the driveway on 117, there will be no permit required.

Chairman Cosentino: We would like the feedback from DOT, not John Collins.

Anthony Oliveri: If our traffic engineer looks at it, I'm sure they will have the same (conclusion).

Chairman Cosentino: Once we get that, the ball is rolling.

Michael Gallin: Thank you very much.

Present:

Helen Mauch, Attorney at Law, Special Counsel - Zarin & Steinmetz, White Plains, New York

Helen Mauch: I know this is not a public hearing, but I am here for the Martabanos. I was hoping I could take a couple of minutes to express their views on this application to the extent that it affects the easement.

Chairman Cosentino: You can do that in the public hearing.

Whitney Singleton: There is no public hearing for this application. It is within the purview of the board. It's a public meeting. I know you have a tight agenda tonight.

Chairman Cosentino: Be very brief. We have a very tight agenda tonight, and we may be losing one member.

Whitney Singleton: It's up to you.

Chairman Cosentino: I will give you five minutes.

Helen Mauch: I am very happy to hear that you share the same concerns on traffic and safety, and that a traffic study will be done. That was absolutely one of the things that we wanted to express – our shared concern with the board and it's consultants. The Martabanos have no objection to The Field House. We are just talking about the easement and the fact that it is a third access corridor to a property that already has two access points. I heard the applicant tonight say that the studies show that at 95% occupancy they were well below the requirements on trip counts. It just makes you wonder, what is the justification for the third access point especially when it is inconsistent with the approved site plans. It creates a hardship for the property owners and their tenants. They would be losing all of this parking that has been used on this property for, I am told, 60-plus years. It is not just since the 1987 and 1989 site plans. Yes, the property is owned by the Diamonds, but an easement is a real legal property right. It is not sufficient just for them to say, "we own it, and we can do whatever we want." The site plan approvals have to be taken into account. I really don't know how the applicant is telling this board that they should just essentially revoke the site plan approvals. I will defer to Mr. Singleton on that, but I don't know how you do it. There are approved site plans that have parking as shown, and that parking is used. The garage bays are used. I asked my client tonight, "Is the easement used for deliveries?" The answer was, "yes." There is a real adverse impact from approving the proposed improvements to the access. That is really all we wanted to say tonight, and again, very

happy to hear that the board is planning on having a traffic study done.

Chairman Cosentino: I thank you for coming. The board will take everything you say into consideration. We have very competent counsel. Thank you for coming.

Formal Application:

**Jaguar/Land Rover
250 Kisco Avenue
PB2013-18, 69.43-3-3 (SBL)
Site Plan, Steep Slopes & Wetland Permit**

Present:

W. Charles Utschig, Jr., P.E./Associate, Langan Engineering

Ira Grandberg, Grandberg & Associates, P.C., Architects

George Gaspar, Grandberg & Associates, P.C. Architects

Richard Stavridis, Member, The Premier Collection

Ira Grandberg: We were before you a few months ago for a conceptual review. In the last few months, Chuck's firm has aggressively looked at the engineering aspects of the project and the viability of what we've done. As it stands today, the building is substantially the same building that you were presented. We are hoping, after Chuck makes his presentation, to move to the Zoning Board to clarify those issues that we have to address. That would help us along in determining all the parameters that we have to deal with on this building. It is essential from this point we move forward in a most efficient way.

Chuck Utschig: To quickly orient you, Kisco Avenue is along the bottom of the board (indicating). The underlying shadow is an aerial of the existing BMW facility. The driveway comes up into the site. There is a circle that goes around back to the service areas, and then there is a parking area. We have set this building within the limits of the required setback, and as you can see partially from the rendering, this is a multi-story building. The highlighted piece that is in a light tan (color) is actually what we call the showroom level. That is the piece that extends above the equivalent grade of the surrounding area and this parking lot. When you come up to this driveway and you're here, you are level with this parking area and the entrance to what is identified as the sales portion of the building. To get to the lower levels, there is an access point that pretty much lines up with the entry point to the garage that comes in and splits. This goes to the service level. Someone who is getting their car serviced would come in and basically go into the building at this location. The red

represents a below grade section of the building, so here it is exposed at the surface, but the lower levels are covered. You would bring your car in; there are the service bays at that second level down. Those are the only two locations where the customers would go. The other access points here (indicating), here, and here all take you into basically three levels of car storage and parking. The access points are a little narrower. They are not intended to be for the public. They are, in essence, intended for the dealership people to move cars around. We have an extended display area to provide another opportunity for the display of this dealership in this location very similar to what was done here (indicating). Other than the building, the exposed walls are going to be built to mirror what was done on the BMW side. It will be a consistent look here. The landscaping is tended to be a continuation of that. We do have some exposed walls that basically vary in height from six, to the worst point here, which is about 12 feet. These basically run about six feet for this wall. This is all about trying to make the transition into the different levels that we are trying to get into. Also, within the building there is a car mover that moves from floor to floor. One of the things we were concerned about in the original design was to make sure that if something happened to the car mover that went from floor to floor, we did not have a car stuck at level three, and a customer wanted it. That is why we provided at least a means of getting to each of the different levels from the site. We do not expect these to be heavily used. They are really intended to be kind of the emergency way out if, for some reason, they have a problem with the lift of the internal circulation. Primary customer activity will be here (indicating) and here, where you currently have the activity for BMW. Utilities to the site come from Kisco Avenue. They are pretty straightforward. The draining system is actually constructed underneath the building. We know that your consulting engineer had a memo and we have to deal with some of his questions. We think we will be able to address those, but basically primary drainage is designed underneath the building. This portion of the site has some underground cold tech (sic) units, which are similar to what was designed here. We would really like to take the next step to the Zoning Board. We have a list of variances that we need for this proposal, which include two principal uses on a single lot, which is not permitted. We have a building length that exceeds the allowable building length. One of our ramps has an 11 percent slope, and only 10 percent is allowed. We are one story over the maximum building height. You code says "X" number of feet or so many stories, and we are over by one foot in height and over by one story in stories. Three stories are 40 feet; we have four stories over a cellar with 41 feet. For us, the next step in the process is to get to the Zoning Board to see if the Zoning Board feels like our justification for those variances is sound and grants them. Without those, the application would change substantially. We can't go forward.

Whitney Singleton: This is an issue which came up on the application for next-door. Your basis for going to the Zoning Board is based upon your assessment of the compliance or the building inspector's?

Chuck Utschig: I did not see a memo from the building department that concurred with ours.

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Jan Johannessen: Rob did an initial zoning compliance memo for the conceptual. That was a much different plan. It was a conceptual, one sheet plan. He identified four or five variances, which you indicate in your memo. I did a zoning analysis in my review memo, but I do not believe the building department has done their own review. I identified what I thought was one additional variance. I believe the property is surrounded by residentially zoned property, and the setback for that goes from 10 to 50 feet from a side yard.

Whitney Singleton: I don't want you to go to the ZBA and then find out there is more.

Jan Johannessen: Procedurally we should commence the SEORA process and circulate for Lead Agency before we get too much further down the road. The Zoning Board is going to be an involved agency, let the building inspector complete his review, identify a full list of zoning variances, and then we will move on.

Ralph Vigliotti: How many cars on the display area?

Chuck Utschig: I believe it's three. These (indicating) accommodate two. I believe the intent was to have three.

Ralph Vigliotti: The irony of the display area which recalls those days. When BMW went in, the display area was a monstrosity of displays, and we shrunk it down and shrunk it down where it got to a point where we were comfortable. Because we were comfortable, you became comfortable.

Rich Staviridis: It's a good way to put it.

Ralph Vigliotti: The irony is we are adding another display area to a display area that we spent weeks and months trying to shrink, so it would not look like a raised display of automobiles as it is going to be planned. I have a concern for that; all of that effort now.

Rich Staviridis: Remember, we were dealing with that area. We were not dealing with all this area before.

Ralph Vigliotti: For the record, it is something we need to look at early on.

Rich Staviridis: Obviously, we are going to do it as tasteful as we have done previously.

Ralph Vigliotti: I appreciate that. Otherwise, the building is interesting.

Chairman Cosentino: You've had a good record in the past.

Ira Grandberg: How will this affect the time frame as far as the building inspector making his review so that we can forecast when we can go to the Zoning Board?

Anthony Oliveri: I would suggest a meeting with the building inspector.

Jan Johannessen: You can commence the Zoning Board process, understanding you cannot get to a decision until this board issues a SEQRA determination.

Chuck Utschig: We were hoping to get the confirmation and/or addition to our list, knowing that that had to be done. We can initiate the SEQRA process.

Anthony Oliveri: Also what was discussed was how this sits with the possible development next door at The Hearth. The board wanted to see how an overall look within the vicinity of that future development. Does the road come very close to that building?

Chuck Utschig: Not at all. The switchback now goes to the opposite side of the property. The separation between here (indicating) and our road is a fairly substantial wooded area that is being preserved.

Whitney Singleton: How far is the traffic light from the building to the edge of the property?

Chuck Utschig: Maybe 200 feet, and maybe not even that much.

Ralph Vigliotti: From the edge of the building to the road will be pretty much as it sits now? Mostly forested?

Chuck Utschig: Yes. As you are standing at Kisco Avenue, The Hearth comes in and basically makes a hard right away from this and doesn't circle back until it get way up into the corner here (indicating). So the return of the switchback is way up here. Basically from here to here is all wooded.

Plans were made for the applicant to meet with the building inspector, update the Environmental Assessment Form and return to the Planning Board.

Conceptual Application

**Oriental Foot Reflexology
153 Main Street
PB2014-0261, 80.25-3-30 (SBL)
Change of Use**

Present:

Vincent Franze, AIA, Principal, Franz & Franze Architecture, PLLC, Architect for the Project

Vincent Franze: We are proposing a tenant change at 153 East Main,

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next door to Pizza Pizzazz, what is currently a vacant space, across from what was the book store.

Enrico Mareschi: Is that the old Game Room?

Vincent Franze: Exactly. Currently vacant, and has been separated, so there is no longer any communication between the two spaces. Currently, Oriental Foot Reflexology has a space on North Moger, so they are proposing this as a second location.

Chairman Cosentino: Will they keep the other one?

Vincent Franze: They will keep the other one. They are enjoying a nice level of quiet success. When I say quiet, because it is off the beaten path, and the very nature of what they do is quiet and peaceful and low-level. This is intended to be the second location, to take advantage of what appears to be a demand for this interesting wellness methodology/reflexology, which is all about the foot. It is a wellness practice based on the idea that the human foot has zones that correspond to virtually every other part of the body, all from the knee down. We are here for a conceptual, but I have to ask. Does not the Planning Board have some amount of authority to decide whether or not this even requires review when there is a tenant change like this?

Chairman Cosentino: Yes.

Whitney Singleton: Actually, it is mandatory to go before the board, because there is no site plan. It requires a change of use and site plan -----.

Chairman Cosentino: Is it allowed in this district?

Whitney Singleton: It's a substantially permitted use. It doesn't go above the shoulders and the neck. that is the distinctive difference. It's a permitted use, but the problem is that under our change of use permit provisions, it has to go to the Planning Board, but the Planning Board cannot approve it without there being a site plan of record. This building is does not have a site plan of record in the files of the Planning Board. So, the building inspector has referred it to this board for a change of use permit and a site plan of record. Ironically, we recently went through this with Victor Solarik on another building. We need you to put together a land ----- allocate the uses per square feet and showing what the breakdown of uses are on the site before the Planning Board can approve anything. But what the applicant is proposing does not increase the parking requirement that would otherwise exist on the site.

Jan Johannessen: Do you feel there is a parking variance required?

Whitney Singleton: No, but they do need to have a site plan of record before the board.

Vincent Franze: So, we don't need a parking variance?

Whitney Singleton: Technically, what the building inspector says is that he cannot make that assessment until he sees what's on your proposed plan. Yes, you need a site plan for this site. You need to show the breakdown of uses by flowing space.

Vincent Franze: That brings me into the second part. It's a two-story building, so you need two floor plans showing the allocation and use of each space, which is going to be backed into a parking ratio.

Whitney Singleton: To take it to the next step, I would imagine this will be pushed back to the property owner, because you are representing the applicant and we are requiring a footed (sic) building. I don't know how you're going to do it without the property owner, but it is a requirement of the code. The property owner will have to do this no matter what he puts in there.

Vincent Franze: Certainly the property owner is well aware of that fact.

Whitney Singleton: I am trying to figure out the cost allocation for your purposes, because it's obviously more than you originally envisioned.

Vincent Franze: Understood.

Whitney Singleton: Recognizing the existing building, the Planning Board needs to review a lighting plan, parking plan, etc.

Vincent Franze: That is very clear. Are you able to map out what the steps are going to be so I can submit as a formal application and be done with it, potentially?

Whitney Singleton: Yes.

Jan Johannessen: Your formal application has to include the change of use and site plan.

Anthony Oliveri: As you develop a site plan, you will meet with staff to go everything that is on the site plan. The important thing is the allocation of the spaces and associated square footage, etc. for the whole building.

Vincent Franze: That is a good suggestion. We will pull all those pieces together.

Discussion followed, and staff articulated in detail what Mr. Franze needs to complete before his return before the board.

Conceptual Application:
29 Carpenter Avenue
Building B
PB2014-0260, 69.81-3-2 (SBL)

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Present:

Linda B. Whitehead, Attorney at Law, McCullough, Goldberger & Sautt, LLP, Attorney for Hudson City Savings Bank

Vito LaRusso, Representing Hudson City Savings Bank, the Owner of the Building

Julius Silverstein, Builder

Linda Whitehead: We are here representing Hudson City Savings Bank, which has taken back title to the units in Building B at 29 Carpenter Avenue. You may recall this was originally approved in 2003 as a 14-unit condominium, amended in 2005 to a 12-unit condominium in two buildings. Building A, which had six units in it, was completed sometime around 2007 or 2008. Certificates of Occupancy (C.O.) were issued for the units in that building, site work was completed. The landscaping that is discussed in the 2005 resolution in some detail was all taken care of. All of that had to be done pursuant to the resolution before the Certificates of Occupancy could be issued. Construction was started in Building B. The exterior of the building is pretty much all there. The interior was never finished. The builder ran into financial difficulties when the recession hit, and the bank ultimately, last year took title to those units through a foreclosure. The bank now wants to finish those units, get them on the market and complete the project. The six units in Building A were not just completed, they were sold and they are occupied.

Chairman Cosentino: How many units are not completed?

Linda Whitehead: Six in Building A and six in Building B. The interior of Building B was not completed. Total units are 12. Six are already occupied, six are not completed.

Chairman Cosentino: Is just the framing done in the other buildings?

Julius Silverstein: The framing, the exterior siding, roofing and windows. The complete interiors have to be completed.

Linda Whitehead: Yes. Mr. Silverstein spoke to the building department about getting building permits and finishing up the interior work. They said we really needed to come back to you and get an extension of the site plan approval. That is why we are here tonight.

Whitney Singleton: I have already talked to counsel's office, and as I previously indicated, they provided us with a very comprehensive package. It seems to address all of the items. The problem is this is a package that I received the end of last week. I don't know what opportunity the other consultants have had to take a look at this. We really need to sit down with the resolution and go through it. We need input from the building inspector as to what consequences, if any, are the results of the building sitting dormant. As far as I'm concerned, they need to submit their formal application for site plan approval to get this reapproved, and to the best of my knowledge there has not been any change in laws that will prohibit or alter the requirements for

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this site, but we need to look through to see if they are compliant with all the conditions and see if there are any outstanding items. We need some feedback from the building inspector as to the condition of the building.

Linda Whitehead: To address a couple of those points, on the conditions of the site plan approval, the final condition that I noticed on there says, "no Certificates of Occupancy shall be issued until all conditions are satisfied," which makes me think since six C.O.s were issued, that the conditions were all satisfied.

Whitney Singleton: It was always done in two phases as far as the building was concerned.

Linda Whitehead: We know that Building B is not done, but the site work was done, and, because it has been sitting there, we are well aware that the building department is going to require certain things to be repaired, fixed, redone, etc. My question is a process question. We were hoping to really not have to go through an entire re-approval process, but maybe just get an extension of the deadline. Our client is obviously anxious to get work started on this. The work is all interior except for some painting and touch-up and repairs.

Chairman Cosentino: That is why I turned to counsel. Counsel gave you the scenario.

Whitney Singleton: *(to Ms. Whitehead)* I think I previously indicated to Jim from your office that we would simply go through and verify that everything has been completed and there are no issues. I don't know that this requires a whole new site plan application.

Linda Whitehead: I guess that was my confusion, because you said it would need a formal application to reapprove the site plan.

Jan Johannessen: You submitted a conceptual application and the formal application for site plan.

Whitney Singleton: The only thing, from my perspective, that needs to be done is every one of us in our own capacity needs to review the site, the plans, the resolution and the landscaping plan to make sure that everything is fine. I presume they put it in escrow?

Linda Whitehead: Yes, an escrow was provided.

Whitney Singleton: I don't see why that would take a long time, but it certainly requires a confirmation from your board that these things are all up to snuff.

Anthony Oliveri: We would review the landscaping plan and all the rest prior to issuance of C.O.s for this building. Was there a Department of Environmental Protection permit required?

Julius Silverstein: They had a street-opening permit to connect. We were not involved in the early stages of the project.

Linda Whitehead: I would think the village files would have something.

Anthony Oliveri: Did DEP sign off on the storm water part of it?

Linda Whitehead: We have no files, because we took the project in foreclosure. We have no information.

Julius Silverstein: All of the drainage structures would be below the paving, and it's all been finished out.

Anthony Oliveri: I know it has presumably been done.

Linda Whitehead: We are in a position where we are going to have to rely on the village's records, because we have no records.

Jan Johannessen: At some point, you are going to need to identify what outstanding work needs to be done, if any. Were there any "as built" surveys submitted?

Linda Whitehead: We have nothing. Our client took the property in foreclosure, so they would not have gotten any of that. I did check with the project engineer for the approvals, Pete Gregory. He said they were not involved during construction.

Jan Johannessen: The building department requested "as built" surveys of the landscaping of the site, so I am suspecting that they don't exist downstairs or we would not be asking for them.

Whitney Singleton: When we have a staff meeting, we can try to better identify exactly what we need from you, and we can pull out the file on this. Hopefully we will be able to coordinate with you at a later point in time. It should be scheduled for a later meeting with the board for approval. As the board can recall, even for the extension of the hospital's site plan, we came in with a full resolution of things they needed to do to extend this. I don't think it will require you to look at item plans (sic), but I think you are going to need to make sure there are no outstanding items.

Ralph Vigliotti: One of the items we are going to take a close look at is the landscaping plan.

Linda Whitehead: We do have some pictures here. There is a lot of significant landscaping. One issues, obviously is the landscaping along 117 to screen the view. If you've driven by, you can see. It was done before the developer started to go under I think the village rightly so required him to get all of that done before they issued the C.O.s for those first six units. I would think somewhere in their files the village would have a record of it all being done. It looks like it's done, but the interior of that building is not done.

Discussion followed regarding arrangements of meetings between client and staff.

Ralph Vigliotti: If you would go over the approved resolution, particularly on the landscaping. There are quite a number of clauses. The Planning Board will be looking to do a final review of the landscaping project completed.

Linda Whitehead: Obviously, some of these things, if there are open items, they can be conditions for C.O.s. We can get an updated approval that still might have some conditions, then we can get our building permits, and those items would be conditions.

Chairman Cosentino: We will not try to hold you up.

Linda Whitehead: Thank you for moving things along tonight.

Planning Board Procedures

Chairman Cosentino decided to cancel discussion of this item because of a full board not being present to discuss.

Correspondence

- Letter dated February 10, 2004 from Michael Zarin and Krista Yacovone from Zarin & Steinmetz (with attachments regarding 145 Kisco Avenue – Flywheel.
- Westchester Municipal Planning Federation – 2014 Land Use Training Institute

Whitney Singleton: With regard to the above correspondence, we should be talking with our traffic consultant tomorrow and hopefully have a report to your board by the next meeting.

As there was no further business to be discussed by the Planning Board, on motion by Mr. Vigliotti seconded by Mr. Mareschi, the meeting was adjourned at 9:15 PM.

Respectfully submitted,

Stanley Bernstein,
Recording Secretary

dm