

**Planning Board meeting  
August 26, 2014**

Present: Rob Luntz, Chairman  
Bruce Kauderer  
Steve Krisky  
Rocco Mastronardi

Also Present Daniel O'Connor, P.E.  
Ann Gallelli, Village Board Trustee

**1. Call to order at 8:00 p.m**

Chairman Luntz called the meeting to order at 8:00 p.m..

**2. OLD BUSINESS**

*a) Tom Fallacaro—3 Arrowcrest Drive (Sec. 67.15 Blk. 1 Lot 3)—Application for modification of building envelope, wetlands permit, steep slope permit (if necessary), and excavation and fill permit.*

Mr. Bob Hilpert, of Hilpert Law Firm, spoke on behalf of the applicant, Tom Fallacaro, 3 Arrowcrest Drive. Mr. Hilpert stated that from his and his client's perspective the key issue, and the starting point of the discussion, is the safety of the wall and that it seems that once the Planning Board deals with the safety issue the other issues should fall into place (such as steep slopes, building wall without a permit, excavation and fill permit, and so on).

Mr. Hilpert summarized his interpretation of the history of events leading up to the engineering report completed by Bernie Grossfield. Mr. Hilpert noted that Mr. Grossfield had concluded that the wall was safe even though he did not sign the plans. It was Mr. Hilpert's understanding that at that point in time, the board had wanted Mr. Fallacaro to hire a new engineer to begin all over again but the cost had been prohibitive for Mr. Fallacaro to start from the beginning.

Chairman Luntz agreed that safety is the big issue for the Planning Board. Mr. Hilpert stated that Mr. Fallacaro recognizes that he owes the board a sealed plan; he proposed that the applicant hire an engineer to review the Grossfield report and then this engineer can let the board know if they can rely on the report. If it is not a reliable report, the engineer would say why it isn't reliable and at that point, the village could hire an engineer that they believed they could rely upon.

Planning Board members questioned the efficiency and economics of this approach. The Planning board members all concurred that any reasonable engineer would start with the work that had been done to date. The Planning Board had previously recommended and currently maintain that the village should find an engineer (at

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the applicant's expense) that the board recognizes as an authority to evaluate the retaining wall.

Mr. Fallacaro responded that even though previously he didn't have a sealed set of plans, he would provide the Planning Board with a seal set of plans and pointed to the fact that for fourteen years the wall has not moved.

Mr. Mastronardi noted that although there was something to be said that the wall has stood for fourteen years, he would recommend that aside from testing the as-built conditions, the wall be monitored for movement or strain over a period of time. At a site visit with the Village Engineer, Mr. Mastronardi had noticed that there are locations where there is more of a dry stone construction to the wall. Mr. Mastronardi suggested that it would seem appropriate that the engineer hired would study other remedies to ensure that the wall is secure.

Mr. Hilpert reiterated that his applicant wanted to hire his own engineer to review what has already been done. He wanted to bring in a set of plans and then, if necessary, have the Planning Board hire an independent review which tells the applicant what needs to be fixed or why the village can't rely on the plans.

The Planning Board members reiterated that it made more sense for the applicant either to pay for a mutually agreed upon engineer to review the plans or have the applicant's engineer and the village consulting engineer agree on the scope of work. Mr. Mastronardi pointed out that this approach was more collaborative, and ultimately economized on time and expenses. There was a chance that if the applicant's engineer submitted sealed plans, and then an independent engineer reviewed it, the plans might be returned to the applicant with a request for a more thorough scope.

Mr. Hilpert stated that it would be acceptable for the plans to be returned if that was necessary.

Mr. Kauderer stated that he did not find it acceptable to have the applicant bring to the Planning Board a sealed set of plans and he believed that the Planning Board should have an approved engineer from the start. Mr. Kauderer stated that the burden of proof was on the applicant to show that the wall is safe and that the previous reports are irrelevant. It was more sensible to have the Planning Board's consulting engineer discuss the scope of work with the applicant's engineer. Mr. Kauderer stated that he would not be satisfied unless the village's consulting engineer agrees with the submitted plans.

Chairman Luntz asked the Village Engineer if there was an engineering firm that the village uses. He also reminded Mr. Hilpert that the applicant was responsible for paying for both engineers.

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The Village Engineer stated that a Request for Proposal (RFP) for engineering services could be written and then after a thirty-day time frame, the proposals could be reviewed, the engineering firms visited, and then retained (at the applicant's expense). The Planning Board members expressed support for this approach.

Mr. Hilpert continued to suggest that either the applicant provide the Board with a sealed plan by an acceptable engineer (hired by the applicant) or alternatively, the applicant should hire an engineer to review what has been done already, and make a recommendation about whether the Grossfield report was adequate or not.

Mr. Mastronardi stated that any engineer would want to do invasive studies if signing off on plans that said the wall was secure.

Mr. Fallacaro reiterated that he would have an engineer that will sign and seal the plans.

Mr. Hilpert and the Planning Board continued to discuss at length the Planning Board's position which recommended that 1) the applicant either hire a mutually agreed upon engineering firm (village-approved and applicant-approved) to review the plans, or 2) have the applicant's engineer consult with a village-approved engineer (at applicant's expense) to agree on the scope of work, or 3) have an independent peer review of the applicant's submitted plans.

Mr. Kauderer stated that he would like to have the village's consulting engineer and the applicant's engineer decide what has to be done. Mr. Hilpert stated he wouldn't want the village's consulting engineer to review the plans. Chairman Luntz stated that he did not believe the Planning Board was qualified to review engineering plans so therefore the Planning Board would need to have a consulting engineer peer review the work.

Mr. Hilpert stated that his client's position is to bring in a set of plans, and then the Planning Board could hire an independent review to tell the applicant what needs to be fixed or why the village can't rely on it.

Chairman Luntz responded that the applicant may not get the answers from the Planning Board that he wants; and personally, he does not feel that the Planning Board is qualified to review an engineering report and would want to find a qualified engineer to review it.

Mr. Hilpert responded that the Planning Board can reject the plans. He maintained that the applicant doesn't plan to do the plans "cheaply"-- they have a vested interest in solving the problem too.

Chairman Luntz concluded the discussion and told Mr. Hilpert that he should provide to the Village Engineer the information about the applicant's engineer and he (Rob) will send a letter to that engineer stating the Planning Board's position.

### **3. REFERRAL**

*a) Referral from Village Board regarding a special permit application for a Mixed Occupancy building at 379 South Riverside Avenue –Recommendation from Planning Board to Village Board.*

Mr. Ed Gemmola, architect on behalf of the applicant, Mr. Lawrence Doyle, spoke about the proposed project for a mixed-occupancy building at 379 South Riverside Avenue.

Mr. Gemmola gave an overview of the proposed project which consists of construction of a new three-story mixed occupancy building with eight dwelling units on the second and third floors, and three dwelling units behind a new commercial space at the street level.

The application will be sent to involved agencies for comments, including the Westchester County Department of Public Works since the right of way utility connections need to be approved.

The Planning Board had no objections to the Village Board serving as lead agency.

There were some preliminary questions asked about access to the apartments, the size of the building with respect to the setbacks, the site line from South Riverside Avenue and Benedict Boulevard, and some of the commercial space uses.

The Planning Board members expressed enthusiasm for the project; the proposed mixed-use building was consistent with the new zoning law.

The Village Engineer explained that once the Village Board declares itself to be lead agency, the application would be referred to the WAC. The elevations will need to be provided.

Bruce made a motion to recommend that the Village Board serve as lead agent and that a special use permit be granted by the Village Board. Mr. Krisky seconded the motion, and the motion carried all in favor 4-0.

A draft memorandum will be written and reviewed by the Planning Board.

### **4. OLD BUSINESS**

*a) Dino Tsagarakis—383 South Riverside Avenue (Sec. 79.13 Blk. 2 Lot 27)—Request to revise Amended Site Plan in order to eliminate two awnings on front of building (either side of main entrance) to simplify building design and accommodate business sign.*

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After a brief discussion, the Planning Board agreed that if eliminating the two awnings would be beneficial for the tenant to put up the business sign, then they were satisfied with the revised Amended Site Plan.

Mr. Krisky made a motion to approve the amended site plan so that the two awnings on the front of the building (either side of main entrance) are eliminated, Mr. Mastronardi seconded the motion, and the vote carried all in favor 4-0.

*b) Side Car—39 North Riverside Avenue (Sec. 78.08 Blk. 3 Lot 77)—Final Approval of Sign Application for retail food services business.*

Chairman Luntz noted that the Advisory Board of the Visual Environment (VEB) recommended that the sign be approved without any changes. The Planning Board agreed with their recommendation. Mr. Kauderer made a motion to accept the sign as proposed, Mr. Mastronardi seconded the motion, and the vote carried all in favor 4-0.

## **5. MINUTES**

Mr. Kauderer made a motion to approve the minutes of August 12, 2014, as amended, seconded by Mr. Mastronardi, and the motion carried all in favor, 4-0.

## **6. ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Ronnie L. Rose  
Planning Board Secretary