

MAY 21, 2009

PLANNING BOARD MINUTES

PRESENT:

Jennifer Sigler, Chairman
Phil Schiavone
Ray DiBiase
Virginia Capon, Trustee
Cindy Suarez, Secretary

ABSENT:

Mark Brosnan
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 Mr. DiBiase, seconded by Mr. Schiavone, the Board adopted the minutes of 4/23/09 as amended, all in favor the vote was 3-0.

The members discussed the memo from the ZBA regarding SEQRA coordination letter for the Sound Express applications. The members agreed that the ZBA should assume lead agency.

TRUSTEE REPORT:

- The Village and the Chamber are sponsoring a "Green Fest" this Saturday 5/23/09 12:00PM – 5:00PM. There will be eco friendly exhibits for inside and outside the home.
- The Children's Maritime Museum and the Village concluded the operating agreement. There will be \$150,000 improvements to the first floor only of the building.
- There are rumors regarding the sale of the Texaco Avenue Park. It is not that simple due to a lot of issues with C&C Collision, including encroachments to the park. The lot lines have not been resolved at this point.
- The first work session was 5/18/09 with the Islander Boat application. The applicant decided to go the non conforming route and will be going to the ZBA for a height variance. This work session was not public noticed. There is no written procedure at this time, and there are no specific requirements. These work sessions are mentioned in the Levin report. It is considered a zoning compliance review or a gate keeper function with engineering type review. The Board members are not even needed. It does not require a complete set of drawings. The building official prefers a daytime meeting where there is other employee input. The Village attorney is very supportive of this work session procedure.
- The next work session will be regarding apartments at the car wash location.
- Mr. Schiavone commented that there is no official procedure and that work sessions are not in the code. He feels that they should be more informal or written up as a policy.
- The court ruled against the Village in the Liberty Meadows case, negating the need for the Board of Trustees to approve clustering. The Board is discussing the decision.
- On 6/1/09 at 7:00PM there will be a public hearing regarding the changing of times of various areas of parking in the Village.
- On 6/1/09 there will be a required public hearing to hear expressions and get a sense of what the public would like regarding cable issues.
- Ms. Sigler questioned a rumor that there is an interest in selling the waterfront property at Danfords. Ms. Capon replied that there is an over generalization of what is going on. There is a concern that the drain under the Village owned lot may have had a fuel leakage from the Danford's owned tank. There was some parking concern of

contamination. Danfords offered to purchase the parking lot. There were studies done to confirm that there was not any cross contamination and now Danfords does not want to purchase the lot.

APPOINTMENTS:

Application #170-09MB

Section 17, Blk. 1 Lot 16

**Randy T. Rodecker c/o Swim King Pools for Mathew Wooley
836 High Street**

Consider Tree Clearing & Grading application for tree removal to install an in ground swimming pool with patio. The property is located in the Village's RB-2 residential district.

Mr. Rodecker, owner of Swim King Pools was present to represent the property owner. The application and color photographs were reviewed. The members discussed the marked up removal and clearing plan. There is only one significant tree over 9" in diameter that is 10 feet from the proposed pool. It drops off 2' – 3' to the west corner and leaves a 6' – 8' grade to the tree. Mr. Rodecker stated that the removal of the tree would make his job easier and that if the tree was not removed it would be a large canopy over the pool and a maintenance nightmare for the homeowner. He explained that there would still be a shrub line across the back fence line and tree #11 on the plan would be remaining in the corner of the lot.

Mr. Schiavone questioned whether or not the neighbors would miss the tree if it were removed. He also questioned that the property is a corner lot and is there a minimum that is allowed. He also commented that a drawing for a proposed patio or landscape design would be nice. There is a concern for privacy and some type of screening such as evergreen trees.

Mr. Rodecker would like a suggestion from the Board and a conditional permit so that he could agree on a plan tonight to move along and not wait for another meeting. He stated that he offered a plan to the homeowner to only remove two trees, but that they wanted to do it this way. He is sure that they will be willing to do screening. He questioned if this permit would still be an issue tree #12 were not being removed.

Ms. Sigler stated to the applicant that the request is to clear cut the property and the Village has an ordinance to prevent that. She would like to see a landscape plan with privacy along the fence line and see what is proposed to be coming.

Mr. Schiavone stated that the #10 tree is a small maple near the garage and is staying. He would like to approve the application if trees #10 & #12 were left alone, or the applicant will resubmit the application removing those two trees with a landscape design.

Mr. Schiavone made a motion to approve the application conditioned that the trees #10 & #12 are coming off the removal list. If the applicant would like to reapply to remove trees #10 & #12 down, they will have to come back with a landscape design and show that said trees will be protected against burial or damage. Mr. DiBiase seconded the motion, all in favor the vote was 3-0.

Application #172-09PS

Section 10, Block 4, Lot 1.18

**Tsunis & Gasparis for Craig Stowell
112 Nadia Court**

Consider Tree Clearing & Grading application to replace existing deteriorating 3 tier timber retaining wall with a single tier regimental concrete block face reinforced soil retaining wall. The property is located in the Village's RA-1 residential district.

Mr. Tsunis, Attorney for the applicant and Mr. Craig Stowell, property owner were both present. Mr. Stowell stated that Mr. Koubek was at the job site and told him to apply for a tree clearing and grading permit. There is one tree over 9" and the rest of the clearing is mostly brush.

The members reviewed the pictures and Ms. Sigler stated that there were no huge trees being removed.

Mr. Tsunis explained that the clearing and tree removal is to get the equipment up the hill and to have access to work to rebuild the retaining wall.

Mr. Schiavone questioned if the construction road/path will be redone and what the difference in elevation would be between the bottom of Roslyn and Nadia.

Mr. Tsunis answered 40' to 50'.

Ms. Sigler made a motion to approve the application conditioned on re-vegetation upon completion and the Village Engineer's sign off on compliance. Mr. DiBiase seconded the motion, all in favor the vote was 3-0.

PRESUBMISSION CONFERENCE:

**Application #161-08JS
Section 12, Block 7, Lot 39.2
Campani & Schwarting Architects for Harbor Square Mall
134 Main Street**

Frances Campani, Architect and Bruce Passarrelli, property owner were present. They discussed the preliminary plans for exploring the possibility of improving the site of the harbor Square Mall.

Mr. Passarrelli stated that he met with Mr. Koubek, Village Engineer and Mr. Del Aquilla, Trustee and he was told by them to check the land lease and then this application could go to a work session.

Ms. Campani stated that the proposed plan would have retail on the ground floor with a walking galleria. On the Main Street side would be professional offices above the retail with second and third floor residential apartments. There would be 22 one bedroom apartments with a low roof and a walk out area. Ms. Campani also stated that the height and setbacks meet standard code except for the steep roof which can be toned down and modified.

Ms. Campani stated that the flood level is 14.4. The current parking usage for the retail building is 150 spaces, 20 of which are provided on the site. The proposed parking would be: commercial 134 required, offices, 17 required and residential 30 required, for a total of 181. She questioned the possibilities of different parking requirements for different times of the day/night.

Ms. Sigler stated that there needs to be dedicated spaces for apartments.

Mr. Schiavone stated that dedicated spaces do not apply to office space. He also stated that the apartments above retail concept, was for nice retail.

Mr. Passarrelli questioned the need for apartments. He believes that brand new apartments on Main Street bring interest.

Mr. Schiavone asked about the lease.

Mr. Passarrelli explained that he bought the property four years ago. The back lot was leased by/thru the Village. Mr. Juliano has no lease on record, and neither does Brookhaven or Riverhead. He contacted the son of the original attorney and got three owners names and all the letters he sent were returned. Ms. Sabatino was in the audience and mentioned that Bob Moore was the attorney in 1976.

Ms. Campani discussed the dedicated spaces as parking exists now and if they can remain dedicated this way.

Mr. Schiavone stated that it needs to be proven that they exist by a lease. It is critical to have the lease. He suggest to Mr. Passarrelli that he send a letter to the trustees explaining that the search was no good and that they need to research the dedicated parking.

Mr. Passarrelli stated that the site is an eye sore, and that no one is doing anything to improve the village. He stated that assuming there is no lease a judge can make a decision and say there is no lease.

Mr. Schiavone discussed the 12' minimum setback from the nearest curb level in district C-1 & C-2.

Ms. Sigler discussed the atrium design ideas.

OLD BUSINESS:

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

Discuss conditional approval 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.

The Board discussed Mr. Nelin's 5/13/09 letter to the ZBA regarding the road pitch. Ms. Sigler stated that she had contacted Mr. Koubek for his opinion on the matter. She received a reply from Kevin Koubek stating that due to the complete confusion of the code on this topic, he feels it must go to the ZBA from him, for an interpretation.

Mr. Nelin stated that he had a conversation with the ZBA and they felt that this was not in their jurisdiction.

Mr. Schiavone stated that maybe the Board could ask the Village's attorney a series of questions: request an interpretation of the code; does the Board have the right to modify specifications?

Mr. Schiavone asked Mr. Nelin what is your Engineer's final design which is best. Mr. Nelin answered "this is it".

Mr. Nelin stated that he will have his attorney write a letter to Kevin Koubek.

Ms. Sigler discussed what the signature means that she put on the plans for Jefferson Hollow. She read from the code section 220-9 B5 and 220-9 A3C. She understood that a conditional final is a resolution that does not get signed. And a preliminary approval is before public input and the SEQRA process. She stated that she was thinking she was supposed to sign the conditional final and she knows she was wrong.

Ms. Sigler stated that the applicant understands it is a conditional final approval. She stated that Mr. Koubek was there that night and they talked about what would be in the resolution and the signing was discussed.

Mr. Schiavone suggested that the Village Attorney, Mr. Barry look at that section of the coded and clean it up.

The Board members reviewed the draft resolution with Mr. Nelin and Ms. Capon. Referring to #1, the Board of Trustees may appeal a summary of judgment. Need confirmation in writing from Kevin Koubek that conditions are met before final approval. These files were removed by the District Attorney's office on November 3, 2008.

Mr. Nelin questioned who has the legal authority in the Village to interpret the code. Ms. Sigler answered, 1st the Village Engineer and then the ZBA.

Mr. Schiavone stated that Kevin Koubek is questioning whether or not the Planning Board has a right to grieve to change the 2 1.2%.

Mr. Schiavone also stated that the slopes in the back and the private road will be common ownership.

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.

The members reviewed the 4/30/09 letter from Mr. Reilly. Mr. Schiavone will draft a letter to SCPC explaining that the parking will have no intensification and that it complies with zoning. The parking was grandfathered in with less parking than required. Retail and restaurant parking are identical.

Application #160-08
Sec 16, Block 8, Lot 16
Hawkins, Webb, Jaeger for Mr. Wonderland

The Board members reviewed an application from Hawkins, Webb, Jaeger for Mr. Wonderland that was submitted 9/2008. Mr. DiBiase will review Mr. Koubek's 12/08 letter to the Planning Board and submit a letter of status to the applicant.

The meeting ended at 11:00PM

Respectively Submitted,

Cindy Suarez, Secretary