

APRIL 23, 2009

PLANNING BOARD MINUTES

PRESENT:

Jennifer Sigler, Chairman  
Mark Brosnan  
Phil Schiavone  
Ray DiBiase  
Virginia Capon, Trustee  
Kevin Koubek, Village Engineer  
Cindy Suarez, Secretary

ABSENT:

Will Rau, Senior Planner

---

*The Planning Board meeting is held on the 2nd floor of Village Hall in the courtroom,  
121 West Broadway, Port Jefferson, NY 11777.*

GENERAL BUSINESS:

On a motion made by Ms. Sigler, seconded by Mr. Schiavone, the members voted to approve the minutes as amended from the 3/26/09 meeting. The vote was 3-0. (Mr. Brosnan was not present for the vote.)

PUBLIC HEARING:

Ms. Sigler read the following public notice:

**Application #160-08PS  
Sec 21, Block 4, Lot 37  
Kevin Reilly, Atty. for Anamary Restaurant c/o Hector Marmol  
1614-1616 Main Street**

Discuss proposal for a conditional use permit and change of use approval as part of a proposed eating and drinking use expansion for a retail food establishment at 1614 Main Street, in the General Commercial C-2 District on the west side of Main Street, approximately 120' south of Linden Place.

Mr. Kevin Reilly, Attorney for the applicant was present. He submitted the affidavit of posting the public notice and the certified mailing receipts for the property file. Mr. Reilly expressed apologies from Mr. Hector Marmol, as he had to work. Mr. Marmol's niece, Rosanna Genaro was present.

Mr. Reilly: The applicant is applying for a conditional use permit and change of use approval. The building is located at #1614 & 1616 Main Street and is in the C2 zone. The application is to propose to expand an existing eating and drinking establishment. The present restaurant is Anamary's and we propose to expand into the vacant space within the same building to the north. The existing space is 650 square feet and the expansion will be 840 square feet totaling 1490 square feet. There is a mistake on the site plan adding an additional 144 square feet for the existing office at 1618 Main Street. The correct total is 1490 square feet and not 1634 square feet.

Please keep in mind that this is the third public hearing for the identical application. There was a prior application in front of this Board in June 2003. Thereafter, the ZBA unanimously approved the distance variance requirement as it was at the time. Historically the ZBA noted that the establishment was a restaurant long before the incorporation of the village. The expansion would allow the restaurant to be code compliant because it would exceed 1200 feet and there would be

no change in the parking requirements. Although prior application was approved, at that time the sewer capacity was full. That was in 2003 and since that time the sewer capacity has been expanded and is no longer impendent to the restaurant being opened.

As you refer to proofing the minutes of our last meeting 3/26/09, section 250-51 subdivision D states that once a conditional use approval was approved that use becomes a conforming use and as a result of code stating it is a conforming use, no subsequent conditional use approval was called for. I will not reiterate that argument. To complete the background information, after conditional use approval the vacant premises remained for a long time and then was reapproved by the Planning Board to retail use, since it became vacant but became a change of use application in conjunction with this application. As to considerations to chapter 250-51 conditional uses, I respectfully request this Board's prior approval of as well as the ZBA's approval to grant this use to go forward. The public in general and the neighbors will not be adversely affected if this application is granted. I respectfully request that prior approvals for the premises and all equipment be readily accessible for fire and police protection and that size change and location of the use are in harmony and are developed with this area as long as a finding that it would be detrimental to propose. This use fits into the neighborhood. If there are any concerns for health and safety. I remind you that the use and operations of use are subject to the county's department of health regulations. Also appropriate to point out as to public welfare, this neighborhood has a significant amount of Latin population and caters to the Latin residents. This proposal will be comfortable and convenient for the neighborhood size and will make the pre-existing restaurant fully code compliant. In closing, the code directs you to focus on the impact this use will have on the immediate neighborhood. I respectfully suggest to you that if this application is approved, you will be giving residents a place they could, and are entitled to, call their own.

Mr. Schiavone: The original use then changed to eating and drinking establishment, changed to retail use, and now going back to eating and drinking establishment.

Ms. Sigler: By combining it does makes it conform but realize that in the future that it cannot be divided again and the southern property will be below the minimum size for the use. It will be non conforming and cannot go back.

Mr. Reilly: Let's hope that will never happen. I will make sure that the applicant is aware of that. The overall benefit to the neighborhood will outweigh the risk.

Mr. DiBiase: We received a letter from SCPC regarding the parking and asking for the parking plan. They need justification of ample parking.

Mr. DiBiase: The plan has to show no intensification.

Mr. Reilly: I will submit a response in writing and point out that this is a neighborhood restaurant.

Ms. Sigler: Are there any comments or questions from the audience?

Ms. Barbara Sabatino, #1612 Main Street, business owner and landlord spoke. She stated: Mr. Marmol was doing due diligence to open the business after the last approval when the sewer moratorium came into place. As far as the parking issues, the village parking lot is available.

Mr. Schiavone made a motion to close the hearing, Ms. Sigler seconded the motion, all in favor the vote was 4-0 in favor.

The members reviewed the proposed site plan.

Mr. Koubek acknowledged that the open building permit for the interior renovations had been extended for six months. Mr. Koubek also stated that if there is going to be a bar for liquor, that it would be a New York state liquor authority issue. The Suffolk County Health department handles approvals for the kitchen.

Mr. DiBiase and Mr. Schiavone questioned the doorway opening size for access to the handicap bathroom.

Mr. Koubek stated that the egress from the back of the building which is the second egress opens up to a gated locked area. This area has to open for egress and indicate that it is an emergency exit.

The applicant agreed to Mr. Koubek's request.

Mr. Schiavone made a motion to approve the site plan and key plan and parking calculations based on the final plan being approved by to the building department along with the applicant's response to the SCPC letter dated 3/31/09 to the Planning Board. Ms. Sigler seconded the motion, all in favor the vote was 3-0.

Mr. Schiavone made a motion to approve the conditional use application, having heard no opposition at the public hearing, Ms. Sigler seconded the motion, all in favor the vote was 3-0.

### **OLD BUSINESS:**

**Application #131-08  
Section 17 Blk. 2 Lot 13 & 14  
Richard Nelin c/o Jefferson Hollow Inc.  
647 & 649 High Street Broadway**

Application is for a proposed six-lot major clustered subdivision of a 3.05 acre parcel in the Single-Family residence R-B2 district located on the east side of High Street approximately 130 ft north of the intersection of Maiden Lane and High Street.

Mike Nelin and Rick Nelin were both present. They submitted five sets of revised site plans. The Board members reviewed the changes to site plans SP4 & SP7 showing the crowning of the road and revised schedule of operations.

The Board members reviewed R&W' Engineering's letter of reply to Mr. Koubek's letter.

Mr. Koubek stated that the transition into the adjoining road, High Street, is required to be no more than 2 ½ percent (it is shown as 6 ½ percent). He also stated that the angle into a curve is a concern and also the line of sight.

Mr. Schiavone stated that 21/2 percent is pretty shallow and if you push back you are pushing into a hill and you could increase the pitch of the driveways. He referred to chapter 220-25 paragraph B of the Village code book.

Mr. Koubek stated that he has not reviewed the revised plans yet. The last time he looked at the plans there was no clustering. Now it is down to singles. He also mentioned that the code says to maintain drainage on each lot. Mr. Koubek mentioned that the Homeowner's Association technically will consider it all one lot, volume is not a concern, and the concern is catching the drainage.

Mr. Schiavone questioned whether they would need another extension because the Village Engineer has to review the drawings for code compliance.

Rick Nelin asked if they could do a conditional approval based on changing the grade of the slopes and regarding the road. He would like to review Mr. Koubek's letter on the drainage issues and review the DPW's comments.

Mr. Koubek questioned if the sewer line would be private or main. The applicant replied that the sight currently has a sewer line from High street to the house, and that the proposed site development will be sewerred.

Mr. Brosnan made a motion to grant conditional approval based on the following conditions;

- Site drainage to meet Village Engineer's requirements and code standards.
- Roadway profile and regrading design to meet code requirements.
- Suffolk County DPW for sewer connection.
- All comments listed in the Planning Board's letter of 4/21/09 to be addressed.
- All ARC comments to be addressed.
- Approval will be six months with two three month extensions.

Mr. Schiavone seconded the motion, all in favor the vote was 4-0.

### **TRUSTEE REPORT:**

1. The Trustees passed a 6 percent budget increase to include the following:
  - To hire a stenographer as needed.
  - To assist the Planning Board by being able to hire an attorney as needed.
  - To hire consultants and charge back to applicants. (This process will go thru Kevin Koubek. There are currently five consultants being talked about).
  - Will Rau's position has been fully funded.
  - Added funds for part time complex commercial inspecting.
2. There will be work sessions held for Planning Board applications in the pre-application stage before Planning Board review. The work sessions will include building, highway, and fire marshal review. The process will be an additional step before pre-submission. Mr. Levin has advised that the work sessions are appropriate. The function of the building and engineering department is determining the direction of an application. The planning process does not consider variances. When something clearly needs a variance, the Planning Board should not look at the application, and the building official send it directly to the ZBA. This is not the way it has been done in the past. This will serve the purpose of trying to streamline the process. The work sessions will be published and completely transparent.
3. The code, building and planning fees will be changed.
4. The BID Earth Day clean up sponsored by the Town of Brookhaven and the BID was very successful.
5. The Comprehensive Plan Advisory committee has been formed with 20 people and will include of sub committees. A letter from the planning commission is pending.
6. Village Attorney, Barry Warren is making arrangements to have the Liberty Meadows file copied.

The Trustee report ended.

Ms. Sigler commented that she would like to have access to the property file and request the trustees to submit questions to the Planning Board members prior to the meeting with the Trustees regarding the Liberty Meadows application. It would be helpful to reacquaint themselves with the application rather than rely on memories from 2003.

The meeting ended at 9:45PM

Respectively Submitted,

Cindy Suarez, Secretary