

**Village of Croton-on-Hudson  
Minutes for Meeting of the Planning Board  
Tuesday, June 12, 2012**

**Present:** Rob Luntz, Chairman  
Bruce Kauderer  
Fran Allen  
Mark Aarons

**Absent:** Steve Krisky

**Also Present:** Daniel O'Connor, Village Engineer

**1. Call to order at 8:10 p.m.**

**2. New Business**

*a) Healing Space—139 Grand Street (Sec.67.20 Blk. 3 Lot 18)—Application for Change of Use Permit from Retail Use to Professional services use*

Liz Ingalls, Owner/Director of HealingSpace, 139 Grand Street, presented her application for a Change of Use from a retail use (formerly Treasures and Tales) to a professional services use. Ms. Ingalls' business is a holistic physical therapy practice and a Center for Integrative Health. The Center for Integrative Health includes other licensed practitioners from different disciplines and will offer workshops from various health disciplines. Ms. Ingalls hopes to open the business on or around October 1, 2012.

Ms. Ingalls stated that planning the interior space will be maintained "as-is" since the layout of the building works well for her practice. She will combine two small bathrooms into one ADA compliant bathroom. The parking lot has been revised to provide 10 parking spots (nine regular spaces and 1 handicap space). Ms. Ingalls estimates that there will be approximately no more than 7 people at any given time (with perhaps some overlap in appointments).

Mr. Kauderer stated that he thought this was a great use for this property and clearly the parking is adequate under our current zoning laws (one spot per 300 square feet, and the structure is 1800 sq. feet).

Chairman Luntz and Mr. Aarons agreed. Chairman Luntz stated that it was a nice use, the business is set back from the road, adequate parking exists and the building is handicap accessible. When asked about the small retail aspect, the Village Engineer pointed out that the retail is only a very small use and would not need to be included as part of the change of use application.

Mr. Aarons asked if there would be a new railing on the ramp. Ms. Ingalls stated that there will be a railing for the ramp so that it would be easier for her patients.

Mr. Kauderer made a motion to approve the change of use application with the conditions as noted in the resolution (see attached), seconded by Ms. Allen, and carried by a vote of 4-0. Mr. Krisky was absent. Resolution attached.

***b) Black Cow Coffee Company—4 Old Post Rd S.—[Tax Lot Address 122 Grand Street--Sec. 78.08 Blk. 7 Lot 4]—Application for Change of Use Permit from retail to food service use***

Michael Grant, owner of the Black Cow Coffee Company, presented his application for a change of use from a retail space (formerly Wondrous Things) to a food services establishment. Mr. Grant explained that his lease had ended in March at the Van Wyck I Shopping Center. He has been there for 17 years but rent costs are very expensive. The proposed move to the former Wondrous Things space will allow them to expand a little and have more space. The center space (five steps up) will be strictly for retail items such as coffee and tea, t-shirts, mugs, cards and so forth. As exists in the current Black Cow location, there will be no cooking or food preparation.

Mr. Kauderer asked if there were any other additional ADA issues. The Village Engineer stated that the entrance is handicap accessible since there is no step into the store and the proposed bathroom, as shown on the plan, will be ADA compliant.

Mr. Kauderer asked if the 5 steps into the retail area was an issue in terms of ADA compliance. The Village Engineer noted that ADA requirements were for the primary use which is a cafe. Michael Grant pointed out that the retail is a small extra. Mr. Aarons stated that as long as the business offers some accommodation (for example a sign offering assistance) it is not a problem.

Michael Grant explained how he and his wife have always wanted this business to be in the Upper Village. When asked by Mr. Aarons whether Michael was confident that parking would not be an issue, Michael answered that he believes there is always available parking in the village. He believes that the new location will encourage people to stroll around the village. He hopes to have music events on occasion in the evenings. He also would like to put up some benches on the outside of the store.

The Village Engineer asked if there were going to be any changes to the exterior building. Michael stated that they plan to paint and are considering the possibility of awnings.

Mr. Aarons made a motion to approve the change of use permit application, seconded by Mr. Kauderer, and carried by a vote of 4-0. Mr. Krisky was absent. Resolution attached.

### **3. Discussion**

***a) Tom Fallacaro—3 Arrowcrest Drive (Sec.67.15 Blk. 1 Lot 33)—Discussion regarding retaining wall***

The Planning Board reviewed the letter of June 12, 2012 written to Mr. Fallacaro by the Village Engineer. The Planning Board also reviewed the violations letter that had been sent to Mr. Fallacaro in 2006 about the lack of permits for the retaining wall.

The Village Engineer updated the Planning Board regarding the tentative plan for Mr. Fallacaro and the attorneys, Mr. Sheer and Mr. Bob Davis, to appear before the Planning Board on the second July meeting (July 26, 2012). Mr. Sheer will be retiring and Mr. Davis has been recommended to Mr. Fallacaro.

Ms. Allen asserted that the Planning Board was years late on a resolution and there were a lot of issues on this property. The Village Engineer noted that these issues involve the Village Board, the Zoning Board and the Planning Board. Ms. Allen stated that for years the Village and the Planning Board have paid too little attention to this issue.

Mr. Kauderer said that he was shocked by the flagrant disregard shown for the law and that the Planning Board must force this issue to a resolution.

Mr. Aarons stated that in the past the Planning Board had tried to resolve this situation; there had been a consulting engineer who had been hired to evaluate the retaining wall. The consulting engineer stated that the retaining wall would be safe but then would not sign and seal the plans. There is also the additional concern that the process of removing the retaining wall might cause harm.

Chairman Luntz expressed concerns about the safety factor of taking the wall down. He stated that there has to be a safety plan and a procedure for how that is done.

Mr. Kauderer maintained that there was no middle ground--every regulation had been disregarded. If an engineer ultimately is brought in and can put his seal on it, then the applicant can go to the ZBA and then to the Planning Board. From Mr. Kauderer's viewpoint, if Mr. Fallacaro cannot get an engineer to sign off on the plans, then the wall needs to be taken down.

Mr. Aarons asked why violations and fines weren't issued. The Village Engineer maintained that issuing fines ultimately do not resolve the problem. The Planning Board can deny the application. The variances and site plan still have to be approved.

Mr. Kauderer raised the possibility of the Planning Board speaking to Jim Staudt, Village Attorney, for his recommendations and legal advice. The Board agreed and will request that the Village Attorney meet with them at the next possible meeting.

The Planning Board expressed frustration about not reaching a resolution/solution regarding this issue. The Planning Board members all agreed that at this point follow through is essential on this matter in order to remove any safety threat that might exist.

**b) Croton Community Nursery School---** Lower North Highland Place (Sec. 67.20 Blk. 2 Lots 5, 6, 9 and 25) – Encroachment issues on Conservation Easements

Per a conversation with the attorney earlier in the day, the Village Engineer presented the encroachment issues on the conservation easement that the Croton Community Nursery School has had to resolve. The Village Engineer explained that when the survey was conducted, the surveyor had missed encroachments by five neighbors to the conservation easement. The surveyor agreed to redo the survey and Mr. Sheer met with the homeowners and has sold the encroachment strips to the property owners for a reasonable fee. The Croton Community Nursery School is in agreement with this exchange since the majority of the conservation easement remains.

The Village Engineer asked the Planning Board members if they see this exchange as equivalent to the approved preliminary subdivision. Mr. Kauderer asked if the property owners would be reassessed, and the Village Engineer said that they will be. All present Planning Board members agreed that the revised map was substantially equivalent to the approved preliminary subdivision plan and that a new preliminary subdivision approval was not necessary.

The Village Engineer explained what the following steps will be for the final subdivision approval. The applicant will submit the plan to the Westchester County Health Department for its review and approval. The Village Board will then accept the dedication of the conservation parcel after which the plan will return to the Planning Board for final subdivision approval. After the Planning Board grant final approval, the applicant's attorney will bring the subdivision plan to the Attorney General which subsequently will be approved by the Courts.

The Planning Board Chairman will then sign the final subdivision plat; the Assessor (Joe Sperber) will talk to the town assessor to establish tax numbers of the lots and the conservation easement. The subdivision will then be registered with the County Clerk's office.

#### **4. Approval of Minutes**

Minutes of the meeting on May 22, 2012 were approved by a motion made by Mr. Aarons, seconded by Mr. Kauderer, and carried by a vote of 4-0. Mr. Krisky was absent.

#### **5. Adjournment**

There being no further business to come before the board, the meeting was duly adjourned at 9:47 p.m.

Respectfully submitted,

*Ronnie L. Rose*

Ronnie L. Rose  
Planning Board Secretary

## RESOLUTION

**WHEREAS**, the Planning Board has received an application for a Change of Use permit on Tuesday, June 12, 2012 for The Black Cow Coffee Company Inc., hereafter known as “the Applicant,” said property owned by Angela Labate and located at 4 Old Post Road South (Tax Parcel address is 122 Grand Street). 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 4; and

**WHEREAS**, the proposed Change of Use is from a retail use to a food services use; 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 application, as shown on a site plan of the interior and a drawing titled “Front Elevation”, both received by the Village Engineer’s Office on 6/7/12, be approved subject to the following conditions:

- 1) that the sign application be submitted to the Advisory Board on the Visual Environment for their review and recommendation to the Planning Board, and that the applicant return to the Planning Board for final approval,
- 2) that the Planning Board waives the required number of off-street parking spaces on the basis that there is available on-street parking and a 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. Kauderer and carried by a vote of 4 to 0.

Resolution accepted with the minutes of the meeting held on Tuesday, June 12, 2012.

## RESOLUTION

**WHEREAS**, the Planning Board has received an application for a Change of Use permit on Tuesday, June 12, 2012 for HealingSpace (Liz Ingalls, Owner), hereafter known as “the Applicant,” said property owned by the 139 Grand Street LLC and located at 139 Grand Street. 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 67.20 Block 3 Lot 18; and

**WHEREAS**, the proposed Change of Use is from retail use to professional services use; 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 application, as shown on a site plan of the property titled “Revised Parking & Handicap Ramp” received by the Village Engineer’s Office on 6/8/12, be approved subject to the following conditions:

- 1) that the sign application be submitted to the Advisory Board on the Visual Environment (VEB) for their review and recommendation and subsequently the applicant is to return to the Planning Board for final approval,
- 2) that the parking spaces and handicap spot as shown on the site plan (dated 6/12/12) reflect the changes as recommended by the Village Engineer and therefore, the parking area will be increased to 9 parking spaces and 1 handicap space. The improvements to the parking lot shall be completed prior to the opening of the business.

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. Kauderer , seconded by Ms. Allen and carried by a vote of 4 to 0.

Resolution accepted with the minutes of the meeting held on Tuesday, June 12, 2012.