

**Village/Town of Mount Kisco  
Zoning Board of Appeals  
Minutes of Wednesday, December 14, 2016**

Members Present: Chairman Harold Boxer  
Donald Rose (7:34)  
Kim Lapple  
Linda Greenberg

Members Absent: Barbara Richards  
Dan Guyder

Staff Present: Whitney Singleton, Board Counsel (7:34)  
Peter J. Miley, Building Inspector  
Michelle Lailer, Secretary

Chairman Boxer called the meeting to order at 7:32 p.m.

Chairman Boxer stated December 14, 2016 meeting of the ZBA. I guess first what we'll do is we'll approve the minutes from last November. Any comments?

**Ms. Lapple stated no, motion to approve the minutes from November. Ms. Greenberg seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated and then what we'll do, is we'll get this out of the way, we have the, I guess we're supposed to open the hearing for Gas 21 Realty...

The Secretary stated yes sir.

Chairman Boxer stated and then we can just adjourn it until the next time. Do I have a motion to adjourn?

**Ms. Lapple made a motion to adjourn. Ms. Greenberg seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated see, you're learning, I used to be the second, so you can't be the second anymore. No but what I was looking at, I'll have to ask Whitney but I read it that they just have to be the same tax lot.

Mr. Miley stated you're referencing §89.9?

Chairman Boxer stated §89.9, yeah.

Mr. Miley stated what paragraph?

Chairman Boxer stated first paragraph, A.

Whitney Singleton stated it is applicable, two or more.

Chairman Boxer stated two or more on the same tax lot?

Mr. Miley stated that share a common zoning lot, that's accurate.

Chairman Boxer stated we're down to one case today, ZBA16-17, Siegel Foods and Beverages, LLC. You're up.

- 1. Siegel Foods & Beverage, LLC  
39 S. Moger Avenue  
Mount Kisco, NY 10549  
(SBL) 69.81-6-9.2**

**Case# ZBA16-17**

Mr. Jeremy Nevins of Siegel Foods & Beverage, LLC was present.

Mr. Miley stated eh Don, how are you?

Mr. Rose stated hi.

Chairman Boxer stated you gave us some drawings on that, right?

Mr. Nevins stated yeah, you guys should have everything.

Chairman Boxer stated okay.

Mr. Nevins stated so we're asking for the usage of a third sign on the building at 39 South Moger. It's a single tenant building, as we have 360° and we're asking for that third signage that's already up there from the past tenant but they were grandfathered in, that we would like to use. It's another public entrance space and that's it, it's pretty simple. All we want to do is just put our name on, cover up what they have and put our name on it and...

Mr. Miley stated you want to utilize the other entrance that faces Shopper's Park.

Mr. Nevins stated yes, we want to utilize all the entrances.

Mr. Rose stated how many entrances are there total?

Mr. Nevins stated there's a total of 4 entrances into the building, there's two on the promenade side, one of the parking side, and one on the [inaudible].

Mr. Miley stated Chairman, you can probably see it better on this, I pulled this out.

Mr. Nevins stated so, parking lot side, here, this would be the sign that we're all talking about here, this is the corner sign which would face 41 [South Moger], right now where it says Siegel Brothers over, it says Okinawa right there, right now.

Chairman Boxer stated right.

Mr. Nevins stated so all we're looking to do is switch that over to our name above the door.

Chairman Boxer stated we have to, do you have any dimensions of the signs. Okinawa might have been there earlier but you're under the new zoning law...

Mr. Nevins stated we submitted all of that in...

Mr. Miley stated its here.

Chairman Boxer stated okay, does it qualify?

Mr. Miley stated yeah, it does.

Chairman Boxer stated okay. And you're just going to have backlit white letters.

Mr. Nevins stated yes, that's it.

Chairman Boxer stated so even with the comprehensive signage program, that's what Chico's has.

Mr. Nevins stated same.

Chairman Boxer stated anybody have any comments?

Mr. Rose stated does Chico's count as the same building?

Chairman Boxer stated it doesn't have to be the same building, it just has to be the same, all the buildings on a single tax lot.

Mr. Rose stated oh, I didn't know that was...

Chairman Boxer stated and I guess the middle there is a single tax lot.

Mr. Nevins stated and the one thing that, our disadvantage to everybody else is that we're on the back side, we don't have the Moger Ave frontage...

Chairman Boxer stated right, it's Moger, since you're going to be here, you have to learn how to say it.

Mr. Nevins stated Moger, yes, I keep saying it.

Whitney Singleton stated more people say Moger than say Moger.

Chairman Boxer stated it doesn't make sense to say Moger.

Mr. Nevins stated we don't have the advantage and so this, having that signage is a big advantage for us.

Chairman Boxer stated okay.

Mr. Nevins stated it give us a little bit more.

Chairman Boxer stated all the signs that are, all the stores in the back there had 2 signs, one over the entrance and one on the side. So they are all compliant with the law, you're building I understand, I understand what you're saying, your building a very unique building in Town because it's a standalone with a lot of sides. Do all the signs have to be the same size, is there any of them that you would make smaller to get the...

Mr. Nevins stated I mean, we would like to be symmetrical and seeing that the, we're not working with a lot of space here...

Chairman Boxer stated right.

Mr. Nevins stated and that what we're looking to do is over a size of 80 feet.

Chairman Boxer stated right.

Mr. Nevins stated the building itself is actually more than 80, if you take the whole, the ends, its really not that large.

Chairman Boxer stated yeah, I know, what's the dimensions that are allowed?

Mr. Miley stated up to 75, no more than 16 feet, I believe.

Mr. Nevins stated our sign falls right underneath it.

Mr. Miley stated 15-4 and the letters are 11 inches, which 12 is allowable.

Chairman Boxer stated right, so they're allowable there and from what I understand the other stores that all have the same signs and awnings, they were prior and they're on a different tax lot anyway.

The Secretary stated 41 South Moger has a comprehensive sign package.

Whitney Singleton stated 41 does and it's by the same developer, same owner, that's why they all look the same, so I mean, whatever you feel is appropriate is up to you guys.

Chairman Boxer stated right.

Whitney Singleton stated the only thing that I would point with regard to this is, in addition to the comprehensive sign package for the building itself, there were some way findings signs as well, no?

The Secretary stated I don't know anything about them.

Mr. Miley stated for this building in particular.

Whitney Singleton stated no, for the promenade.

Mr. Miley stated yeah, there are, there's some signage, correct.

Whitney Singleton stated there's a sign and whether they're on 39 or 41 or even on the Sam Goode building or the Bank of America building...

Chairman Boxer stated right.

Whitney Singleton stated it doesn't really matter, when people look down there, and they're looking at a list of spaces, it really shouldn't matter which tax lot their on, they're still on the same corridor...

Chairman Boxer stated right.

Whitney Singleton stated so you might want to consider that in not viewing this in isolation of 41 and also I believe that the applicant, whether it's the same company or a related company, they also have a wine store which is going in next door, correct?

Mr. Nevins stated we're actually open.

Chairman Boxer stated that's open right now.

Whitney Singleton stated they're doing a very nice job.

Chairman Boxer stated we're going to have a lot of wine stores in Mount Kisco.

Ms. Lapple stated not really.

Mr. Miley stated not really.

Mr. Nevins stated we're only the third in Mount Kisco.

Whitney Singleton stated and the only one downtown.

Ms. Lapple stated yeah.

Chairman Boxer stated that's true.

Mr. Miley stated walking distance to the train.

Ms. Lapple stated what would you have, if you didn't have that sign?

Mr. Nevins stated we'd have to cover it up and just go and just keep it green.

Mr. Miley stated you'd maintain the building façade.

Mr. Nevins stated it would just remain green.

Ms. Lapple stated it would just be a blank spot.

Mr. Miley stated that's part of the façade, this area is part of the façade if you look throughout.

Mr. Nevins stated honestly, it would look a little blank, you know...

Ms. Lapple stated right, that's, so it looks uniform.

Mr. Nevins stated and if we had to do that, what we would do is we would use these windows about and do 25% and do the same thing...

Mr. Miley stated it's not going to be an identification sign.

Mr. Nevins stated is that right?

Mr. Miley stated yeah.

Mr. Nevins stated I didn't realize that, okay.

Mr. Miley stated identification sign, is regardless whether it's in the window or...

Mr. Nevins stated okay, so I just think it would like nice. One of the other things I do want to mention is that we do have full support and I don't know how much this matters but we have full support of all the other business that were around and who are very much looking forward for us to come into...

Chairman Boxer stated there's a whole bunch of new places there that I never saw before.

Mr. Miley stated its good stuff.

Chairman Boxer stated because I don't walk down there too much.

Whitney Singleton stated as far as...

Chairman Boxer stated we have a kosher caterer now.

Whitney Singleton stated as far as past precedent for this, this was done for Chase. They have signs on three sides because they're a three sided lot.

Chairman Boxer stated right.

Whitney Singleton stated but just to be, if you were worried about precedent, I would highlight the location of this site, significantly in your fact finding...

Chairman Boxer stated right.

Whitney Singleton stated there are a lot people that only have one sign and are going to see way finding signs, signs on three sides of the building, you know pretty prominent and I would, you know, so you don't get all the me too's, I would be very specific in your fact finding.

Chairman Boxer stated well we have to, it's going to apply only to this particular building because of its location. The other signs that are there already, that have one sign it's because they have one entrance, all the other stores on the sides, except for when to get to Bank of America.

Whitney Singleton stated okay.

Chairman Boxer stated because I actually looked at it.

Mr. Rose stated what does bank of America have? Do they have two signs?

Whitney Singleton stated well they're having more entrances because they're creating more entrances, there weren't previously more entrances. The other stores could create more entrances.

Mr. Nevins stated at 39?

Whitney Singleton stated at 41.

Chairman Boxer stated Okinawa did not have, I don't think they had 4 working doors...

Mr. Nevins stated they blocked them up but they had the doors.

Whitney Singleton stated there was one operational door there and then they dumped the ice out the door by Starbucks.

Chairman Boxer stated I saw that, yeah. The question is why do you need 4 doors?

Mr. Miley stated you need at least 2 for second means...

Chairman Boxer stated I know you need 2, I know that, for Fire Code.

Mr. Nevins stated the way that we're designed...

Chairman Boxer stated what's the inside going to look like?

Mr. Nevins stated okay, so this is the parking lot here, you're walking in here, you have the checkout area here, we are designed to have, we have display cases going all the way around in kind of a semi-circle, prepared foods, we have a rotisserie here, we have more prepared foods service oriented, 16 feet of seafood, 4 feet dedicated poultry, local poultry, 16 feet of dedicated red meat and then we have cheese and charcuterie over here and we have our wine store right here.

Chairman Boxer stated right.

Mr. Nevins stated right, so the idea is to funnel people back and forth. And they're really different departments, we're looking at this thing at a whole, even though they're separate business, as a whole. And

each department has its own separate department, so if somebody wants cheese, they can walk in here, if somebody wants meat, they can walk in here, et cetera, et cetera, there's not a whole lot of space to walk around, so it's really, we have the availability of these doors, they're already on the building, why not use what we have going for us.

Chairman Boxer stated well explain why on, where it says C over there and you have 2 doors, why do you need 2 doors on the one side.

Mr. Nevins stated they're there.

Chairman Boxer stated they're there doesn't mean you can keep them.

Mr. Nevins stated I understand that but we would like to.

Mr. Miley stated talking about this one and this one?

Chairman Boxer stated yeah.

Mr. Nevins stated they're functional doors...

Chairman Boxer stated what's the distance between the counters and the wall?

Mr. Nevins stated there's 6 feet between the counters and the walls.

Chairman Boxer stated yeah, you need doors.

Mr. Rose stated actually fairly tight.

Chairman Boxer stated it is tight.

Mr. Nevins stated it's tight, I mean, if you go in there and you're all welcome to come down anytime to walk through this right now. It's not as tight as it seems, when you hear 6 feet it seems very tight but once we're done with the renovation and we're ready to go, there's going to be plenty of room for customers to walk through because of what we're, because of how we've designed it. But it's really, it would be beneficial to have these doors and to make egress available especially in case of emergency.

Chairman Boxer stated yeah, I'm sure the Fire Department likes that. So the only sign, the third sign you're looking for, this one here is already?

Mr. Nevins stated this one's here, this one's here, we're looking for there here.

Chairman Boxer stated in the front over there.

Whitney Singleton stated or the side.

Chairman Boxer stated the side over there.

Mr. Nevins stated yeah, the side, the promenade.

Chairman Boxer stated that's the problem with the building, no one knows that the front is.

Mr. Nevins stated we want the sign basically right in front of the Ethiopian and the Mexican place...

Chairman Boxer stated yeah, I know, they walk down that side as opposed to the other side. Any comments from anybody?

Whitney Singleton stated unsolicited?

Chairman Boxer stated sure, I said anybody, I didn't rule out the lawyers.

Whitney Singleton stated I can remind you what your Board did with BGR, the Burger Joint, you had the same thing come before you and you did not allow it.

Chairman Boxer stated right.

Whitney Singleton stated what you did allow was, I think what you said was if they wanted to put their logo above the door, and the signs on the two building sides, that would be acceptable but I don't know that they have...

Chairman Boxer stated you don't have an actual logo, do you?

Mr. Nevins stated we have a logo but again, this would be much more of what we want to do and what we see is, would be beneficial to our business.

Chairman Boxer stated I mean, I don't think there's a problem with it, I think we can easily distinguish this building from all the other buildings and I know that a lot of people in Town complain that we have too many Boards and you have too many hassles, so I don't want to make it too hard.

Mr. Rose stated I think there is certainly uniqueness, not that many buildings have through walkways on 4 sides.

Chairman Boxer stated right.

Mr. Rose stated and people can come, depending on where they've been, they can be coming from any of those 4.

Mr. Nevins stated it is truly one of the most unique buildings in Town, this building and Chico's.

Chairman Boxer stated and it does fit the comprehensive, that's the name of it, comprehensive signage program because yours are going to be the same type signs that Chico's has, they have a backlit white...

Mr. Nevins stated exactly and Chico's I think 6, 5, they have them on each corner, each side.

Whitney Singleton stated I don't know.

Mr. Miley stated I'm not aware of that either.

Chairman Boxer stated maybe you should go check it, maybe they're in violation.

Mr. Miley stated that's the first thing I said.

Mr. Nevins stated I'll keep my mouth shut, next time.

Chairman Boxer stated we won't tell them you said it.

Mr. Miley stated they might be down to three.

Chairman Boxer stated okay, so...

Ms. Lapple stated as long as to me, the signs are consistent, they're the same size, they have the same type of lettering, I don't see a problem.

Chairman Boxer stated the one over the door, obviously is shorter because of the width of the door. And you're going to keep the green color or you're going to put a different color?

Mr. Nevins stated keeping the color, keeping consistent with the rest of the buildings.

Chairman Boxer stated okay.

Whitney Singleton stated you know what this is kind of like?

Chairman Boxer stated what?

Whitney Singleton stated Ben & Jerry's. if you look at the eaves of Ben & Jerry's, it just says Ben & Jerry's, Ben & Jerry's, Ben & Jerry's all the way around the building.

Chairman Boxer stated that's like the problem that Citi Bank had because they wanted to put their logo up. Okay, any, since there's very small public, any comments from the public?

The Secretary stated nobody signed up, Chairman.

Mr. Rose stated unless there's somebody hiding under the table.

**Chairman Boxer stated do we have a motion to close the public hearing?**

**Mr. Rose stated so moved. Ms. Lapple seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 4 to 0.**

Chairman Boxer stated okay, I guess we can take a vote now on approving, I don't know, you're going to draft the...

Whitney Singleton stated yeah, I think I've gleaned from what we've discussed tonight some unique characteristics that your Board raised, the fact that there are four pedestrian means of access, the fact that it suffers from unique visibility issues in that it's behind another building that does not actually face on a public right of way, and it is further mitigated by the fact that the signs are of a consistent fashion in a rather low key manner or presentation. So, if you want me to incorporate those as conditions...

Chairman Boxer stated that will be fine, the only condition is that you can't change the signs without reapplying, if you wanted to do that.

Whitney Singleton stated totally off target, nothing to do with your Board, you're not going to have carts, are you?

Mr. Nevins stated no, baskets.

Chairman Boxer stated carts would be a mess. They never stay where they're supposed to.

Mr. Rose stated then the 6 foot aisle would really be a problem.

Mr. Miley stated he'd be fishing them out of Shopper's Park.

Whitney Singleton stated so, if somebody would like to incorporate those as part of a motion, I can make those, I can put those in your resolution.

Chairman Boxer stated anybody feel like making the motion or do you want me to make the motion?

Mr. Rose stated we have to go through the 5 factors...

Chairman Boxer stated beforehand? Okay. I'll go through, it's here. Here we go...

- 1. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance.*

Mr. Rose stated no, it's maintaining the style that's already there.

- 2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than area variance.*

Chairman Boxer stated and I don't think there is because he needs a sign. A sign is a sign, there's no other methods.

- 3. Whether the requested area variance is substantial.*

Chairman Boxer stated technically it is because you're asking to increase from two to three, that's a 33% increase...

Mr. Rose stated 50%.

Chairman Boxer stated that's why you're here...

Whitney Singleton stated that's why the engineer's here.

Chairman Boxer stated you went to engineering school, I went to law school, so I don't know the numbers. But regardless of that, I think that's it not substantial in the fact that what's going there is not going to be way out of place with everything else.



4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.*

Chairman Boxer stated and I think that the answer to that is no because it's already there...

5. *Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board, which shall not necessarily preclude the granting of the area variance.*

Chairman Boxer stated and you're probably one of the few people that could say that it was not self-created because the building is different, it's a unique building. It's self-created because he wants a third but most people come in and they have no reason other than because they want it. I think this building is unique where its located, it's shape and whether or not, the trick is getting people to go through the back and I understand the problem and I have no problem with that. Do you want to say something? You look like you're about to say something.

Whitney Singleton stated yeah, well would you deem it to be self-created in that they just entered into a tenancy and they don't have to enter into a tenancy for this space but they elect with full knowledge, constructive knowledge of what the rules are at the time they entered into it?

Chairman Boxer stated that part is self-created, yes, I can deal with that, you can put that in there. Is that the same landlord for that whole area there?

Whitney Singleton stated it's the same landlord for everything south of the Bank of America building. I'll give you a brief history, you probably recall it. This used to be the entrance to Shopper's Park...

Chairman Boxer stated I remember that, yeah, you used to be able to walk all the way through.

Whitney Singleton stated and when Peter Giner, one of the two owners, when Peter Giner got a ticket for parking in the handicap space which was on his own land, he got pissed off and he removed the gate that used to go into and out Shopper's Park because Tony, Tony what's his name...

The Secretary stated Chiappinelli?

Whitney Singleton stated Tony Chiappinelli was operating Shopper's Park and was charging people and saying that he was taking care of the property and plowing the lot and there were pot holes this deep and...

Chairman Boxer stated and actually the Town probably plowed it.

Whitney Singleton stated and the, nobody was paid rent, Chiappinelli just ran the lot and when Giner, actually it was maybe Sebastian Giner, when Sebastian Giner got a ticket for parking on his own property, which the Village should have put a handicap sign on, he refused to pay it, then he shut down the lot, there was no way to get into the lot. He shut it down, it's my entrance and I'm going to shut it down and then they decided to do all of the Shopper's Park redevelopment and they decided as part of that they wanted to develop those two lots or those two buildings which were previously a driveway and they did it on a, it was on a separate lot but they already owned the building where Starbucks, Churchills...

Chairman Boxer stated the in between.

Whitney Singleton stated and I forget the women's store, Ann Taylor is, it used to be, the Giner's actually own a leather company called...

The Secretary stated Tano.

Whitney Singleton stated Tano, they have a leather company called Tano and they used to have a shop there as well.

Chairman Boxer stated yeah.

Whitney Singleton stated so the Giner's own all of that and then they own something over on Lexington Avenue but you know, they're not like big time landlords or anything...

Chairman Boxer stated right, Lexington Avenue is probably the building where they relocated to.

Whitney Singleton stated they don't have retail store there.

Mr. Nevins stated they have a warehouse.

Chairman Boxer stated they have a warehouse, they have warehouse sales every now and then, like now.

Whitney Singleton stated so all in all, it worked out pretty well.

Chairman Boxer stated okay, I agree. Okay, do you have enough to make up you...

Whitney Singleton stated yup.

Chairman Boxer stated we closed the hearing. I'll put it up for a vote, all in favor of granting the variance...

Whitney singleton stated somebody going to make a motion?

Chairman Boxer stated yeah well, I'm leading to it, I can make the motion, can't I?

Whitney Singleton stated sure.

**Chairman Boxer stated I'll move to grant the variance. Mr. Rose seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 4 to 0.**

Mr. Nevins stated thank you very much.

Chairman Boxer stated you're welcome

*Off topic discussion.*

Chairman Boxer stated do we have a motion to adjourn.

**Ms. Lapple stated motion to adjourn. Ms. Greenberg seconded the motion.**

**Chairman Boxer asked for all in favor. The meeting adjourn at 7:57 p.m.**