

Minutes Meeting of the Planning Board  
Village/Town of Mount Kisco  
Tuesday, April 8, 2014

Chairman Cosentino called the meeting to order at 7:40 P.M. in the Municipal Building.

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

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

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

**Minutes:**

March 11, 2014

March 25, 2014

**Motion to Approve Minutes for March 11, 2014 and March 25, 2014:**

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

**Formal Application:**

Morgan Subdivision  
21-27 Ward Avenue  
PB2010-13, 80.26-1-5 (SBL)  
Lot Line Change and Road Improvement Plan

**Present:** Brad K. Schwartz, Attorney at Law, Zarin &  
Steinmetz – Attorney for the Applicant

Charles Morgan, Property Owner

Peter J. Gregory, P.E., President, Keane Coppelman  
Gregory Engineers, P.C. – Engineer for the  
Project

**From the Public:**

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

**Donald Ford – Four Brook Street**

**Anna Daversa – 33 Ward Avenue**

Brad Schwartz: We are on tonight for a draft resolution. I thought it would be helpful if first Peter could walk your board very quickly through some minor changes that had to be made to the plans since the last time we were before you that came out of discussions that we had with the neighbor to the south, Mr. Ford, as well as some conversations Whitney and I have had about how best to show an easement to the Ward Avenue right-of-way that will facilitate connecting the Tapia property to public sewer.

Peter Gregory: We worked with our surveyor to describe a 15-foot wide access utility easement that would run on the southerly side of the center of the Ward Avenue right-of-way. That would extend from the end of Ward Avenue heading out toward Brook Street tied into the Brook Street right-of-way. Within that easement, we are proposing that the sewer connection would fall along that line and tie into Brook Street, as well as the sewer and water connections for the Morgan Property. In addition to that, we've provided additional landscaping. We did have some conversations with Mr. Ford, and he expressed some concerns about the location of the easement utilities and the location of the driveway. As part of this revised plan, we shifted the driveway north to provide more area between his existing driveway and our driveway. I have indicated this on this plan with the dashed line where the previously shown driveway was, and the shaded area is now showing it has shifted up about eight feet. In doing so, we've allowed to create space for additional landscaping. We are proposing some greens, Norway spruce, on the south side of the driveway. As a result of the driveway being shifted up there will probably be a potential impact to an existing maple tree that is located here (indicating). We are providing an additional red maple to be proposed in the landscape as well. I believe those are the three significant changes that were made to the plan.

Jan Johannessen: We are familiar with these changes. We met with Peter Gregory. From our standpoint, he has addressed all of our comments.

Whitney Singleton: The applicant was going to propose to have any property owner cross his property where the sewer line was going to go. That is not in the final subdivision – consent to this sewer line.

Brad Schwartz: Correct. We provided for a signature block on the platform with Mr. Ford's consent.

Whitney Singleton: Because it has been a coordinated effort with the neighbors to make sure that their comments are addressed, you might want to make sure from the neighbors who are present here that their concerns are properly addressed.

Donald Ford: This is what I received hand-delivered from the architect for my wife and myself to sign off on, which we never signed off on, for the easement, because it was a sewer on that easement coming from the old Mannion house. Then it says, "and utilities," yet, tonight he showed me the blueprints that he is running it a different way. Mr. Morgan said he is going to run everything underground. Correct?

Chuck Morgan: I sure would like to. The challenge may be getting across the street. I noticed that they have not put the topcoat of asphalt down yet, so I think that's do-able. Later a topcoat of asphalt will cover that cut and trench.

Anthony Oliveri: There is not a topcoat scheduled. They restored the trench and re-did the drainage way. They are still under contract to maintain it. Were you thinking of running an electrical line underground across the street?

Chuck Morgan: How would we avoid putting a pole there?

Anthony Oliveri: That is something you need to coordinate with ConEd.

Chuck Morgan: I'm all for that. I'd rather not have a pole on my property.

Whitney Singleton: The other item is that while Mr. Morgan will be having his electrical lines, phone lines and everything else go underneath the road bed of what is the Ward Avenue extension, he has a legal right to do so. He does not have a legal right to extend somebody outside of the subdivision's sewer connections. That is the only thing that the former Mannion house will be running from that house to this connection. It will solely be a sewer line, and that should be the sole extent to which Mr. Ford is consenting to traverse his property.

Donald Ford: Alright, well, then put down sewer line going up through that easement, and we will sign off on that.

Whitney Singleton: As Brad pointed out to me, it's just a nomenclature. It was not designed to squeeze more things in.

Anna Daversa: I am here to get information. I want to see if this will affect our property in any way because we were not asked for initial consent for anything. I know the driveways are going to be joined.

Peter Gregory: (*to Ms. Daversa*) The driveways are going to be joined at the entrance. For the curb cut that is here now for your driveway to come in, we will be using the same curb cut to come in and access the vacant piece. Both of those are located within the Ward Avenue right-of-way. The other issue that is a concern to you in this area is the drainage condition that exists. It is my understanding right now that there is a garage with a drain that is tied into an existing drain that is now running through the property. With the improvements that were made along Brook Street and the improvements that are proposed on the Morgan property that should alleviate some of the drainage problems you are having. You may want to look into addressing the full drain and (sic) garage that ties into our plan. We can talk about that. I will show you where we are aware of in that area. Other than that, there will not be any impact to the property in terms of your utilities or your access. There is landscaping that is proposed along the property line for screening.

Anna Daversa: That is very close.

Chuck Morgan: It's a pretty complicated issue, but this (indicating) pipe was undersized and back-pitched when they did the drainage work. They have

redone all that. What happened is that the water would fill up from down here (indicating) and come all the way back up into your property as well as water coming from up top. The things they have done have improved it, and the things I am doing here should improve it.

Anna Daversa: Currently, fortunately, it's been okay in our house.

Chuck Morgan: That's a good sign because that work has recently been done.

Anna Daversa: There is no problem if it is not on our property.

Chuck Morgan: It will all be surveyed. It is within an eighth of an inch accuracy.

Anna Daversa: Thank you.

Brad Schwartz: A resolution has been prepared and is before you tonight.

Whitney Singleton: The resolution was drafted for your approval. These amendments will be part of the resolution.

**Motion to Approve the Morgan Preliminary and Final Subdivision Lot Line Change and Road Improvement Plan – 21-27 Ward Avenue, Including Amendments as Discussed**

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

**Formal Application**

**Westchester Foundation for the Disabled**  
**135 Radio Circle**  
**PB2014-0262,80.63-1-1.2 SBL)**  
**Change of Use and Amended Site Plan**

**Present:**

**John S Marwell, Attorney at Law, Shamberg Marwell Hollis  
Andreycak & Laidlaw, P.C. Counsel for the Applicant**

**Scott W. Blakely, R.I.A., Sr. Vice President/Principal  
Landscape Architect, Insite Engineering**

**John Signorelli, Representing Westchester Foundation for  
the Disabled**

John S. Marwell: After the last meeting we had with you, we took into account the comments and suggestions that were made by the board. As you know we submitted a revised plan, and we are here to review with you

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

and discuss the revised plan this evening.

Scott Blakely: We did not have a site plan prepared for the last meeting. Both John and our office just got involved prior to the last meeting. Based on the board's recommendation we met with the Village Consulting Engineer and Planner. We have also had discussions with the Assistant Building Inspector. We pulled together a site plan. We submitted the site plan of record to the board that was approved sometime in the 90's. Modifications that we've made to this site plan from the previous approved site plan were to update the handicap parking spaces so they meet the criteria for access aisles in width. We've also added a loading space that was not shown previously on the plan. We have also indicated the location of the proposed dumpsters. There is an overhead door here (indicating), the dumpster will be kept inside the building in this location. Other than that, there have been no physical changes proposed, except for the striping of this aisle and striping of these spaces along here (indicating) from the original site plan. We also worked very closely with Rob and the designer on the building layouts. We have removed some of the office space that was previously proposed. We are required to have 58 spaces on site. We are proposing 65 that were originally approved back in the 90s.

Jan Johannessen: We had one minor comment on the EAF. We sat down with Scott and Rob and reviewed the floor plans and parking calculations. I defer to Rob, but I believe that what was submitted is what we discussed at the meeting, and that the parking calculations are consistent with the code, and that all works. We had some minor comments on the site plan, and a couple of details were added to the plan with regards to the parking stalls and some of the restriping. Other than that, Mr. Chairman, I thought it was in good shape.

Robert Melillo: If you look at my memo, you can delete Number One; it was an error on my part. The plans drawn by James Luckner, P.E., need to show dimensions of the building and office spaces. The proposed parking in the garage will have to meet the New York State fire and building code. Depending on the design of that garage and the housing of the cars, you may end up getting rid of it or not. You may lose those spots in the garage.

Scott Blakely: You and I had discussed that.

Robert Melillo: The applicant will have to remove all the walls from the first floor that were illegally constructed, and the applicant will have to provide an updated building permit application outlining all of the work that will be conducted.

Anthony Oliveri: I requested to know the aisle widths on the existing aisles and the existing space dimensions on the amended site plan for the record.

John S. Marwell: We will be submitting a written narrative description of the proposed uses.

Chairman Cosentino: There is 11, 100 square feet of office and 13,626 square feet of storage?

Scott Blakely: That is correct.

Chairman Cosentino: What will be stored there? That is a lot of space.

John Signorelli: They have a variety of 26 years of medical records to be stored. They supply 35 apartments and group homes, so we buy dry good supplies in bulk and distribute them from there. We have enormous accounting records, which as you well know, we are supervised by the Office of ----- . We have to keep very meticulous records. We have the first check we ever wrote 26 years ago to what we have now. There is a tremendous amount of regulatory paper that has to be stored. We also have tools because we deal with repairs in the apartments and group homes, as well as some maintenance supplies.

Chairman Cosentino: It is my understanding that this is not going to be used for any office space.

John Signorelli: We reduced the scope. We had one ----- for office space. For obvious reasons on the original plan, We thought we'd take the opportunity to do so, but we recognized that once we have that, the parking requirements would change, so we will fit into what we can fit into, and we will perhaps down the road come to you if we need to identify some additional parking.

Chairman Cosentino: Are there three offices and seven toilets? That seem like a lot.

Scott Blakely: I am not the architect, but I have the plans here. This, right now, exists as it's shown on the drawing. There are no proposed modifications to this lower level. There are five toilets, three offices and a handicap one here. There are offices upstairs. The toilets do exist there now.

Whitney Singleton: Mr. Marwell has stated that he will be supplying a narrative of the operation of this site, so that your board can be assured that it is not going to become something of an unattended consequence. As part of the discussion tonight, I heard there would be maintenance teams and supplies of that nature. The questions then becomes whether additional fleet vehicles that are going to be parked on site 24 hours. Will there be no cars there at night?

John Signorelli: There are likely to be some staff people who work late, and they will be going home off hours. There are no additional vehicles to be parked there.

Jan Johannessen: When do you think you will be able to get us that narrative?

John S. Marwell: Within a week.

Chairman Cosentino: We will draft a resolution and put you on the meeting for May.

John S. Marwell: Thank you very much.

**Formal Application:**

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

**Flywheel  
145 Kisco Avenue  
69.65-2-1 (SBL)  
Request to Amend Change of Use**

**Present:**

**Michael D. Zarin, Attorney at Law, Zarin & Steinmetz,  
Representing the Applicant**

**Ronald P. Rieman, Assistant Project Engineer, Maser  
Consulting, P.C., Engineer for the Project**

**Krista Yacovone, Attorney at Law, Zarin & Steinmetz,  
Representing the Applicant**

**David Velez, representing the Village of Mount Kisco  
Parking Studies**

Michael Zarin: As you know, we represent MRE Management Company, the landlord at the location of 145 Kisco Avenue. Charles Martabano represents Flywheel Sports, Inc. Charlie could not be here this evening. We have been seeking an amendment to our Change of Use Permit to allow 60 participants at Flywheel subject to the conditions that this board would, I would expect, issue as part of any approval. As you know, we made this application in November of 2013. I know it took awhile to retain a traffic consultant, and you did; and a very good one at that. I think we have tried to cooperate with you all in every respect. We put in a full parking utilization plan, and we received a February 28, 2014 letter from PHA, (*Philib Habib & Associates*) and we made additional submissions. Then, we received a March 28, 2014 letter and we made another submission to you all with respect to responding to PHA and, in fact, offering conditions so that we can comply with the findings that PHA found regarding the necessary parking at the site. As you know, we did studies at the Millburn, New Jersey facility as requested by PHA, and they incorporated those studies into their findings. We are prepared, as we stated in our March 31, 2014 letter to comply with those conditions.

*At this point, Mr. Zarin handed out findings and a table that PHA prepared.*

Michael Zarin: You can probably see our additions to it. These were the studies that PHA did, when they assumed we were using the site at 100 percent occupancy. I know when we did our studies in Millburn, we demonstrated that we were using the site at 70 percent, but we are prepared, as we stated in our March 31, 2014 letter and we re-state today, to treat the site as if it would be 100 percent occupied with all 60 participants at any one time. You can see in the right hand column that PHA used a Friday, worst-case scenario. The right hand column is what they determined what they thought was the deficit in parking spaces in both of these. This pretty much reflects what we had included in our March 31, 2014 letter to the board and all your consultants. You can see that we have put restrictions on the dates and times that PHA indicated were the dates or times that there might be a deficiency. There was more than enough parking utilization during early times between 12 and 6 AM and to 9:15. At that

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

point, we would have, again, enough capacity for 60 plus 4 employees. These were the times when PHA identified a deficiency of minus 10, 12, 18, the highest was 25; then 4, 4, and 4. At those times we're prepared to limit the attendance to 32 participants plus the 4 employees. The next times between 4 PM and 5:30 that they indicated that there was some deficiencies in the right-hand column, we are prepared to limit the participants to 48. That would include the four employees, and then in the bottom there was more than enough utilization between 5:30 and 11, so 60 plus 4 employees. I should point out to everyone that we did not utilize the on-street parking in our studies in these restrictions. So, whereas we would submit that this parking is certainly related to our site, and we did demonstrate in our parking utilization studies that these eight spots are very, very seldom used, and we could have, I think, made an appeal to you to include those as a practical matter, we did not include those parking spaces in this study. We are trying to be conservative. We understand and appreciate that we do not want it, and we don't expect you to approve anything that would create any type of overuse of the parking spaces. This study, in fact, done by us and confirmed by PHA, takes into consideration that there are overlapping classes. That was one of the major points that PHA wanted us to study and that they included. As you can see in the right hand box, this is the weekend. You have, in the right-hand column more than enough participants. 100 percent contemplated use of 60 plus 4 employees. Then there was a time that PHA identified between 9:30 and 11:15, where you have this deficit, and we would limit there to 48, includes the employees, and then there is a time, 60, plus where you really don't get any. There was one time where you had the minus 21, and that is because there was an overlap between the 9:30/10:30 class and the 10:30/11:30 class. We would move that class to 10:45 to prevent that overlap. Again, we are prepared and we did, in our March 31 letter, offer these as conditions to any permit. There is precedent. We've done this in parking permits for other clubs in the area. Specifically, I think we included in one of our letters, you have put in fact restrictions on specific class attendance at another club for Yoga between 8:15 and 9:15, you can only have 32 participants. There is precedent, and we included your resolution in our packet.

Enrico Mareschi: What are the hours of operation?

Michael Zarin: Classes start at 6 AM and they go to 11 PM. Respectfully, I think this is the type of use that Mount Kisco would like. This is a very well-respected, successful type of club that provides a nice service and amenity for the community and surrounding communities. It is something that a lot of communities would like to have and certainly we would like to have it. I don't think it competes necessarily with other uses. I would hope it would supplement. There are multiple clubs, obviously for exercise and recreational in Mount Kisco, and I think most of them do very well.

Enrico Mareschi: This is 6 AM to 11 PM seven days a week?

Michael Zarin: Correct.

Krista Yacovone: In the proposed schedule that we submitted to you in our March 19 submission for Flywheel, it typically begins around 5:30 AM and runs until 9:30 or 10:30 at night. On Saturdays and Sundays it actually ends earlier. It starts around 5:30 or 6:00 AM and will end closer to 2 PM. That schedule is in our March 18 letter.

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014



Michael Zarin: I understand there may be concerns, but we will monitor attendance. We will keep records. We will require our tenant to make those records accessible to the village for your monitoring. We intend, both as the tenant and the landlord to be held to this, and I can assure you that this resolution, hopefully, with these conditions will be a condition and will be attached to our lease. Any violation of these will be deemed a default under the lease. The request tonight, and I am hopeful and I think we've all worked hard on this – I know you worked hard retaining consultants – they've worked hard in analyzing our data. We've been patient and waiting for the traffic consultant to be brought on board, and we certainly have spent significant dollars providing and preparing all the studies they've asked for. We would ask the board tonight to authorize and prepare an appropriate resolution incorporating these conditions into the times.

Ralph Vigliotti: I am not a traffic study or parking expert by any means. I believe I have lots of common sense. I think when I drive by a site I have an idea of whether parking works or doesn't work just by observing what is in use. I've been down to this site at least ten times in the hours between nine and noon during the week. There are only about 28 spaces in the back available, maybe 30 or 31, and probably six or eight in the front. On a Saturday morning, it is exacerbated even further. While I'm looking at what your study shows, my mind's eye says what you are asking for is not going to work. I think our original resolution – even at that point – at times it could be challenging, but I think it could work. I frequent those stores. In the fall, Kidville probably will be challenged themselves with full programming. It's an invitation they want, but because their timing wasn't on key with the school system and other programs that are in place, that in the fall we are going to see an increased use on that site by Kidville. I leave you with that. I don't want to be argumentative. I am sharing with you my observation. You don't need to be a rocket scientist to drive through that lot or any lot in town if you are looking to see how things are working. Right now it's okay because Kidville is not at full capacity, and your proposal is not in place; but it will be at full capacity even at 32, never mind at sixty something. We will know a lot more perhaps six months or a year from now when Kidville is in full operation, but we can't go assumptions, but we are.

Ronald Rieman: When we did our surveys, Kidville just opened up. We were concerned at first that there might be more generation for Kidville. We also surveyed on a Saturday when they had a birthday party. That also inflated the numbers in the parking area. I feel comfortable that Kidville was in pretty good utilization.

Ralph Vigliotti: Do you think they are at full capacity?

Ronald Rieman: There is a very good chance, yes.

Michael Zarin: They represented to us that they have been operating for the past.... we did not count their spots in our studies. We were asked specifically to do it when they were having a major party to get a really worst-case scenario.

Ronald Rieman: We picked a couple of weekends on Saturday, and we had choices of a 15 and 20 person birthday party. We picked the highest one, which is one of their highest caps, 29. When we do our surveys, we pick the

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

most conservative numbers. In addition to driving by the parking lot, we did numerous surveys. We did a Wednesday, which we called a typical, a Friday, which all our numbers show that there is less reserved parking. That is our critical peak. If you drive by there on a Monday, a lot of the stores aren't open. Monday has more capacity than Wednesday, and Wednesday has more than Friday. So, yes, you can get a fluctuation for different days of the week and different times. Also, when we did our surveys for Flywheel, the classes vary in numbers. We actually picked the day where they had the highest utilization, and not only did we use that high utilization, we put it on top of the higher surveyed 145 Kisco Avenue Friday, we also put that higher survey for Flywheel on Wednesday. If you want to look at it a different way, I believe we are very conservative with the counts at the facility and counts at Flywheel. That is a nice reserve.

Krista Yacovone: We submitted the Kidville birthday parties specifically as a stand-alone document to your board on February 10. If you look at that document, you can see that the birthday party, as do, I think, almost all the birthday parties, don't begin until 12:30. Our last proposed class in the Flywheel schedule we submitted to you is at 10:30 AM. That class will be ending as the Kidville birthday parties are beginning around 12:30. Then there is a later Kidville birthday party time slot at 3 PM.

Enrico Mareschi: So all the classes end at 12:30 on Saturday and Sunday?

Krista Yacovone: Saturday and Sunday are a little bit different. Sunday ends closer to 1:00, and Saturday ends at around 11:30.

Ronald Rieman: As Krista mentioned, it doesn't overlap with the scheduling of the birthday parties.

Ralph Vigliotti: I think you are underestimating what the popularity of Kidville is. Across the nation, it is a franchise. The only way to really compare anything is to compare it to other franchises. When those slots are filled and you want to have a birthday party, you will have to then pick another slot, and it may be earlier. That is what is going to happen. When those perfect 1:00 or 3:00 slots are filled, the person who is filling the schedule says, "Well, we have a 10:00 slot." It's like when you want to make a reservation at a restaurant. You really want to be there at 7:30, but the earliest you can get is 6:30. They start filling them as they can. "We can bring you in at 9:30," and you have to make a decision. That has not happened yet, but it will happen.

Ronald Rieman: Are you talking about Kidville?

Ralph Vigliotti: Yes.

Ronald Rieman: I believe they don't have slots open for parties after 1:30, because they have classes. Based on their scheduling and their plan, they don't want to have birthday parties at the times of their class. That is why they don't have the overlap with the birthday parties.

Enrico Mareschi: My daughter had a birthday party there this past Sunday at 1:00, and there were no parking spots available.

Ralph Vigliotti: Where did you park?

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

Enrico Mareschi: I didn't park. My wife ran in. I could not park.

Doug Hertz: There is an assumption on your plan of a 90 percent drive, 5 percent drop off and 5 percent walk by public, which I think is really optimistic. There is a survey from Millburn, which shows a 1.29 percent vehicle occupancy for a Saturday. That does not jive with what we see at the health clubs in town. It is one to one. There is zero car-pooling and zero co-occupancy of cars. It is absolutely one to one. I think the assumptions are optimistic.

Ronald Rieman: These factors are based on actual surveys, as you probably understand, at the existing Millburn facility.

Michael Zarin: We were asked by PHA to select a facility that really resembles this one in demographics and nature, etc. These are real numbers. The best we can do is come up with real, empirical data. I belong to a club in Mount Kisco also and my experience is maybe a little different anecdotally than others. We were asked to go out and produce real data both at existing facilities, our parking utilizations, worst case scenarios, and that is really all we can do.

Ronald Rieman: Besides getting information and recent historical data from Flywheel – we got it for a couple of months - and doing our own surveys to confirm that data, they never had utilization of all 60 at once. All these numbers that we are talking about are again, very conservative. I hope you appreciate that that is the best way to go about it, because you have that built-in cushion.

Michael Zarin: Most of the numbers we were seeing were a 70 percent utilization, even though there are "60" bikes, but PHA, in their report, - and frankly, I understand why they said what they said, is that we have to assume as 100 percent. We have to assume worst case scenario.

Krista Yacovone: The other thing to consider is that there are only three classes, and sometimes only two times a day when Flybar and Flywheel classes do overlap. There will be proposed, as we submitted to you, 45 Flywheel bikes and 15 Flybar spots, but there are only three, and sometimes two, times per day when those two classes are actually held at the same time.

Enrico Mareschi: How many classes are there on Saturday and Sunday?

Krista Yacovone: They have proposed four Flywheel classes on Saturday, two Flybar classes on Saturday. Five Flywheel classes on Sunday and two Flybar classes on Sunday.

Chairman Cosentino: Flywheel has a rear entrance and so does Kidville. The rest of the stores do not. The driveway is 16 feet in width. There should be a sidewalk coming from the back to the front. We demonstrated a lady with a baby's carriage, a husband and two children and a car coming out. They had to stop and let them go. We've demonstrated a husband and wife just walking up, and it was difficult. I know it's been like that for years, but now it's changing to kids. Not everyone uses the back entrance. It's not monitored. I don't know if there is any way if Mr. Martabano can do it, but

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

is it possible to put a four-foot sidewalk and a 16-foot driveway, and have a 12-foot driveway?

Anthony Oliveri: 12 foot would be a standard lane for one-lane traffic. That could work.

Chairman Cosentino: I think Mr. Martabano should consider something like that with a railing. It's a safety issue. This board is out for the safety and welfare for the residents, including the kids. I think it would be good for him also. Another thing, Mr. Valez, have you had the opportunity to read the March 31 memo?

David Velez: Yes, I have.

Chairman Cosentino: Has anything in that memo changed your professional opinion?

David Velez: It's tough to understand. The Flywheel people would have to volunteer their daily occupancy and they would have to be up front about it. It's an oversight enforcement issue. If you (move) the schedules around, and there is demand earlier in the day or later in the day that is not being met, are they really going to turn away people that want to participate in classes? It's one of the concerns that we have.

Michael Zarin: I knew that would be an issue, and I spoke to it preemptively because I understand. There should be records available. Those records should be accessible to the village, and if there is not enforcement then, like anything else, then you would enforce it and demand it. We will include it in our lease with them that that would be a default if there are any violations.

Chairman Cosentino: If we had to enforce everything that we approved we'd have to have 30 enforcement code officers out in the field. It's not possible. In saying that, I am totally against enforcing something.

Whitney Singleton: I'd like to clarify that. You're just putting the village in a position of having to police.

Chairman Cosentino: That is right, and I'm not going to do that because there is nobody out there to do it.

Michael Zarin: We will maintain the records. We will make those records accessible. We, the landlord, will be cognizant of that, and all I can say is this will not be the first approval you give with conditions that may require compliance. I can only say that if they don't comply, they put their business at risk. These conditions are pretty straightforward.

Chairman Cosentino: Mr. Martabano has all the right to do it, but there are certain things this board has to do to make sure it's done right.

Ralph Vigliotti: I want to get a clarification on how the rear entrance is being used. What is the design for use for those who are parking in the rear? There are a number of people parking in the rear. How are they getting in? Is there a rear entrance?

Ronald Rieman: No. There is no rear entrance for Flywheel.

*At this point, Mr. Martabano, who was sitting in the audience, stated there was a rear entrance.*

Chairman Cosentino: Am I correct, Mr. Vigliotti, that you are asking how customers get from the rear to the front?

Ralph Vigliotti: What will happen is the Flywheel and Kidville people may very well take every single space in the front, forcing their customers to park in the rear. Chairman Cosentino mentioned something about a sidewalk to bring children and parents to the front, never mind customers who can't park to go to Zee's or the haircutting place or drycleaners. We still have not addressed a lot of issues here. We are talking about number of members versus number of bikes, and the property still needs to be designed to be safe for everyone that is using it. The sidewalk is an issue I am in total agreement with. What happens to those folks? That's why I thought a design of the rear entrance was going to address additional issues besides just Kidville and your client.

Michael Zarin: Certainly, I believe, you've indicated some issues about design and the like and we will take those under consideration. Remember, this is a change of use and an amended change of use. The board has already approved Flywheel with "X" amount of participants as designed, and that the parking works.

Ralph Vigliotti: Yes, we have for that number.

Michael Zarin: The parking works for the site. The question really before the board – and I am not in any way trivializing the request to consider possibly a sidewalk – but, is there enough parking utilization at the site for additional participants? The site has been designed to work for the full capacity of utilization of the parking lot or you would not have approved the 32. Again, we will consider the sidewalk. I will speak to the Martabanos as soon as we're done, and I know that issue has been raised before, but I would respectfully submit, as far as this application, I think you can authorize and we respectfully request that you authorize preparation of a resolution approving this with these conditions. The Martabanos are long-time members of this community, and I'm sure they've always been willing to sit down with people and talk about... To be honest with you, at this point, this site has been vacant now for a long, long time. You may recall, there was one point where Flywheel already had their building permit and then had to come back to the Board. I'm not pointing. You know the world of real estate these days. It's hard. It's tight. They need to generate this revenue. They need to get a tenant in here, and they need to occupy this. I think, they will then be in a much better position to maybe talk about putting in additional money and improvements into this.

*At this point, Mr. Richard Beusman, President, Saw Mill Club, approached the Board.*

Richard Beusman: I am kind of uniquely qualified to give you some perspective on the issues here, and I know you have been struggling with the parking at the site. For 40 years we have been operating health clubs in Mount Kisco, including spinning and group exercises. Additionally, I was a tenant at that site. I ran a club there at that time, so I know uniquely well

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

what goes on at the site. I know this has been a difficult site, historically, with parking given the fact that, to my knowledge today, none of the parking spaces are to code, none of the alleys are to code. 34 or 35 percent of the spaces on the site are compact. We had a hell of a time trying to have people park in that club, to the point that we were actually limited to the number of memberships we could have, which we adhered to when we were running the club at MKAC (Mount Kisco Athletic Club) at 145 Kisco Avenue. The Planning Board has approved them, and I think they have approved appropriately given the code. There was a study done by the Planning Board that looked at the number of tenants, the number of required uses by code, and came up to the number of 20 parking spaces for Flywheel based on a two-for-one use – two participants for one parking space. That was 16 participants and 4 employees. There have been a number of presentations made to the board in an attempt to figure a way to get the parking to work here, which makes sense, but there was a lot of carpooling at these businesses. We now know, in the studies that have been submitted, that there is very little carpooling. We can tell you at Saw Mill Club East, there is literally no carpooling. We've queried our people in the last month. We have had two instances of carpooling in spinning classes. The applicant came back to you at some point and said, "Well, we want to joint-use (sic) parking because we have different operating times than the other facilities on site. The bulk of our times are from 5:30 AM until 8:00, and 5:00 PM until 9:00. By that, we can joint-use parking." I think the consideration here is that they've come back to you now with a schedule that shows clearly in Millburn and here that the prime time use will be 9 to 5 when the other tenants are there, so I'm not sure why the joint use of parking is even being considered given the parking code on site. To our view, the 32 sounds right. Flywheel has come back to you and said, "When we're really busy in prime-time, 32 is a number that makes sense to us." It's not clear to us why you would allow them to have higher capacity than parking, then let them limit that to certain times, and we would only meet that capacity. We certainly were not allowed to do that at Saw Mill Club. The discussion about Saw Mill Club agreeing between 8 and 9:15 to limit classes at Saw Mill Club East was due to a traffic generation consideration. The Town was really concerned about traffic on 117, and all the uses coming into 333 Bedford Road. The concern was people trying to get to work. We agreed and voluntarily limited classes from 8 AM to 9. That agreement had nothing to do with the parking spaces on site. We had plenty of parking spaces. So, this consideration on their part – they are asking for limiting because they don't have the parking spaces. They are asking you to do it in their prime time. I can tell you from our business it would be very difficult to turn away members who come to use the spaces and know that there is available spaces where they are being told they can't use them. I think it's a very difficult thing to try to monitor and enforce. We think it's appropriate that Flywheel be allowed to go forward as approved. There is nothing holding them back from opening given their 32 participants, which, by the way, is based on a two-for-one. They've admitted mostly it's one-to-one, with no carpooling, so that 32 is even high. Lastly, we do not understand why an allowance for 45 bikes and 18 spaces in Flybar, when they're telling you that 70 percent only use it, and there isn't parking for that. We've made some phone calls last week to Flywheel in Millburn, inquiring to classes on Saturday morning. We were informed the 8:30 and 9:30 were sold out, and the 7:30 was close to being sold out, and there was a waiting list. Flybar classes are 15 out of 18 or 20. That is a 90 plus percent occupancy. We were told during the week they were close to 75 percent. I'm not sure why

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

you're comparing to a Milburn club when we're in Mount Kisco. We think the proper thing, and I think the board is considering this, is let them open and let's see how they do. I agree with Mr. Vigliotti about Kidville. It's unknown what their use really is. That study was done in November. They've been open two weeks. Let them open as they are currently approved, and they can come back and if they can demonstrate that there is parking there, which makes sense. We don't think it makes sense for them to do this now based upon their need versus what is actually available on the site. Thank you.

Chairman Cosentino: It was two months, not two weeks to correct it for the record. Thank you.

Michael Zarin: Would you like us to respond us to a couple of these points? First of all, one of the critical points made is that the code allows two-to-one. Perhaps the 32 is based on two-to-one. We are now basing it on a one-to-one. We are going beyond the code for the entire 60. This is a much more conservative analysis. Mr. Beusman talks about that, in fact, he called and the classes were 90 percent filled. We've agreed with PHA to do 100 percent, and that's our analysis. He said, "I don't know why they would limit their parking during prime time." I don't even understand that. That is exactly why we are limiting our attendance during our prime time. That is the condition that we are agreeing to – the times that we have the highest overlap and the like. We are not a membership club – (that is) a very different animal. They cannot control, I believe their parking utilization looks at 80 percent, because they are a membership club and they cannot control the amount of members that come in. We are not a membership and we are doing it at 100 percent. It's a very different animal. PHA thought the Millburn study was a good equivalent. They asked us to do it and agreed to that as a proper methodology. We are not seeking a higher capacity than our parking. We are in fact, seeking to limit the attendance so we can meet the available parking. We based it, not on phone calls, not on heresay, not on a like. We based our numbers on your traffic expert's analysis of what they thought was valid data. I don't know how else to go through this process, except to use real data and for you to have experts and us to have experts and agree on assumptions and agree on data and make decisions based on those facts. I don't know any other way to do it. In fact, I think our expert represented, and I can vouch for Mazur, because there were times that certain people tried to push them. They would not go in those directions. When they say it's a conservative analysis, it is a conservative analysis. It's one-for-one, at 100 percent capacity. I don't know how much more conservative you can get.

Ralph Vigliotti: Your study was done on a Friday?

Ronald Rieman: Yes.

Ralph Vigliotti: One of our Planning Board members shared that he and his family attended a party on a Saturday and there was not a space to be had, never mind with Flywheel being in full operation. Your Friday study may be accurate, and there are some issues with it, but it is certainly not a Saturday study when Kidville and all of the store that are there are certainly in full operation.

Ronald Rieman: One of the beauties of the site is that you have different

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

users there. In the March 18 letter from their office show the hours of the other uses. We did a Friday, peak condition analysis. We also did a Wednesday, which we call typical, which maybe we were being conservative on that end. Monday and Tuesday are a lot lower. The birthday parties don't start until after 1 or 1:30, when basically Flywheel is just finishing their classes. Again, we don't have any kind of an overlap. We did a survey with a 29-birthday party, which is one of their higher parties. The Flywheel facility isn't supposed to overlap with their scheduling of the birthday parties from 1 to 3:30.

Krista Yacovone: Table 3 does show the Saturday conditions.

Whitney Singleton: With regard to hours, there are no restrictions on the hours for Kidville. They could have midnight parties and 7 AM parties. They are talking about based upon their existing schedule. There is no restriction on any of the businesses there as to the hours of operation. Going back to what we are evaluating here and Mr. Zarin and Mr. Beusman both touched on this. You approved this site for a mix of uses, which were whether they required too many or too little parking spaces based upon the mix of the uses on the site. The site is maxed out under our code. You approved the utilization of the space for Flywheel what the code allows, and that was done back in October. The applicant has come back to you, and specifically they are asking your board to utilize the following provision: "In the case where two or more establishments on the same contiguous lot has substantially different operating hours, the Planning Board may approve joint use of parking spaces provided that the board finds that the number of spaces to be provided substantially meets the extent of the requirements of the section by reason of variation and probable time of maximum use by patrons and employees amongst such establishments." They are asking you to make a discretionary decision to double-count parking spaces. That is wholly within your Board's right to exercise reasonable discretion. In arriving at that determination, the applicant has I will say inundated you with material, and they have put their best foot forward to demonstrate that they will be able to do that. They have provided substantial support of that, expert opinions from John Collins' firm. In response, you have had input from the public as to what their experiences are at similar facilities or even at this particular site, and your Board has its own experience at this particular site, and your board has retained its own consultant, who has made his recommendations to you in writing on two different occasions. For your Board not to take what your consultant says as gospel or what Mr. Beusman says as gospel, or what the applicant says as gospel; it is for your Board to weigh all these things and make a determination as to what the best result is. I want to bring your Board back to understanding they are saying one thing, the consultant is maybe saying another, there may be some overlap, there may not be any overlap, the public is saying another thing, you have your own experiences at the site. It is ultimately up to your Board to adopt a resolution permitting, denying, or allowing some variation of this proposal. That is the application before you.

Chairman Cosentino: In saying so, Mr. Zarin, I have heard this Board. I know the site in the past. I think you said something tonight that I really absorbed, and that is based on facts. I know there was a workout place before where they were parking across the street. This board knows they needed extra parking. I am going to call for a resolution tonight. I think we should have a draft resolution consistent with the recommendations from

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014



David Velez, traffic engineer. That will be my resolution, Mr. Singleton.

Whitney Singleton: I don't know if you want further input from Mr. Velez as a result of tonight's meeting.

Chairman Cosentino: That is the resolution I make. I've read Mr. Velez's report four times. I've listened to my Board tonight. In listening to them, I don't know if anything else could have been different. I did base it on your facts.

Michael Zarin: Just so I understand the resolution that has been put forward in the meaning, when you say, "consistent with the recommendation of PHA," are you referring to the sentence in the last paragraph, "it is therefore, recommended that the village restrict the maximum permitted, and it is recommended that no additional capacity should be granted at this time beyond the previously approved 32-person capacity and it is our firm's recommendation that it should be operational at this location for at least 12 months before such determination is made and the study of parking conditions conducted at the end of the 12-month term to inform decisions about a possible occupancy increases"?

Chairman Cosentino: It's the 32, and we would monitor it, if it's okay in maybe six months to a year.

Krista Yacovone: I was wondering about the PHA report from Mr. Velez. That was the concluding paragraph, but there is additional language in here talking about the ability of the site to meet parking earlier in the day or later in the evening. I was not sure if that would be included within.

Ronald Rieman: I believe our study showed the same data as Mr. Velez's. During that 9:15 to 5:30 period, assuming full occupancy, there could be a shortfall of parking. Prior to 9 AM and after 6 PM, there is an abundance of parking, and if you do a drive-by I am sure you will see that also.

Chairman Cosentino: If you heard my resolution and read his report, that is all you have to know right now.

Ronald Rieman: I appreciate it.

Michael Zarin: We have offered conditions that are consistent with PHA, and to Whitney's recitation of the law, the provision clause substantially complies. "Substantially complying at discretionary" means it does not have to be absolute perfect. It could be substantial with the intent and the like. When he sort of said, "you can go on your personal experiences, and you had one member of the public, who, in fact – I am not going to characterize them, but I think there is a certain motivation there that is not based on concern about our parking and the standing of our parking, and then I think what Whitney probably did not emphasize enough is that a decision of this board must be based on empirical evidence, substantial evidence, and must be rational. I think we presented substantial evidence.

Chairman Cosentino: We know our job. We do not need you to give us schooling on it.

Michael Zarin: I know you do. Whitney mentioned the standard; I just

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

wanted to add to it. I apologize if The Chair found it insulting.

Chairman Cosentino: I did not find it insulting. I am sure you know who we are. You have not been before us much.

Michael Zarin: The firm knows you well.

Chairman Cosentino: We are very lenient, and based on what this Board has heard and listening to the Board tonight, there is no other way we can go. I am glad you say, "based on facts." You gave us your facts, and that's what we based it on.

Michael Zarin: Respectfully, we took the factual evidence presented by your expert. We showed how we could meet those. The issue that PHA raised was, how do we enforce it? Enforcement is difficult. Respectfully, I don't think that is enough of a rationale to not include these conditions. We showed using these data and this evidence how we can meet these in the most conservative. There is a real possibility that if we don't get this we are going to lose the tenant. I'm not sure they are going to agree to come in for this time period. I think that would be a shame to a lot of people.

Chairman Cosentino: I like Mr. Martabano. I wish I could say yes, you're going to get the 60. I can't in good judgment do that. I'm sure if you were sitting back here, you might feel the same way.

Michael Zarin: I've worked very hard, and I am on your side. Our firm represents a lot of municipalities as special counsel. We do have a sense and an idea of what you need to make a decision and to ensure that you've fulfilled your obligations and responsibilities, and that's what we tried to do.

Chairman Cosentino: As you saw here tonight, if there was a vote taken here tonight, you'd lose.

Doug Hertz: I think we are all sympathetic to the situation. I really do like the use. I don't think we are arguing about counts at this point, but the concern is that it really becomes an enforcement issue. This Board has had miserable history of conditions that require enforcement that have failed time and time again. To the extent that it is possible, we have tried to create resolutions that don't require a cop sitting over your shoulder. The village doesn't have the staff to do it. You don't want your client to have to do similar situations where we've done with others, where on a holiday you hire an off-duty policeman, and that is where we find ourselves. Kisco Avenue is a very popular place. There is more than one event, and it's a teeny little street. The concern is that we cannot err on the side of every applicant because an aggregate will fail.

Michael Zarin: Again, I understand what you're saying. If you issue approvals and create conditions, and you do it in so many of your projects, any of your large projects has conditions on it. We all go through the environmental review process, site plan amendments, etc. There are pages, typically of conditions. That is the world we all live in. You and my clients rely on compliance. If people don't comply with those conditions then they are in violation and they should suffer the consequences. As I said before, we are willing to strengthen that, put it right into our lease and be another line of enforcement. If there are other ideas you have that strengthens

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

enforcement and you think is viable, we are open to that. We understand your concern, but I think to potentially deny it primarily on that basis, while I am empathetic and sympathetic to that, I guess I see that as an issue that can be applied. We are willing to live by that, we are willing to ensure that their records are kept and accessible. They can be submitted to you. I cannot think of a more daunting thing, that if they violate these very strict objective standards, their business could be closed and this investment for naught, and a violation of a lease. We will provide you with the language of the lease, you will see the language of the lease and they will be in default and risk that. While I understand your point very well, and I understand conditions sometimes disappear and get ignored over time if you don't have that continuity and the people to enforce it, and I appreciate that. I guess the only other thing I would say is that really exists for so many of the approvals you issue in your seats.

Ralph Vigliotti: With all due respect, I think you laid out in your opinion, a reasonable case for your isolated tenant. We have brought out this evening the fact that there are either eight or ten other tenants that will be in jeopardy with regard to parking with Flywheel. We talked about earlier, if all of the parking is used in the front, and those merchants are open and their customers have to park in the back, what are we doing to maintain the safety and welfare as a village for those merchants and their customers? We talked about a sidewalk; we talked about possibly a rear vestibule to bring people from the rear to the front. You are speaking in an isolated, Flywheel, your client. We are trying to represent the Village at large and the code that we have at large. The original resolution for 32 members, I think, was fair and reasonable back then. It still is fair and reasonable. We've even added on another piece to offer an opportunity, and that is six months to a year – whatever we sit down and negotiate – that you have an opportunity to come back and say, "Here's the case. We were right, you were wrong. We are now appealing for additional bikes or members." We've done it before. As a matter of fact, one of your competitors was under a similar set of circumstances when they were developing their site. If you honestly believe in your heart of hearts that this site can handle 60-some additional cars, then begin with the 32, we will wait out six, nine months or a year, as we've done in the past, and please, prove everyone wrong. I leave you with that.

Michael Zarin: My only response to that would be on a larger level, this firm represents the MRE and the Martabanos. We don't represent Flywheel, per se. If anyone has the concerns of all the tenants, it's the landlord that has to keep all these tenants happy and satisfied. As you state, if we miscalculated, and the parking does not work, we lose those tenants and we're back in the position and economically harmed. I think it's telling the other tenants – and none of the tenants are here to object. I think the Martabanos have done the necessary studies to show that there is enough parking for all the tenants, or frankly they would not be here. If they don't have parking, they are going to have angry, unhappy tenants. While I understand that scenario, "come back and we'll see what happens," the fear is that there won't be a come back. There is a very, very real chance that we are going to lose Flywheel as a tenant if we can't this. It is not a threat, it's just a fact. It is on that basis that I appeal to you to reconsider and to include the conditions. As you see, the places where we have 60 on our chart, I think, are the places that PHA had no problem with, because there is very little overlap. There are very few people in the lots at those times. The

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

places that they do have problems, in fact one of them on the main weekday time we are limiting to 32. That was the number that people have spoken to. We are going to limit that time to the 32. These 60, everyone and PHA agrees there is really no conflict. The others we are ready to limit to 48.

David Velez: We are going back and forth on the numbers. We've based our projections on two days worth of data. We could go out tomorrow and find different volumes, different capacities, different utilization, etc. At 9 AM for example, on a weekday, there are six available spaces. So, those six spaces can easily be full, and then you have a shortfall again. What I'm saying is the 32 will show how the site actually operates, and it is my understanding everyone seems to have a level of comfort with that.

Chairman Cosentino: I've made the resolution based on this board. You know how the board feels right now.

Whitney Singleton: Jan will draft, with some assistance from each of us, a resolution.

*At this point, there was a pause in the meeting as Mr. Zarin conferred with his client.*

Michael Zarin: To address an issue that has been raised, the Martabanos suggested that if it would help address one of the issues that have been raised tonight with respect to the other tenants and the safety of the site, that they would be willing to put in the sidewalks as a condition to the approval. Again, with these conditions, in other words, these restrictions. I consider this a restriction. It would be done simultaneous with the lease, and we can work out the specifics of timing to ensure there is no delay.

Chairman Cosentino: The resolution is on 32, if he wants to put the sidewalks in on 32.

Michael Zarin: I thought one of the concerns about agreeing to this was how the site would work and safety and the like.

Chairman Cosentino: It is. It's also parking.

Michael Zarin: I am proposing the sidewalks as means to address one of the main concerns which I heard articulated tonight, that with the site and the introduction of Flywheel, that the sidewalks would make the site a more unified and safe site. I am offering that as another mitigation.

Chairman Cosentino: I am one person here. I think the board wants the 32 and that's it. We were prepared to do the resolution.

Whitney Singleton: I will draft a resolution. The site plan is still required to come in for final approval. The board can look at it and express their comments. If you feel there is any direction in which you want to move one way or the other, you are welcome to do so.

Chairman Cosentino: And they're willing to put the sidewalks in?

Michael Zarin: As I said before, they are willing to install those as one of the conditions to approval of their application. Thank you very much.

## **Formal 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**

Jan Johannessen: The applicant submitted applications for site plan approval, because there is no site plan of record, and a change of use permit from food retail to personal service. The property is located in CB-2. There is no off-street parking provided; however, the parking requirement is no different from the prior use, so there is not a parking issue, per se. We did have some minor comments on the site plan aspects. The Planning Board has a site plan check list, taken right out of the code. That contains the requirements for a site plan. There are a few additions that need to be made to your site plan for conformance. Also, you submitted a survey which provides a little bit more detail on some of the things that are occurring which should probably be transferred onto your site plan.

Vincent Franze: All retaining walls, storage components, etc.

Anthony Oliveri: It's important that you use the survey as a basis.

Jan Johannessen: The items that are shown on the survey should be shown on your site plan.

Vincent Franze: Can I simply take a digital version of the survey?

Anthony Oliveri: Yes, and build your site plan off that with areas and the first four tenants being delineated.

Vincent Franze: Is the parking calculation pertaining to my client?

Jan Johannessen: You don't really need a parking calculation. You need to identify the uses and the square footages of all those uses so we have a base to go forward with in the future for the entire building. I think you've laid that out, but you didn't provide areas. The second floor is all professional offices, and you identified that, but you need to give us square footage. Specific to your application, if your floor plan can identify the particular stations. I don't know if they use chairs, beds, etc. Please identify those stations so we can get an idea of the number of participants, etc. There are no inherent issues. Where is the garbage? Do they store that in the rear alley?

Vincent Franze: Yes.

Jan Johannessen: That is why it's important to include the items on the survey. That shows some greater detail.

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

Vincent Franze: The square foot calculations would be per use, not necessarily per tenant? I'm thinking of the professional suites upstairs.

Jan Johannessen: The space on the second floor used for office.

Whitney Singleton: Do you have a floor plan of the second floor?

Vincent Franze: Yes, I submitted that.

Jan Johannessen: We don't subtract out corridors or bathrooms. That all gets included.

Vincent Franze: I understand.

Ralph Vigliotti: My understanding is that there is another site in town for Reflexology on North Moger Avenue. I want to share a noticing. I know the employees come into town as a carpool in a van. I was stuck behind that van yesterday as the employees were exiting the van. It was so close to the intersection that two cars backed up behind me, and one was left in the intersection because the van was taking so long for six or seven employees to exit the van. I want to put on record that the van driver needs to find an available parking area to allow the employees to exit the van. The new site is going to be on Main Street, and we can't have double parking. This is not one person running out; it's five to seven people. I hope the business is successful, but I don't want traffic to be backed up to a traffic light because the van driver doesn't want to find a drop off area. I would ask that the van driver for both sites is told where to drop off. It could be an available parking spot, but there has to be a site for drop off that is not going to interfere with the traffic in town. The owner needs to know to have a designated drop off that works and will not interfere with the traffic flow in town.

Chairman Cosentino: There are two parking places where they can drop off.

Whitney Singleton: Your client has all the requisite licensing from the State? My understanding is under the education law, you have to have licensing.

Vincent Franze: There is no state licensing at this time for Reflexology in New York State.

Whitney Singleton: I thought they had already provided it.

Vincent Franze: There is no state licensing for Reflexology.

Whitney Singleton: Going to the issue of showing the stations, the reason for that is technically the Planning Board has the ability to increase the parking requirement, which will be problematic to swap out one-for-one for the current use. How many stations you put in that business will have an impact when it comes back to the board. If there are 20 stations being shown, as opposed to five or whatever the number is, that could have some impact. As part of the Change of Use process, the Planning Board is the first to look at the impact on parking. While we understand you don't have parking, it also doesn't mean that they have to approve a crazy amount of demand for parking on site.

Vincent Franze: Is there a formula for that that I have not seen?

Whitney Singleton: No. The Planning Board has within its discretion the ability to increase the parking requirements under the zoning law, where they feel as though it would be an increase from a previously existing use. It's kind of like when we talk about sales of pianos. They generate different levels of traffic.

Vincent Franze: Thank you for the heads up.

Jan Johannessen: Please submit drawings in response to the comments prior to the May meeting.

Vincent Franze: Absolutely.

*After discussion, a draft resolution will be prepared for the next Planning Board meeting.*

**Conceptual Application:**

**Three Boys Hot Bagel, Inc., a/k/a Sinapi's Hot Bagel  
222 Main Street  
PB2013-0257,80.33-1-13 (SBL)  
Change of Use**

**Present: Anthony Sinapi, Tenant**

Whitney Singleton: This has been around for a little while. We had a staff meeting approximately a week ago with the Chairman and the architect for the space. What was presented to us was, this is to substitute after a retail use. This use has a required parking of one space for 150 square feet. However, there is a kicker for this for any area dedicated to seating. They are proposing a nominal amount of seating. The discussion was because there is such an extensive amount of food preparation, food refrigeration, ovens, boiling and everything else associated with bagels, that should be ascribed a different parking requirement and that a special parking requirement should be given to this particular use as sort of a variation of a food retail use. The applicant has been requested to submit to the Planning Board an outline of what they're proposing and the amount of square footage that would be limited. It will be an isolated area, and then all the ovens and refrigeration and garbage storage will be allocated another one, and it would be for the Planning Board to determine for that combination of use whether that 1 to 150 works (sic), in which case they can just come back with a resolution for a Change of Use permit. We went through the entire site plan, and it has been established.

Chairman Cosentino: Most of the people will come in, wait for their food and leave.

Whitney Singleton: There was an added concern that we discussed about, "Well, couldn't this just be swapped out for a Panera, or something like that?" Then, before you know it, we have something that we never anticipated. By virtue of the way we're handling this application, the applicant is apparently going to represent in his submission from their consultant, from their architect, that the hours of operation are substantially

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

off-peak, and that they essentially close till late afternoon before the ----- open, so this approval will be specific to this use, not to any food retail use.

Chairman Cosentino: Let's get a resolution for April.

Anthony Sinapi: I spoke to Jim Palmer and Patti. They told me to go ahead and submit my plans to the Board of Health, which I did. It's already upon approval soon. I want to see if I can speed up the production.

Chairman Cosentino: Whatever you do is fine with us.

Anthony Sinapi: As far as getting the permit to build, would it be alright if I bring in the approved plans to Rob and get this process going because I'm out of work.

Whitney Singleton: There is one caveat, though, that we discussed with the building owner and the architect. I will let Rob address that, not to put you on the spot, with regard to not your space, but the balance of the site. There are existing violations that need to be addressed. Ultimately, Rob, you will not be able to issue a building permit until such time that the site is put into compliance.

Chairman Cosentino: Can we make a condition so he can start?

Jan Johannessen: It is my understand through Patti that the applicant submitted the amended site plan application on Monday, and that includes some improvements to the property that I think will rectify the violations. You are putting in a new dumpster enclosure, a fire lane, some signage.

Chairman Cosentino: Can we make that a condition so he can get started?

Anthony Sinapi: I would appreciate that if you can. I have to get started.

Jan Johannessen: The two are going to be approved together on April 22.

Chairman Cosentino: Between now and the 22<sup>nd</sup>, can you review his information if he submits it now?

Robert Melillo: I am three to four weeks behind on building permits at this point. I understand (his situation), but that is where we are downstairs.

Anthony Sinapi: That's not right. I'm out of work.

Robert Melillo: There is nothing we can do. You are not the only one waiting for a permit.

Chairman Cosentino: Would you try the best you can so he can get started?

Robert Melillo: Absolutely. (to the applicant) Submit your information.

Anthony Sinapi: I will bring it to you as soon as the Board of Health gives it to me. Thank you.

**Conceptual Application:**



**Jersey Mike's Subs**  
**23 South Moger Avenue**  
**PB2014-0263 69-81-6-14 (SBL)**  
**Change of Use**

**Present:**

**Brian Egan, Franchisee, Jersey Mike's Subs**

**Brian O'Hagan, Area Director, Jersey Mike's Subs**

**Mark LaPointe, AIA, Director of Architecture, Friedland Properties,**  
**Architect for the Project**

Enrico Mareschi: Where are you from?

Brian Egan: The original store was in Point Pleasant, New Jersey. The founder of the company bought it when he was 17 years old. We are coming for a change of use.

Brian O'Hagan: Today I submitted a site plan for review to Patti. I think that will come up on the May 13 date.

Brian Egan: Prior to this I submitted the information regarding the brand.

Brian O'Hagan: We have over 1000 restaurants nation-wide. We compete with Panera Bread. We think we have a really good product. We usually outlast everybody. (indicating) This is an actual size sub. We use fresh ingredients. We slice the meats directly in front of the customer. We ripen our tomatoes in a three-step process. We bake our bread fresh all day on site. We also bake our certified angus roast beef on site. We really believe in our product. We don't really advertise and use a lot of advertising money on TV or anything like that, but we really believe in our founder and give back to the community. All of our marketing money goes into the community any way we can with teams and charities. We just finished something called The Day of Giving on March 26. Every single restaurant in the country contributed all the receipts from the stores to the local charity. They gave up all their sales and all their profits to charity. We try to give back to the community, and we really believe in cause marketing and getting involved with the town.

Brian Egan: Since 2010, over 7.5 million was raised for local charities.

Brian O'Hagan: On March 26, we raised 2.1 million and handed it out to 66 charities.

Doug Hertz: Please describe what the operation is going to be like.

Brian Egan: It will be counter-style. We will have our counter set up as you come in and place your order. We have our slicers located right in the front, so when you place your order we will cut that fresh for you. We have a grill as well, and we do a variety of hot subs. After we take your order, we take you down the line, so you will get your bread sliced. We then take you to top your sandwich with vegetables, and then we cash you out. The nice thing is the speed of service. It's a system that allows for very quick service

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

times.

Brian O'Hagan: To that point, 60 percent of our business is take-out. You don't have people coming and staying for a couple of hours. They are in and out pretty quickly.

Doug Hertz: How many tables?

Brian Egan: The proposal that I submitted has 22 seats in it.

Enrico Mareschi: What are the hours of operation?

Brian Egan: 10 to 9, seven days a week.

Brian O'Hagan: We hire locally. Each store typically has about 10 to 15 employees. Brian here is a former senior vice-president of a company called Au Bon Pane, so he is very, very experienced in the restaurant business. I grew up in the restaurant business. My family owned restaurants in Westchester. All my children were born at Northern Westchester Hospital, and I grew up in the area. It's nice coming back here, and I know Mount Kisco is a great town. My sister is the administrator at the hospital, so we might use that as one of our charities.

Brian Egan: We also have the ability to deliver and cater as well. We will be able to get out to a lot of businesses. You can order 50, 60 sandwiches. We have a nice presentation of catering boxes and it can be delivered.

Jan Johannessen: Do you do a home delivery?

Brian Egan: We do not.

Brian O'Hagan: We like to hire locally, and we like to have a really engaging staff.

Ralph Vigliotti: Will there be a rear entrance?

Brian Egan: There will not be.

Ralph Vigliotti: That is probably not a good idea.

Jan Johannessen: All your deliveries and garbage is going through the front door?

Brian Egan: Yes, but we do everything on "off" hours.

Ralph Vigliotti: I have a concern with that as far as parking. In an effort to help this along, we know how the town works as far as ingress/egress, people trying to find a place to park. I am not sure how they are going to get to you very quickly if they don't have a place to park. The parking lot in the back is where most people would park to come in to your store. If you don't consider parking, unloading, an entrance so you have parking for your customers at the rear, you are going to have a real issue on Main Street where parking is very limited.

Brian O'Hagan: We have the train station, and we are in the front lot.

Ralph Vigliotti: Don't count on it.

Jan Johannessen: It's not really an availability?

Whitney Singleton: To be as candid with you as possible, the Board has been through this. They have required storefronts to create corridors to go to the back. They want all the trash and all the deliveries to go to the back of the building.

Anthony Oliveri: Are we talking about trash and deliveries or are we talking about customers?

Ralph Vigliotti: We are talking about everything.

Chairman Cosentino: I'm talking about unloading and garbage, which are big problems. If you double park there, you are going to get a ticket, and it's a heavy fine.

Brian Egan: We do it on the off-hours.

Chairman Cosentino: Everyone says that.

Brian Egan: We get one delivery a week.

Chairman Cosentino: Why don't you want that back door? Why do you want to take that out?

Brian Egan: The landlord is demising the space, so it's not available to us.

Chairman Cosentino: Let him make another one for you.

Whitney Singleton: There is going to be a front and a rear entrance?

Brian Egan: Yes. It's noted on there.

Jan Johannessen: What about having a corridor on one side that allows access to the back?

Marc LaPointe: The building is configured in a way that the plan is to have stores on South Moger and also have stores facing the parking lot, similar to the other buildings.

Chairman Cosentino: For them to unload their trucks and the garbage, it's not going to happen on So. Moger Avenue.

Marc LaPointe: If I may be so bold to suggest, the town has asked us how they can help us with vacancies. We said we need customers to be able to come to the stores, and we're losing customers because they can't find a place to park. They can't find a place to park because the back parking lot is occupied by employees of our tenants, and there is no enforcement. I think if you were to ask the Town Manager how many tickets were issue on South Moger as opposed to the back...

Chairman Cosentino: You are absolutely right, but we are talking of

unloading. When you get a delivery and have to unload, he has to double park in front of the store or find a parking spot.

Enrico Mareschi: They are never going to find a parking space.

Marc LaPointe: I am responding to your comment about the control of parking.

Chairman Cosentino: We are not talking about cars. We are talking about unloading and garbage trucks, because traffic is backing up.

Brian Egan: It will be off-hours.

Ralph Vigliotti: We've heard that before.

Marc LaPointe: It's not a really complicated restaurant. It's subs, chips and drinks. We only have 80 SKU's. It's not like a giant tractor-trailer comes in and delivers to us. We get one Cisco truck and Pepsi comes, and that's it.

Chairman Cosentino: Where do you get your flour from to make the bread?

Brian Egan: All of our bread comes from New Jersey. It's baked par (sic) already and then we bake it in the house.

Chairman Cosentino: Where do you unload it?

Brian Egan: It's cases of bread basically all ready to go to put in the oven. We don't actually mix the flour and everything like Cosi does. We don't make it from scratch. It comes from New Jersey, because we want to use New Jersey water to make our bread.

Chairman Cosentino: Do you understand what I'm saying about the difficulty of the double-parking?

Marc LaPointe: It shouldn't be double-parking. Deliveries should be made legitimately, properly parked and delivered.

Whitney Singleton: When we review a site plan, there is usually a provision for a delivery area. In Shopper's Park, we provide those delivery areas in the rear of the buildings. I recognize that your company owns a lot of property, but when property owners come in, we have made them create demising walls so that there will be a corridor going to the back. Nobody brings their garbage out through the front. They all bring it to the back. They make their deliveries from the back. The one time we had deliveries attempt to come in with an 18-wheeler truck parked across South Moger Avenue to the Asian market, it did not work. It just doesn't work. The Board is not going to authorize it. Right now you have the capacity to get to Shopper's Park, for which you and your tenants are paying a fee so that there is available parking, available deliveries and available trash.

Marc LaPointe: I am not saying this to be argumentative, but in the process of preparing the site plan for this location, I am observing what is going on in the parking lot. If I'm here early in the morning, parking lots are full of employees. When I speak to our person in town here, I discover that basically the employees know that they are not going to get ticketed. I

don't know what the scheme is yet. I don't understand what is going on and why parking tickets are not being issued in the Shopper's Park area. There is not anything I can do, but we're asking you to start to enforce it so that customers can park.

Whitney Singleton: When there was a negotiation for the Village to come in and take over that lot and make all the improvements that are there, there was a request by your employer to provide for a certain number of spaces for employees. Every single building gets two parking passes. Your employer owns most of those parking passes. Those are his employees parking passes.

Marc LaPointe: I think we get 16 parking passes, but I am told for instance that the hair salon above Cosi has 30 or 40 employees, and they park there.

Whitney Singleton: That's your tenant.

Marc LaPointe: I know, but I am saying from a landlord perspective, think of Mount Kisco as a shopping center. When I manage shopping centers, we have the employees park in a remote parking lot. What's happening in Shopper's Park parking area is the employees show up first. Those who have a pass have a reason to be there. Those who don't have a pass, which is the bulk of them, are not being ticketed. It's out of control in that area, therefore, customers cannot park and shop at our stores. When we are asked about vacancies, what can the town do to help vacancies, our response is that basically we would like you to enforce the parking lot so that when somebody drives up, there is a vacancy so that scofflaws aren't somehow getting away with it. That is what we're asking. We have asked for that in writing. It's actually been told to me that the reaction was to respond oppositely, to take offense to it, to make it worse. That, indeed, our request to enforce parking has resulted in less enforcement. I am giving you anecdotal observations.

Chairman Cosentino: Seriously, I am glad you are.

Marc LaPointe: From our perspective in our office, our leasing people, our attorneys, our asset managers, myself, operations people – this is what we hear about what is going on. We are trying to lease spaces, and bring in new tenants.

Chairman Cosentino: This is the first I've heard of this.

Whitney Singleton: It's kind of a Catch-22. The abuses are being done by their tenants, because there are 34 people working upstairs from Cosi.

Chairman Cosentino: Are they the ones that are violating?

Marc LaPointe: These are the bits and pieces that I'm hearing. We're not asking for you to provide free parking for 34 employees at the hair salon. You've given us 16 parking passes, I've instructed our mayor in town to distribute them to the tenants. Usually I give them to the larger tenants, and perhaps the other tenants that you favor. The other tenants need to park remotely so that shoppers can come to town in and out all day. You don't occupy a space for eight hours when you can fill it five times.

Chairman Cosentino: We agree.

Ralph Vigliotti: With the information that is being shared, can we draft a letter to the Manager? We can certainly send the minutes, but that may not be for another week or two.

Whitney Singleton: We are having a meeting with him tomorrow morning and we will relay it then.

Anthony Oliveri: With that being said, there is still a need for a rear access.

Chairman Cosentino: We can take care of that, and I'm glad you brought that up. We demand you help us out and put in a back door for garbage and delivery.

Jan Johannessen: You might as well open it up to customers as well.

Ralph Vigliotti: Also, if you're delivering your product, where are those cars going to park? There is certainly a lot more parking in the rear than anywhere else.

Brian Egan: We can also do that. To Brian's point, you have to put it all in perspective. We are not a large restaurant. We are not getting 400 or 500 boxes.

Chairman Cosentino: A door in the back would really be good, mainly for your deliveries and the garbage pick up. We are requiring it for a lot of stores. It's the best thing for shopper's park and the best thing for the village. On the other thing, we are going to take care of that tomorrow morning.

Whitney Singleton: The businesses that do have (rear doors), the Planning Board has not allowed to demise themselves in such a fashion to cut off the rear access. As a matter of fact, that is one of the reasons the law was changed several years ago, to ensure that doesn't happen. If you want to start at one end, you've got Tony Chipanelli's (sic) building, and they have an interior corridor. Others have walk-throughs all the way. Others have just utility doorways, where the trash and deliveries go out. I know I'm overstepping my boundaries when I say this for the Planning Board, but I'm saying this because I work with the Village Board on a regular basis as well. This is something that is instrumental to this conversation. They welcome the new tenants and new business in town. It's terrific that you're involved in the community and are charitable. But the ability for Shopper's Park to work is going to be severely compromised if your deliveries, picks ups, trash and everything else is going out the front door. It is just not going to work. To say that other people haven't done it, the only times they have not done it is when there's been no other alternative.

Enrico Mareschi: You will also gain customers coming in the back. I go there a lot. I always park in the back.

Brian Egan: I agree. It just wasn't offered to me. I would love to have the back access.

Marc LaPointe: There is a very easy solution. We would like to lease you the

Village of Mount Kisco  
Planning Board Meeting  
April 8, 2014

back half of the premises. We will review the options that are possible and find a solution.

Jan Johannessen: They need to submit a formal application. That formal application is to include site plan, and Change of Use application, including a complete set of drawings and addressing the Planning Board's comments. The site plan application that you submitted will be calendared when they submit the change of use application.

### **Correspondence**

- Letter from the Planning Board to the Village Board of Trustees regarding proposed zoning text amendments dated March 28, 2014
- CAC comments on the Hearth at Mount Kisco (not dated)
- Beautification Committee Minutes – March 8, 2014
- Letter from Anthony J. Monteleone dated March 25, 2014 regarding Boys and Girls Club
- Letter from NYCDEP dated March 14, 2014 regarding Suburban Floors SWPPP

*As there was no further business to be discussed by the Planning Board, on motion by Mr. Mareschi seconded by Mr. Hertz, the meeting was adjourned at 10:00 PM.*

Respectfully submitted,

Sol Gibbons  
Acting Recording Secretary

dm