The Pleasantville Planning Commission meeting was called to order by Russell Klein, Chairman, at 8 P.M. on Wednesday, March 25, 2015. Attending the meeting were: Russell Klein, Chairman; Scott Blasdell, David Keller, Stephen Harrigan, Philip Myrick, Joseph Stargiotti and Robert Stone, Commissioners; Sarah Brown, Planning Consultant; Robert Hughes, Building Inspector; and Mary Sernatinger, Secretary.

(1) <u>Pleasant Hospitality Group d/b/a Village Osteria, 150 Bedford Terrace</u>. Proposed restaurant in existing tenant space formerly known as A'Mangiare Restaurant. Revised drawings A1 and A2 dated March 26, 2015. *Public Hearing*. Present: Michael Sirignano, Attorney; Ljubisa M. Jovasevic, Architect.

Mr. Sirignano reported that they had not been able to get the owner of the parking lot to submit a letter stating that the parking would be available indefinitely.

Mr. Hughes said that according the Village Counsel and the Village Administrator, parking is not associated with sidewalk cafes, and approval of outdoor seating rests solely with Village administration.

Mr. Sirignano believed that the parking issue would be self-correcting: if people could not find a place to park, they would not come to the restaurant. Mr. Stone disagreed. He said people would park illegally on residential streets.

Mr. Stone expressed his disappointment in the Zoning Board's decision to grant a parking variance as well as the fact that the applicant had not made any suggestions for improving the parking problems. He maintained that the Planning Commission did have the authority to consider parking as it relates to increased intensity of operations, which would result from having outdoor seating. Mr. Stone said he would like to see the space occupied and a wood oven pizza restaurant would be nice, but he had major concerns about the lack of parking.

Mr. Sirignano said they do not have the ability to get the owner of the parking lot to make improvements, but they would work with the Commission on anything that is within their control.

Mr. Stargiotti said that the parking and traffic conditions in the Old Village had been better during the time that the A'Mangiare space was vacant. He noted that the plan is for 32 seats and suggested that the applicant agree to limit the combined number of seats – both indoor and

outdoor – to a maximum of 32 at any one time. Mr. Stargiotti recalled that Mr. Sirignano had made a similar suggestion at the previous meeting, but Mr. Sirignano said he was referring to something he had to do with the Board of Health upstate to maintain a certain number of indoor and outdoor seats.

Mr. Sirignano said the fact that the Zoning Board granted the parking variance puts the applicant in the same legal position as if they had the parking spaces. Mr. Stone pointed out that Section 155 says the applicant must first get a special permit, and he believes the Planning Commission can put conditions on a special permit.

Mr. Hughes said that when occupancy reaches a certain point, it triggers a need for an additional bathroom or fixture. For example, for an occupancy of 50, the requirement might be one bathroom to accommodate 25 women and one bathroom per 25 men. If outdoor seating is added, Mr. Hughes said he would look at the seating arrangement, egress and occupancy.

Mr. Jovasevic said there would be 4-6 tables outside to seat 16-20 people.

Mr. Klein suggested the applicant change his plan to accommodate his ultimate goal. Mr. Jovasevic said the outdoor seating would only be seasonal/temporary. He said the number of bathrooms required is based on the number of patrons, and he did not believe they would ever have a large enough number of patients to require another bathroom. At most, he said they might need another stall, but Mr. Klein did not believe the bathroom, with the handicapped access, would have enough space for another stall.

Mr. Sirignano reminded the Commissioners that the number of parking spaces required is based on square footage of the space – not on the number of patrons. He said the Commission could not add conditions that supersede the zoning ordinance.

Mr. Stargiotti said that parking is not the only concern. There are also concerns regarding traffic and pedestrian safety. A lot of cars turn around on the side streets when parking is not available. He said conditions can be set based on location, size, nature of use, intensity of operation, layout and relationship to access streets so that pedestrian and vehicular traffic will not be hazardous,

inconvenient or in conflict with the neighborhood – and these issues would become problematic if there were outdoor seating.

Mr. Sirignano did not think the Planning Commission should be talking about outdoor seating, because they were not asking for outdoor seating at this time.

Mr. Hughes said that outdoor café permits have to be renewed annually, administratively.

Mr. Stargiotti said he thought it was the Planning Commission's duty to correct something that was done in the past, and this is an opportunity to do that.

Mr. Jovasevic said there seemed to be a misconception about their efforts with regard to the parking problem. He pointed out that they did a parking study that showed there were 84 parking spaces in the area. Based on the number of patrons and the amount of parking within 200 feet, he said there is a tremendous amount of parking. Mr. Stone replied that Mr. Jovasevic does not live in the area, so he doesn't see that there is no parking.

Mr. Klein said all of the Commissioners live in Pleasantville and know what happens with parking in the Old Village. Mr. Sirignano pointed out that all of the members of the Zoning Board also live in Pleasantville, and they granted the parking variance. He said the Commission couldn't impose conditions on this applicant that are not imposed on Michael's.

In advance of opening the Public Hearing, Mr. Sirignano summarized the plan. He described the building and what businesses occupy it, noting that A'Mangiare previously occupied the space in which the applicant wants to open a restaurant. The use is permitted in this A-2 Zoning District, pursuant to a special permit. The restaurant will specialize in wood burning oven pizza. They will apply for a beer and wine license. There will be no more than six employees at one time. A parking variance was granted by the Zoning Board for the entire building. They did a parking study. Their position is that the proposed restaurant does not enlarge the size of the restaurant that was there previously. They do not think it will negatively impact the neighborhood. They are not proposing outdoor seating at this time. Mr. Sirignano described the floor plan for the public. They plan to install a new awning and make the exterior look fresh.

On a motion by Mr. Harrigan, seconded by Mr. Keller and unanimously carried, the Public Hearing was opened.

James Challice, 5 Hays Hill Road, said he was happy to see there is interest in having something in this space, because it is bad to have it vacant. This is an entrance to the town, and it looks bad to have it vacant. In efforts to have a town grow, he said you need to let businesses in and let them grown. Mr. Challice said he has been living in the neighborhood for 12 years. He agreed that parking is absolutely an issue. If it were no longer an issue in Pleasantville, that would mean no one was coming here, and that would be a bad thing. He thinks the Planning Commission should support any business that wants to go in there. Any business is better than no business. Mr. Challice considers outdoor dining to be a positive thing. It looks like a nice little town. He will frequent the new restaurant and will walk to it. He noted that Pleasantville is a walking town. The business itself will dictate how parking problems will be. The code has to be followed. When the pantry was proposed, he didn't oppose that, because he believed it would be better than a noisy service station. It resulted in the corner being cleaned up. Perhaps this applicant could be asked to make the site look nicer. Maybe he could have a planter. Mr. Challice said everyone on Hays Hill bought their houses knowing there was a pizza place on the corner. They chose to buy their houses on that block and won't complain about it. With regard to outdoor seating, Mr. Challice pointed out that the number of days when that is possible, due to weather. Also, July and August are quiet because so many people are on vacation. He said he has two young children and it there is considerable traffic at that corner, but he doesn't like to have an empty storefront there. Mr. Challice said the applicant needs enough seats to support the restaurant or it won't succeed.

Jackie Stone, 17 Hays Hill Road, said she agrees with Mr. Challice, as she is also in favor of having a restaurant there. But she disagreed with him about the parking. She believes the parking problem started on an upswing when Don Juan opened. There is a lot of illegal parking. Ms. Stone said she has called the police repeatedly about the illegal parking under "No Parking" signs. There are line-of-sight issues that create a hazardous situation. Her 12-year-old son rides bikes in the area, and her 16-year-old son is about to start driving. The corner is fearful to her. She has spoken to Mayor Scherer and called the police, but nothing has been done. When there is snow piled up on the side, illegal parking against it makes the road very narrow, which is dangerous. If there are six employees, Ms. Stone believed they would take up six parking spaces. She said the

Old Village is more vibrant than ever, and parking is a big issue, and this will make it worse. Ms. Stone asked if the back area could be cleaned up as well as the front. She said she runs early in the morning and in the back of the building she sees the gates open and garbage all over the place.

On a motion by Mr. Harrigan, seconded by Mr. Blasdell, and unanimously carried, the Public Hearing was closed.

Mr. Klein asked the applicant what was planned with regard to trash collection, and he said they would be looking into it after they get their special use permit, but he believes each business has its own receptacle and its own pick-up service, and they would follow the same schedule as the other restaurants.

Mr. Sirignano said illegal parking is an enforcement issue and should not be a burden on his client. It is not his client's doing. The Planning Commission can take that up with the Building or Police Department.

Mr. Stone maintained that the fact that people are parking illegally demonstrates that there is not enough parking.

The applicant said that when he did the study, he did see cars parked illegally, but at the same time, there were legal parking spaces available. The people just weren't parking in them. He said that, personally, if he could not find a legal parking space, he would not go to the restaurant.

Mr. Hughes said he would have a walk-through of the site with the Fire Chief so that he would be familiar with access points, layout, clearance, grab bars, etc. The kitchen is accessible to the fire department. Mr. Hughes said a CO would not be issued unless the site meets building and fire code requirements.

Mr. Jovasevic said they did not plan to change the rooftop equipment. Anything on the roof will be hidden from view by the parapet.

Mr. Stargiotti noted that the site plan for the entire building includes two parking spaces behind the building and four along the garage. The new plan does not show those spaces and shows a dumpster in one of those parking spaces. Mr. Hughes said the Zoning Board did not consider any of those parking spaces when it granted the parking variance. Mr. Jovasevic said the entire building plan is from previous files and it would be removed from the application.

With regard to parking, Mr. Keller acknowledged that a variance had been granted, but the Planning Commission can look at parking and associated issues as part of its SEQR determination. He would not turn a blind eye to the fact that the proposed restaurant would result in an increased intensity of use on that corner and how things improved during the two years that a restaurant was not in the space. It is not the Planning Commission's job to have business grow in the Village, Mr. Keller said. The Commission has to plan for today and how things will be in the future. He has a lot of difficulty with allowing another restaurant in this spot, because he knows how difficult it is to cross the street and make turns at that corner. He said the applicant surely accepts the fact that this would be adding critical mass there. This proposal cannot necessarily be treated the same as previous ones, because this might be the straw that breaks the camel's back.

Mr. Klein noted that in reviews of other restaurants in the Old Village, parking issues were raised. Strega provided valet parking. A'Mangiare started out without serving liquor but came back for permission to apply for a liquor license. At that time A'Mangiare agreed to lease parking across the street at the gas station. Mr. Klein said the Commission is not just picking on this applicant. Review of this issue has occurred many times in the past, and the Planning Commission tries to work with applicants to mitigate the issues and alleviate problems in this small part of town.

The applicant said he did not have a problem with looking for parking for his employees, but he could not guarantee anything. He said he could try to lease parking from the gas station, at least for himself.

Mr. Jovasevic said these problems couldn't be resolved tonight. He suggested zoning should be changed so that a special use permit would not be necessary.

Mr. Stone said there had not been any mitigation offered by the applicant. All that has been said is that it worked before, so it will be fine. Mr. Stone said he wants there to be a nice business in this space, but this is an opportunity to improve a situation and he doesn't see the applicant doing anything to change it. It does not mean anything to just say "I will look into it." Others have made attempts to mitigate the parking problem. Don Juan, for example, offered to have its employees park at the Methodist Church. He wanted the applicant to come up with something specific to improve the situation.

Mr. Stone noted that the parking study was done at a slow time so didn't provide a true picture of the parking situation.

Mr. Klein explained voting options. Mr. Sirignano asked that a straw poll be taken, with the understanding that any Commissioner could change his vote. They would then provide conditions that they would be able to control and accept.

Results of the straw poll were as follows:

- Mr. Stargiotti said that as proposed, he would vote "no." If there were a condition that involved outdoor seating that would reduce the intensity of use during warm months or if the applicant could come up with other sources of parking, he would support the application. Traffic and hazards are the issues. The Zoning Board has approved parking, but traffic and safety are important to the Planning Commission. The whole site is under the auspices of one site plan, and there is no parking on the site.
- Mr. Blasdell said he was leaning in favor of the application. He noted that a previous issue on that corner was the 76 Gas Station, and he believes that through the Planning Commission's review, that site was made safer. He did not see the same safety issues regarding traffic associated with the restaurant. Parking is an issue, and it should be rectified with the Police Department through better enforcement. Some vigorous ticketing over an extended period of time would help.
- Mr. Keller said that he would not vote in favor of the application as it is currently presented.
   He pointed out that if the police get involved, there would actually be a loss of parking. He agrees there should be a condition regarding outdoor seating. This decision will set a

precedent. Although the zoning requires two parking spaces for six employees, he did not think that was realistic, and finding or leasing two parking spaces elsewhere would be inadequate.

- Mr. Harrigan said he was leaning in favor of the application. Relying on the interpretation
  from counsel, he did not think the Commission should hold this applicant to a different
  standard than other businesses in the Old Village.
- Mr. Stone said he would vote against the proposal. He asked the applicant to do something to lessen the intensity of the use or mitigate the parking problem, because it is dangerous and he would hate to see anything happen on that street. He doesn't feel right supporting the proposal as it is. Perhaps employees could be required to park somewhere that is not near the Old Village. He said the applicant should present some ideas.
- Mr. Myrick said he was leaning in favor of the project. The applicant is going by the book,
  and variances were granted for parking. Parking is never something that should be under
  emphasized, but there needs to be a coming together of looking for solutions and enforcement.
  Every good town has a parking problem, and it requires cooperation from the town and
  applicants.
- Mr. Klein said he was not opposed to the application, nor would he give it his wholehearted
  endorsement. He would like to see some contribution from the applicant to mitigate the issues
  that have been raised. The Planning Commission must balance a property owner's rights to
  use his property with the rights and needs of the community.

Mr. Sirignano asked the Planning Commission to vote to have a resolution prepared, and by the next meeting, they will present some conditions to improve the situation.

A motion to direct Ms. Brown to prepare a resolution of approval was made by Mr. Harrigan and seconded by Mr. Blasdell. The vote was 5 in favor (Messrs. Klein, Blasdell, Harrigan, Myrick and Stargiotti), 1 opposed (Mr. Stone) and 1 abstention (Mr. Keller).

(2) <u>Athletes Warehouse LLC, 220 Tompkins Avenue</u>. Proposal to develop the existing vacant second floor into an area for batting cages and personal training. Letter with project description; Site Plan Permit Application; Building Permit Application dated March 9, 2015; Short Environmental Assessment Form dated March 9, 2015; and drawing A1 by

Steven A. Costa dated February 17, 2015. Present: Pat Costabile, Architect; Scott Lauder and Nicolas Serio, owners.

Mr. Costabile said that last year, the applicants received approval to establish a personal training business at this location. They were not able to develop the second floor at that time because handicapped access was required and they did not have the funds to provide it. They have had a successful year and are now able to install a lift system to the second floor.

The batting cage area would be moved from the first to the second floor. They would install the two batting cages currently on the first floor along with two additional batting cages, for a total of four. This would not cause the intensity of use to be increased greatly, since only one person can be in a batting cage at one time. Locating the batting cages away from the downstairs activities will make it safer.

Currently, there is office space on the second floor, and it is being used by the applicants for storage. They pay for that space.

Ms. Brown said there are zoning issues involved. The applicants currently have a parking variance for 41 spaces and will need a variance for another 3 spaces. They will also need a variance for the location of the parking spaces, because they would be less than 10 feet from the property line on the side and rear. The Planning Commission can waive the setback requirement in the front yard parking, but not the side and rear.

Mr. Costabile displayed and described the parking layout, noting that by pushing the parking back and designating some compact spaces, he was able to gain two or three additional parking spaces. It would still be possible for a tractor-trailer to access the loading dock. Mr. Klein appreciated the attempt to add more parking spaces, but he said the layout has to be functional. Since they have to seek a parking variance anyway, Mr. Klein suggested they ask for the number of spaces they really need based on a functional layout.

Mr. Lauder said that most of their clients are dropped off by parents. The zoning requires that they have a large number of parking spaces, but the applicants said they don't really need them.

Ms. Brown asked Mr. Costabile to provide a blown-up plan to show traffic circulation.

The Commissioners agreed to send the applicants to the Zoning Board without comment.

#### (3) York Funding LLC, 98 Washington Avenue. Present: J. B. Hernandez, Architect.

Mr. Hernandez said they had reduced the number of apartments from eight on the 2<sup>nd</sup> and 3<sup>rd</sup> floors to seven on each floor, and now are proposing a total of 14 apartments. They eliminated the studio apartments and, as a result, Mr. Hernandez said they no longer need a parking variance. They still need a variance for the density.

Mr. Hernandez said they modified the parking layout to include both compact and standard sized cars, and they can now provide one parking space per apartment and three for the retail space, plus four extra visitor spaces.

The size of the retail space was reduced, and an entry lobby for the residences was created, which accesses the elevator and stairs to the  $2^{nd}$  and  $3^{rd}$  floors.

The plan is for five 1-bedroom apartments and two 2-bedroom apartments on each floor. The layout for the  $3^{rd}$  floor mirrors the layout for the  $2^{nd}$  floor.

They have to do some structural work to eliminate some columns and small hallways.

On the exterior, Mr. Hernandez said they have tried to enhance the front elevation, keeping the brick at the bottom. They are trying to eliminate the combination of colors. There will be headers above the door. The atrium in the middle of the building would be closed up. Windows would be closed off on the south side of the building, which means some of the apartments would not have any windows.

Mr. Klein noted that density is the main zoning issue. Also, he noted the plan says building coverage is 80 percent, but it is more than that. Mr. Hernandez thought the parking area was not included in the coverage calculation. Ms. Brown believed that the courtyard was previously not

included in the calculation. Mr. Hughes said he considers the courtyard a structure because the steel framing is part of what is holding up the building.

Ms. Brown said there was an error in the parking calculation. There should be 1.5 parking spaces for each 1-bedroom apartment and 1.75 parking spaces for each 2-bedroom apartment, plus 1 parking space per 300 square feet of retail. Therefore, the requirement is for 25.5 or 26 parking spaces, not 21. The applicant's plan shows 22 spaces, so a parking variance would be needed.

Mr. Harrigan noted that the parking lot plan showed 12-foot-long cars, and he believed the actual space for backing up would be inadequate.

Mr. Klein said that adequate parking would have to be provided for all residential units, because there is no on-street parking permitted during winter months. Ms. Brown said someone from her office would visit the site and determine the number of parking spaces that can actually be accommodated in the garage.

With regard to density, each 1-bedroom apartment requires 1,200 square feet of lot area and each 2-bedroom apartment requires 1,500 square feet of lot area. For ten 1-bedroom and four 2-bedroom apartments, the density would be 18,000 square feet – more than double 7,500 square foot lot size.

Mr. Hernandez said that the building has to be completely re-done, and the owner needs to have fourteen apartments to make it financially viable.

Mr. Hernandez's colleague said that the previous building cut corners and they have to fix it. Mr. Hernandez added that there is supposed to be separation between residential and commercial, and the previous building did not include adequate separation.

Mr. Harrigan noted that this is a special use.

Ms. Brown said correct parking calculations and lot coverage should be indicated on the plan's zoning chart. The parking layout might have to be altered.

Mr. Stargiotti believes residential on the second floor makes more sense than offices.

Mr. Klein did not think this property could support 14 units. Mr. Keller said that at the previous meeting, from which Mr. Klein was absent, the Commissioners had suggested that the applicant reduce the number of apartments per floor from 8 to 7. Mr. Klein thought it might be preferable to have fewer, larger apartments, which might bring in the same amount of money.

The Commissioners agreed that the applicant could go before the Zoning Board at its April 30 meeting, but the applicant could still come before the Planning Commission on April 8.

(4) <u>MAG CV Pleasantville, LLC, 110 Washington Avenue.</u> Proposal to amend a previously approved site plan. Revised Site Plan Drawing S-1 by Gallin Beeler Design Studio dated March 17, 2015. Present: Ray Beeler, Architect; and Mike Grossman, owner.

Mr. Beeler said that based on suggestions made at the previous meeting, they tightened up the parking along the side, keeping the spaces at 17'6". The will install improved landscaping in the front. They also modified the overlapping curb in the back.

Mr. Beeler said the plan shows the sump pump to be replaced on the steps going down to the basement. Mr. Stargiotti said he wanted to make sure that water would not be allowed to collect around the garbage, and Mr. Beeler said the sump pump would take care of that.

They use a private carter to remove garbage.

Mr. Beeler said the portico would be improved to make the building look more attractive and welcoming.

Ms. Brown said that part of the reason for tightening the parking was to preserve the landscaping at the southeast corner. There is a note on the plan that landscaping will be improved, but the Commission needs to know how it is going to be improved.

There was discussion about whether the landscaping should consist of grasses and shrubs or a street tree. The small tree that is there now would be removed. Mr. Myrick noted that the

landscaping should screen cars in the parking lot. He thought grasses would be fine and would be there all year. Mr. Klein thought a street tree would be better, as it would soften the area. Mr. Gross preferred grasses and shrubs and did not want a tree because it would block the improvements to the building.

The sight triangle in which plantings may not be greater than 30 inches high should be considered when choosing the type of landscaping to be planted.

It was decided that the landscaping would be subject to general approval by the Frederic P. Clark Associates landscape architect, who would ensure that it is not an invasive species, wouldn't obstruct sight, etc. This will be indicated in Condition #3 on page 2 of the Resolution. When the type of landscaping is decided upon, the species, size and quantity should be placed on the site plan. Mr. Beeler said they would submit their landscape choice(s) during the coming week.

# (5) <u>Adoption of Resolution: MAG CV Pleasantville, LLC, 110 Washington Avenue.</u> Proposal to amend a previously approved site plan.

A motion to approve the Resolution for amended site plan approval was made by Mr. Harrigan and seconded by Mr. Stargiotti. VOTING took place as follows:

Ayes - 7 Messrs. Klein, Blasdell, Harrigan, Keller, Myrick, Stargiotti and Stone

Noes - 0 Absent - 0

#### (6) *Minutes*

The minutes of the March 11, 2015 meeting were accepted as submitted.

Respectfully submitted,

Mary Sernatinger Secretary

These minutes have been corrected according to comments from Mr. Hughes and are ready to be FILED.