

**VILLAGE OF CROTON ON HUDSON, NEW YORK**  
**PLANNING BOARD MEETING MINUTES – TUESDAY, March 13, 2012**

MEMBERS PRESENT:                 Robert Luntz, Chairman  
  Mark Aarons  
  Fran Allen  
  Bruce Kauderer  
  Steven Krisky

ALSO PRESENT:                     Daniel O’Connor, Village Engineer

**1. Call to Order**

Meeting called to order at 8:10 p.m. by Chairman Luntz.

**2. PUBLIC HEARING**

- a) Steel Style Properties, LLC -- 50 Half Moon Bay Drive (Sec. 78.16 Blk. 1 Lot 3) -- Application for an Amended Site Plan, Wetlands Activity Permit, and Steep Slopes permit for new single-family dwelling.*

Mr. Ralph Mastromonaco, P.E. and Mr. Robert Davis, Esq., representatives of the applicant, were present at the meeting.

Chairman Luntz stated that since the last Planning Board meeting, the Planning Board members had conducted a site visit at 50 Half Moon Bay. The Planning Board members walked along the complete length of trail and have discussed some adjustments to the trail with the applicant.

Mr. Mastromonaco presented some of the adjustments he has made to the trail—he removed the fences on both sides, moved the trail back a little from the edge, and proposed a hedge on the land side. The applicant has also offered to dedicate a portion of the trail crossing the applicant’s property to the village.

Mr. Mastromonaco also presented some adjustments that were made to the mass of the house especially on the side of the building that faces the parking lot. The windows and garage doors visually break up the mass of the side. The main entrance (also on this side) has stairs, and the decks have been moved inside the house so that there are no protruding decks. Mr. Mastromonaco stated that he believes that these adjustments visually reduce the mass of the house. He also referred to his letters of March 9th and March 13th regarding the maintenance of the village parking lot (including snowplowing).

Chairman Luntz stated that the Planning Board had come to the same conclusion regarding maintenance and access through the village lot. Mr. Mastromonaco stated that it has always been the responsibility of the village to take care of the parking lot.

In the March 9th letter, Mr. Mastromonaco states that the square footage of the house does not include the cellar or garage. The square footage of the house from outside to outside is 4300 sq. feet. The 4300 sq. ft is based on the current design with the interior decks.

Mr. Aarons questioned when the trail was changed from asphalt to gravel. Mr. Mastromonaco stated that he and his applicant did not feel strongly one way or the other—they could make it asphalt if that is what the Planning Board wanted. Mr. Kauderer stated that the general consensus was that the trail should be asphalt not gravel. Chairman Luntz stated that the preference of the Board would be to match the trail to the existing walk and that asphalt is easier to maintain. Chairman Luntz noted that the trail has been moved back, the guardrail removed and there is a proposed hedge. He stated that the adjustments to the trail were what the Planning Board is looking for.

Mr. Kauderer asked about the area between the gravel and top of the rock slope and suggested that it should be grass. Mr. Mastromonaco stated that it will be grass or vegetation, and Mr. Kauderer reiterated that to be consistent with the rest of Half Moon Bay it should be grass. Mr. Mastromonaco agreed. Chairman Luntz stated that on the site visit the PB members found that the rock slope was generally in good shape and the Village Engineer had suggested shoring up this area with concrete or rocks to maintain the edge.

The Village Engineer requested that Mr. Mastromonaco update the steep slopes calculations. Mr. Mastromonaco agreed.

Mr. Kauderer asked about the dumpsters. Mr. Mastromonaco answered that they were not on his client's property, and his client would also like to see them moved somewhere else, or if remaining in the same place, enclosed. This was a village issue and he had spoken to the DPW Superintendent.

Mr. Aarons asked if an easement was needed for access to the driveway. Mr. Davis responded that the applicant has access rights. A letter had been sent regarding the conservation easement which includes the right to use the parking area on a non-exclusive basis.

Mr. Kauderer stated that it is his belief that the intent of the easement is so there is another means of access to the Half Moon Bay complex, so that an emergency vehicle or fire engine can get into the complex.

The public hearing was opened to comments:

Pete Drexler, Half Moon Bay resident, stated that the residents would most likely accept a two story house and this would be a reasonable compromise. He believed there was an "undesirable change or detriment to nearby properties" because the house looks like it is in the condominium complex and blocks the special Hudson River view that is at the entrance way of the complex.

Jan Wines, Trails Committee, expressed disappointment that he did not know about the site visit so that he could have joined the Board. He stated that many of his concerns had been outlined in previous memorandums to the Planning Board. The Trails Committee thinks there should be an attractive fence to provide privacy on the house side and an asphalt walkway. Mr. Wines stated that the sinkholes have to be dealt with and the grassy area between the trail and the river needs to be maintained. He also expressed concern about the construction and did not want to see the trail cut off for use due to the construction. He expressed his hope that the Planning Board takes on the responsibility of making sure that the village's trail system is constructed and maintained in a attractive way.

Ann Lindau, Half Moon Bay resident, asked if it was legal to build on a conservation easement. She also asked about whether a geotechnical engineer was going to be hired. Lastly, she commented that the

house is bigger than 4300 sq. feet because of the cellar. She believes that the Planning Board should take the size of the proposed house into consideration and the construction and staging of the house.

Chairman Luntz responded that a conservation easement is established by metes and bounds which was marked by the applicant and no building is taking place on this easement. Regarding the geotechnical engineer question, Chairman Luntz explained that the Village Engineer and the Applicant's Engineer were both professional engineers and it had been decided at the last meeting that they were going to take a look at the site. The Village Engineer stated they had done so. Responding to Ms. Lindau's comment about square footage, Chairman Luntz stated that according to the Village Code, the cellar is not included in calculations.

The Village Engineer stated that the logistics of construction weren't fully outlined.

Jim Parkin, resident of Half Moon Bay, asked for clarification about the trail and recommended fencing along the trail. He suggested that the Planning Board should reserve the right in the future to put a fence in. He also recommended a codified list of items completed before the application is accepted. He would have preferred to see a more high tech presentation.

Chairman Luntz stated that by pulling the trail back it eliminated the need for a fence although the applicant was willing to put up a guard rail.

Bob Robinson, Half Moon Bay resident, asked if it was permissible that the lower level of the proposed house could be living space. He also stated that the proposed house will be the largest building in the entire complex.

The Village Engineer stated that in an analysis under the zoning code the lower level would be considered a cellar and not considered a story, i.e. the proposed house would be considered a 2 story house under the Zoning Code. Under the building code you can finish the lower level as living space and obtain a Certificate of Occupancy for habitable space.

Mr. Aarons stated that the distinction between a basement and a cellar is crucial because the lower level of 50 Half Moon Bay is considered a cellar and therefore the proposed house can be three stories.

Chairman Luntz noted that the proposed house has been reduced in size but it has always been within the Zoning Code. A zoning variance is not needed for this property nor is it being requested. It is of the size and bulk that is allowed.

Jan Wines, chairman of the Trails Committee, stated that from the committee's perspective a fence on the river side interferes with the view and the open feeling. He also asked how appropriate it is to place restrictions on Croton residents.

Mr. Kauderer stated that that is what the easement is about--there is private property with an easement over it.

Eileen Consilvio, resident of HMB, asked where the construction equipment would be when the proposed house is being built. She also asked why the house is so large.

Chairman Luntz repeated that the staging and construction sequencing will be presented to the Board.

Mr. Aarons stated that the Planning Board was constrained by the law. The Planning Board has certain review abilities but if the homeowner complies with the law, the Board can only encourage a give-and-

take discussion. The homeowners have done a lot yet from his point of view the proposed house is still too large.

Mr. Krisky stated that he believed there was a consensus that the Board would like to see the proposed house smaller, but there are constraints.

The Village Engineer stated that the elevation views have changed over time and they will need to be finalized for the site plan. With respect to the construction sequencing, the applicant would show the work area and if needed, restrictions can be placed by the Board. The Board can consider peak times in the summer and what is "reasonable use."

Chairman Luntz encouraged the public to attend Planning Board meetings in order to find out what is happening with this application. All meetings are open to the public.

Mr. Krisky noted that there were some unresolved issues such as lack of architectural plans, no construction staging plan, and the question about the mooring fields.

Mr. Mastromonaco stated that the applicant will donate the mooring fields but only after the project is completed. The applicant would first like to have a building permit and a certificate of occupancy. The lot line will change after the construction is completed.

Mr. Davis stated that one can't require a person to donate property. The applicant has consistently represented this as his intent and never had retracted it.

Mr. Kauderer stated that for close to ten years there have been promises to donate the mooring fields and the Board would like to see this happen; however, the Planning Board has no guarantee that the applicant is going to build and get a permit and CO. Mr. Kauderer suggested that as a sign of good faith the applicant donate the mooring field after getting Planning Board approval for the proposed dwelling. Mr. Davis stated that he would take this under advisement and that this was a good point.

Chairman Luntz stated that some items are part of the site plan submission and some items would be conditions of site plan approval. He stated that he would like to see more development of the architecture of the building and a construction and staging plan. Mr. Davis stated that the construction will be contained on the site, and Mr. Mastromonaco will update his steep slopes calculations.

There was a discussion about the two gates at either end of the conservation easement. Mr. Kauderer and Mr. Krisky stated that they did not want a second gate. Mr. Davis stated that the Half Moon Bay complex had expressed a wish for a second gate. Mr. Mastromonaco pointed out that the gate was not very big. He also stated that there had to be a sign at this gate with the written restrictions.

Mr. Aarons asked if there was going to be a finished site plan to which Mr. Davis said yes. Mr. Aarons also asked if an architectural review was required under site plan review to which Chairman Luntz said yes.

Chairman Luntz stated that the Board would like to look at plans that are developed in more detail with regard to materials, color, and architectural drawings.

Mr. Davis stated that they will follow the law that is required.

Mr. Kauderer stated that he believed it would be in the applicant's interest to continue with the SEQR process especially since they were coming to end of it. Mr. Davis stated that they were confident in their position that the SEQR process was not necessary but he hoped it will be a moot point.

Mr. Kauderer made a motion to close the public hearing, seconded by Mr. Aarons. Ms. Allen and Mr. Krisky opposed, and the voted carried 3-2.

Mr. Aarons stated that he was not prepared to vote on the negative declaration until he saw the final plan. He still had concerns about the scenic view issue and was not prepared to vote or he would abstain. He would like to see the revised plan.

Mr. Kauderer stated that the house was not going to be smaller or lower.

Ms. Allen stated that the Board could oppose it all together.

Mr. Davis stated that the house is as low as it will go and the mass is as low as it is now.

Mr. Davis proposed to refer it to the WAC without the negative declaration since they don't believe that the negative declaration is required. Mr. Kauderer asked the Village Engineer if that was possible--can the Planning Board refer an application to the WAC first without first issuing a Negative Declaration? Mr. Aarons asked to the extent that a SEQR review is found to be necessary, he asked Mr. Davis if he would waive an objection to taking the sequence out of order. The Village Engineer stated that he was not certain that in the LWRP the Planning Board can do this. The Village Engineer stated that he believed that not following procedure opens the door for a potential law suit. Mr. Davis stated that the LWRP was a unique ordinance and doesn't have the merit that a law might have.

Mr. Aarons reiterated that he is not ready to vote this evening.

Mr. Kauderer stated that he believed the process has to be brought to end and a decision made. Clearly he does not want to see a lawsuit happen, however he believes the applicant is entitled to a decision. The Village Engineer stated that the architectural drawings have to reflect the renderings that the VE architectural drawings have to show these renderings and that there are no significant environmental impacts. There is a difference between significant levels and no level of impacts.

Chairman Luntz stated that it is important to look at the architectural details.

The Village Engineer explained that the Planning Board issues a negative declaration per SEQR and refers this to the WAC; the WAC reviews the changes; when the final recommendation of consistency comes back to this board the PB as lead agency issues the consistency determination. It is the Planning Board, that needs to make the determination of consistency--the WAC makes a recommendation.

Mr. Aarons also stated that he had concerns about the scenic view given that the WAC had included this concern as a condition in their preliminary determination of consistency.

Mr. Kauderer said that he had been convinced when he read Mr. Davis' letter that it is a consideration if the view is obscured from a residential area. Mr. Aarons disagreed and reiterated that perhaps after he viewed the plans he would have a different perspective.

Mr. Aarons stated that he wanted to make sure that the village was not waiving their right to this view if the LWRP stipulates that we are entitled to it. Mr. Kauderer stated that he understood Mr. Aarons' concern about the view.

Mr. Aarons stated that he wants to have a packet that includes a complete set of plans that provides clarity, and only then will a vote have meaning.

Mr. Krisky added that the public wants clarity too.

Mr. Davis asked if at the next meeting there will be a negative declaration and a referral to the WAC, and at the meeting after that, the Board will vote on the project. They expect the Board to have a resolution to vote on at the second meeting.

Chairman Luntz acknowledged Mr. Davis' request, and affirmed Mr. Aarons' request for a detailed set of plans for the proposed dwelling. Ms. Allen agreed that all details should be included.

It was agreed upon that at the next meeting, the Planning Board will vote on the negative declaration and refer the resolution for the negative declaration to the WAC, after which the determination of consistency will be sent to the Planning Board who will then vote on the application.

### **3. New Business**

*a) Treasures and Tales – 18 Old Post Road South (Sec. 78.08 - 7 - 7) –Application for a Change of Use from professional office to a retail store.*

Ms. Liz Jacobson, owner of Treasures and Tales, was present with her attorney, Ms. Roseann Schuyler.

The Village Engineer stated that the application is for a request for a change of use from professional use (insurance office) to a retail store. The zoning is a C-1 zone.

Ms. Jacobson described her store, Treasures and Tales, as "funky and fun." She described her plan to create a flower garden with seating in the lawn area next to the building. She would like to have a gate between the Blue Pig and the Treasures and Tales lawn so that there can be walk through traffic between the two businesses. She had spoken with the owner of the Blue Pig and according to Ms. Jacobson, the owner was amenable to this idea.

She noted that parking is an issue but there is the municipal lot, the street, and the municipal parking lot at the Asbury Methodist Church. It was noted that there are three parking spaces between the Blue Pig and the corner building, all owned by Peter Franzoso. Chairman Luntz pointed out that there never had been parking allocated for this building. The Village Engineer mentioned that from an aerial view, there are three parking spaces. Ms. Jacobson mentioned that in the little alcove area behind the three parking spots, she is thinking about creating a bike rack for bicycle parking. Mr. Krisky supported this idea.

The Village Engineer stated that there is a requirement for a handicap accessible spot and an access aisle for the handicap spot. In addition to a handicap accessible parking spot there needs to be two additional parking spaces.

Ms. Jacobson stated that there are two handicap parking spots in front of Asbury Methodist Church. These spots are actually closer to the building than a newly created handicap spot would be.

Mr. Aarons asked if the spot across the street would satisfy the handicap parking requirement.

The Village Engineer stated that the building code is set up for parking on the property but has to be feasible. There also needed to be a handicap accessible entrance.

Ms. Jacobson stated that she could add a handicap ramp on the side if she has to do so. Ms. Schuyler stated that there is a side entrance to the building to which the ramp can go. There have been discussions with the landlord about this possibility.

The Village Engineer stated that a waiver could be requested from the state but the state usually frowns upon this kind of request.

Chairman Luntz stated that the ramp was more applicable to the building code, and not in the purview of the Planning Board.

Mr. Aarons asked about deliveries, and Ms. Jacobson said that most of her deliveries were very early in the morning.

Mr. Mark Franzoso spoke positively about Treasures and Tales' location in this building as he is happy to encourage business in Croton. He asked if pre-made temporary handicap ramps were possible instead of constructing a permanent ramp. The Village Engineer said he would look into it. The Village Engineer also said he would look into the applicant's questions regarding the two handicap spots in front of Asbury to see if there is the possibility of one spot being relocated across the street.

Mr. Aarons made a motion to grant a change of use permit, seconded by Mr. Krisky and carried by a vote of 5 - 0, all in favor.

*b) Zeytinia Gourmet Market – 51 Maple Street (Sec. 79.09 Blk. 1 Lot 30)-- Annual Report Submission of Deliveries by 18-Wheeler Trucks.*

The Planning Board reviewed the annual report from January 2011 through December 2011 submitted by Zeytinia Gourmet Market on the number of deliveries by 18-wheeler trucks. The Planning Board noted that only once on October 4, 2011 was there two deliveries.

### **3. Minutes**

Mr. Kauderer made a motion to approve the minutes, as amended, of February 14, 2012 , seconded by Mr. Krisky, and carried, all in favor, by a vote of 3-0-2 (abstentions).

Mr. Aarons made a motion to approve the minutes, as amended, of February 28, 2012, seconded by Mr. Krisky, and carried, all in favor, by a vote of 5-0.

### **4. Adjournment**

There being no further business to come before the board, the meeting was duly adjourned 10:55 p.m.

Respectfully submitted,

Ronnie Rose  
Planning Board Secretary

## RESOLUTION

**WHEREAS**, the Planning Board, at its meeting on March 13, 2012, reviewed a Change of Use application submitted by Liz Jacobson, hereafter known as “the Applicant,” said property owned by Peter Franzoso and located at 18 Old Post Road South. The property is in the C-1 Zoning District and is designated on the Tax Map of the Village of Croton-on-Hudson as Section 78.08 Block 7 Lot 7; and

**WHEREAS**, the proposed Change of Use is from an insurance office to a specialty retail boutique; and

**WHEREAS**, under the requirements of the State Environmental Quality Review Act (SEQRA), the Planning Board has determined that this project is a Type II Action, which is not subject to review under SEQRA.

**NOW, THEREFORE BE IT RESOLVED**, that the Change of Use, as shown on the Change of Use Application, received on March 9, 2012 from the Applicant which includes a diagram of the side yard area; a diagram of the interior retail space; a site plan drawn by Property Plus Associates, Architect, entitled “Proposed Office” and labeled “Previous artist’ rendering – for approximate layout and specific measurements only”; photographs labeled “View from Houlihan Lawrence,” “View from corner of Old Post Road South and 129,” “Side yard and Shade tree,” “View of side walkway, side door and back gate,” “Front porch, main entrance, yellow car parked in on-street parking,” “Front porch and steps”; and a copy of an e-mail dated 3/9/2012 from the landlord to the Village Engineer granting permission for the Applicant to apply for a Change of Use permit, be approved subject to the following conditions:

- 1) That all signs for the former business be removed and a sign application be submitted to the Planning Board for review and approval, and as part of said application, be referred by the Planning Board to the Advisory Board on the Visual Environment (VEB) for their review and comments;
- 2) That in order to comply with the New York State Existing Building Code, an accessible parking space be provided along with one accessible building entrance and an accessible toilet room unless a waiver is obtained from the New York Department of State;
- 3) That the parking area be striped to delineate the (three) parking spaces; including one 8’ wide handicap parking space and one 8’ wide handicap access aisle. A handicap parking sign shall be installed for the handicap parking and a “No Parking Anytime” sign for the access aisle unless the on street handicap accessible parking can be used in lieu thereof as determined by the Village Engineer;
- 4) That the sidewalks be evaluated for any needed repairs and the repairs made. A new sidewalk shall be provided to any proposed seating area;

- 5) That the proposed porch light and motion-activated flood lights (on side of house) be installed prior to a Certificate of Occupancy being issued;
- 6) That any events conducted at this place of business be scheduled to the greatest extent possible so as not to conflict with other events or organizations (AYSO, etc.) using the municipal parking lot.

In the event that this Change of Use is not implemented within three (3) years of this date, this approval shall expire.

The Planning Board of the Village of  
Croton-on-Hudson, New York

Robert Luntz, Chairman  
Mark Aarons  
Fran Allen  
Bruce Kauderer  
Steven Krisky

Motion to approve by Mr. Aarons, seconded by Mr. Krisky, and carried by a vote of 5 to 0.

Resolution accepted at the meeting held on Tuesday, March 13, 2012.