

**VILLAGE OF BREWSTER
ZONING BOARD OF APPEALS
WORK SESSION
June 11, 2012**

MINUTES

Board Members Present: Chairman Richard Ruchala, Board Member Claire Degnan Kropkowski, Esq. and Board Member Keith Greene

Board Members Not Present: Board Member Todd Gianguzzi and Board Member Dory Burdick

Others Present: Village Attorney Gregory Folchetti, Esq., Code Enforcement Officer Joseph A. Szilagy, Rick Stockburger, Achilles Doupis, Stephen Abels, Esq., John Watson of Insite Engineering, Daniel Ledley and John Piazza

The Pledge of Allegiance was recited.

Chairman Ruchala-This meeting has been called for Monday June 11, 2012. It is regarding the application of D.J.& N.A. Management Ltd. for an Amended Site Plan approval and area variance concerning the width and area of parking spaces located at 220 East Main Street, Brewster, New York. I would move to open the Meeting

Mr. Greene-I would second the motion.

Chairman Ruchala-The motion is by Chairman Ruchala and is seconded by Ms. Kropkowski. All in favor.

Mr. Greene-Aye.

Ms. Kropkowski-Aye.

Chairman Ruchala-Aye. The vote is unanimous, 3-0, to open the meeting.

[Whereupon the Meeting was called to order at 7:38 p.m.]

Chairman Ruchala-You are John Watson, representing the applicant?

Mr. Watson-Yes. I am John Watson. The property is the old Borden's Building. There was a court agreement to formalize access between the two parcels by swiping and curbing. The thought was that since we would be formalizing the parking and circulation the rest of the property would not need any more swiping than there is now. What we are proposing to do is utilizing the geometry of the property by swiping and curbing we could formalize parking throughout the site, which really was not a product of the court order. This area here is too narrow to be parking under the Code requirements so we are here for variances.

Chairman Ruchala-The variances have to do with the left side over, correct?

Mr. Watson-Correct.

Chairman Ruchala-So from what I see on the map you have 48 spaces and you are looking for 49. I am not sure that you need to be before us. Mr. Folchetti, could you shed some light on this?

Mr. Folchetti-It doesn't matter if they're over the bulk requirements for parking. If the proposal creates a parking space that is nonconforming, even if it is an excess space, it creates nonconformity and the relief is required. It doesn't matter if they need 50 spaces and they have 70. If a number of those 70 spaces are less than 180 square feet or their width or depth is not as required, it is nonconformity even if those spaces are in excess of the actual necessity. So they do have to come before you if they seek to create any spot that does not conform to the parking space requirements.

Chairman Ruchala-No problem.

Mr. Watson-The reason we are here is because we do not have enough width.

Ms. Kropkowski-So the blue on the diagram is what is proposed.

Mr. Watson-Yes.

Ms. Kropkowski-So you would not have parking there.

Mr. Watson-We would still have parking there.

Ms. Kropkowski-So you are talking about seven spots.

Chairman Ruchala-And two on top.

Mr. Watson-Two of them are not wide enough.

Mr. Greene-It appears that there is a meter shed there.

Mr. Watson-Yes.

Mr. Greene-Then you can't park cars there.

Mr. Doupis-It is off of the grounds.

Mr. Greene-Those are electrical meters.

Chairman Ruchala-Perhaps this would be a good time to open the Meeting up to the public. Sir, since you seem to want to get involved will you please come up front and address the Board.

Mr. Abels-Thank you Mr. Chairman. My name is Stephen Abels and I am here representing Mr. Ledley. There are a couple of things here. Number one is the Appellate Division decision about the property. I have one for each of you and I outlined in yellow there what has been ordered for the D.J.&N.A property. The only thing that was left after the Appellate Division decision was what was left pertained to the easement area. There is a lot of language in these papers that talks about that this is the result of the court order.

Chairman Ruchala-What date are we talking about? The one I'm looking at is from March 10th.

Mr. Abels-That is the latest Appellate Division order. That is all that there is at issue.

Chairman Ruchala-This one seems a little bit different. It seems to be citing this decision.

Mr. Abels-Absolutely. It is a little more succinct.

Chairman Ruchala-Okay. I just have two places that I have to deal with.

Mr. Abels-That pretty much says the same thing, that we're only dealing with the easement area.

Mr. Watson-I did say that.

Mr. Greene-I'm not sure why we're listening to this.

Chairman Ruchala-This court decision has nothing to do with all this other stuff, correct?

Mr. Abels-As it pertains to the variances, we're taking a property where parking moving around has caused great difficulties and at least a couple of lawsuits. Now what you're doing, if you look at this map-it says in one of the decisions that Mr. Folchetti has that Mr. Ledley has the right to park his delivery vehicles for up to 30 minutes in these spots.

Chairman Ruchala-That also has nothing to do with this.

Mr. Abels-It does because-you have a situation where parking is really tight and for some reason Mr. Doupis just wants more without giving a reason why he needs more. Why can't he operate within the law? Where is the hardship here?

Mr. Doupis-I want to tell you something.

Chairman Ruchala-Hold on please Mr. Doupis. You will have your opportunity to address us.

Mr. Abels-One other thing I would like Mr. Ledley to say is to follow up on that. They have these beer trucks deliver at these spots that are going to be marked off. The beer trucks unload from the side. For somebody to unload these trucks into

the basement they're either going to be unloading in the road-I don't know how they're going to get in here.

Chairman Ruchala-If someone is going in how do they get out the other side? They can't go out on both sides

Mr. Abels-Mr. Ledley has the right to do so. He owns the property.

Chairman Ruchala-He can go out either side?

Mr. Abels-The delivery trucks can't get to the basement of the building which is why the Court, Judge Hickman, originally gave him permission to park the vehicles there.

Mr. Greene-I don't know how a vehicle can turn in here and what, back out into the street.

Mr. Watson-A truck can pull in here and cars can still get around him.

Mr. Abels-if somebody is unloading out of the side of the truck there will be somebody in the way of these other trucks coming in.

Ms. Kropkowski-It seems that this is something that has been totally dealt with by the Court and you guys have been arguing about it for a decade. What is at issue is on this side of the property.

Chairman Ruchala-I think what your complaint is is that it happens over there it's going to affect the ability over there.

Mr. Abels-Yes.

Chairman Ruchala-Okay. So that is your real issue.

Mr. Abels-Yes.

Chairman Ruchala-That it will affect the other side.

Mr. Abels-Yes.

Chairman Ruchala-Mr. Doupis, is there something that you would like to say to this Board?

Mr. Doupis-Yes. I am Achilles Doupis, president of D.J.&N.A. Management. For almost 21 years I have tried to get a site plan approval but I guess from Mr. Ledley's point and Mr. Abel's point they always have some kind of disagreement. I had this engineer-I forget his name.

Chairman Ruchala-Peter Scott.

Mr. Doupis-Yes, Peter Scott. He tried for a couple of years. Putnam Engineering tried for another few years. They couldn't make Mr. Ledley happy nor I guess this Board too. The delivery trucks have a door in the back and a door on the side. So if they're not going to be unloading from the side door they can use the rear one. The first order was in 1968-no, I'm sorry, 1996.

Chairman Ruchala-1995.

Mr. Doupis-1995. From Judge Hickman-God bless him. But it's superceded now by a new court order. What is he worried about-everything is here.

Chairman Ruchala-Anything else?

Mr. Doupis-That's it.

Mr. Ledley-May I speak?

Chairman Ruchala-Mr. Ledley.

Mr. Ledley-Beer trucks do not have doors on the side. I think I would reserve my other comments for the Planning Board. Am I right on that?

Chairman Ruchala-I think you're right. The design is up to the Planning Board. This could actually have gone both ways. He could have gone to Planning and if he got an okay there he could have come to us for variances and then gone back. Or they come to us and get our variances and then go about the design, which they might have trouble doing or not doing. That's the Planning Board's purview.

Mr. Ledley-I can make further comments but I don't want to take your time if it isn't necessary.

Chairman Ruchala-I think you're on target with what you said as far as who takes control of the items. So I think you've said what you had to.

Mr. Ledley-Thank you.

Mr. Greene-Is there access at all times?

Mr. Szilagyi-To the meter itself?

Mr. Greene-Yes.

Mr. Szilagyi-They're parking meters. There are guards.

Chairman Ruchala-Anyone else in the public have something to say.

[No response]

Chairman Ruchala-I would then close the public part of this hearing. I've gotten the 239-m. From the County's perspective there is no adverse impact on the County. The variance requested appears to be primarily a Village issue. They do mention in this that the parking spaces would be very limited spaces. They do complain somewhat about the structure. Even though the County doesn't have an issue they do want to mention that they have a problem with the actual parking and the way it's worked out. They didn't think it would affect the state road but on the other hand maneuvering inside could be an issue, per John Lynch, the Commissioner.

Mr. Watson-What we're trying to do here is take the parking lot and build it to the property line.

Chairman Ruchala-I understand that. You're trying to get the most amount of vehicles parked is my personal opinion. Under the old laws you have 10,000 square feet so you would have needed about 50 parking spaces. The Village made the overlay district which gives you 400 feet and the Village would get the 48 spaces that you currently have. The Village has eased the prior 50 space requirement but you seem to be trying to make extra spaces, which would make it

harder to maneuver in my opinion. You don't seem to be showing hardship-that's what I'm looking at. Everywhere I look, whether it be in the Court findings where they basically said they have nothing to do with this, I don't see support for your position. It's a nice concept, but when I pass by I don't see the parking lot being crowded with the current tenants. If you had those tenants and you had a problem it might be a different scenario. But I think the design is problematic.

Mr. Ledley-If you give it to him five years from now it could be bad.

Chairman Ruchala-Mr. Ledley, public comments were closed several minutes ago.

Mr. Ledley-I'm sorry.

Chairman Ruchala-I'm just giving my personal opinions to the Board Members. My feeling is this should be declined. I of course can't speak for the Planning Board,

Mr. Folchetti-I just want to say something for the record here. The obligation of this Board is to take this Application and weigh the five factors under the Village Law. Hardship does not enter into it. The factors are whether it alters the essential character of the neighborhood, are there adverse environmental impacts to the surrounding properties, is it substantial, is the hardship self-created. Of the five factors those are four of them. Those are the factors you need to consider on whether to grant or deny. The Applicant took a chance coming here first cause they can get a variance here and then go back to the Planning Board which can completely reconfigure the site plan and they'll have to come back here in that circumstance if they want the approval and say we have to reconfigure and amend the variance. But whether or not you agree with the layout necessarily for configuration-you have to consider the factors that you are bound to consider under the law and practical difficulties is not the standard. It hasn't been the standard for 20 or 30 years.

Chairman Ruchala-I want to go through the five factors.

Mr. Folchetti-You should go through them. I encourage you to go through the five factors before you make any determination. Remember that this is an area variance.

Chairman Ruchala-Thank you. Let me then go through the factors. Can the result be achieved through other means feasible to the Applicant? He would just have less parking. Undesirable change to the neighborhood character-I think in this way it does affect it because of this whole ongoing conflict where these cars can be put into an unsafe condition and all the conflict over the years can have a negative effect. The request is substantial-right now he has a requirement of maybe 27 spaces and he's asking for 49.

Mr. Folchetti-There's no advocacy here. What he's asking for is to create nine substandard spaces. So the record has to be clear. He's not asking for any bulk parking requirements. He's asking to make seven spaces.

Chairman Ruchala-Nine spaces.

Mr. Folchetti-There are seven and two.

Chairman Ruchala-Okay, if you look at it that way. The 239-m states that it will be tough to do. I think that any alleged difficulty here is self-created.

Mr. Piazza-I would like to know if.

Chairman Ruchala-Public comment is closed. There is no more public comment.

Mr. Piazza-If there's going to be peace between all the people who are there.

Chairman Ruchala-I hope so.

Mr. Piazza-I know all the outfits that are there.

Chairman Ruchala-Yes.

Mr. Piazza-And I know what the parking is.

Chairman Ruchala-Okay. Thank you Mr. Piazza. I should have had you talk before.

Mr. Greene-It appears that there are only nine substandard spaces that they are asking for. It looks like there are a lot of problems with the site plan and I'd like to

see the engineer's report before I vote. I'd also like to see the sketch that the Court handed down.

Mr. Folchetti-The Court did not hand down a sketch.

Mr. Greene-I heard that the Court issued a sketch.

Mr. Folchetti-The Court did not issue a sketch.

Mr. Greene-We have it on the record that the Court issued a sketch.

Mr. Folchetti-That should be corrected then. I am pretty sure that the Court did not issue a sketch.

Mr. Doupis-The traffic engineer did it.

Mr. Greene-When?

Mr. Doupis-When? When the decision came.

Mr. Abels-May I respond to that last comment? The effectiveness of that map-the Appellate Division section I cited-said is not binding on anybody.

Mr. Doupis-I thought public comment was over.

Chairman Ruchala-In fairness you did speak and I didn't stop you. I must then in fairness give him an opportunity to respond to what you said.

Mr. Greene-The right of way is fixed at 17. You can't get a driveway at 17 feet. The Village Code says 20. And that's part of the zoning. He cannot have a driveway.

Mr. Folchetti-That's something the Planning Board would come up with and maybe refer it back for other items to you guys, for the variance on the width of the driveway.

Mr. Greene-They have dimensions on it so we can address the dimensions. They have an eight foot wide strip that's painted as a loading zone but somehow they also want to use it.

Mr. Folchetti-It's not subject to this Application. The only thing you should be deciding is whether or not you want to give them the nine substandard spaces. Everything else they don't get unless you give them and it has to come back to the Planning Board for them to make a determination as to whether or not something does exist as to aisle width, bulk count, whatever. They're going to get denied back to you for those particular items. So to speak on those now, other than the nine spaces, would be premature and I am urging you not to make a record of that at this point. The record should be what the Application is about.

Chairman Ruchala-So you're not willing to vote on this until everything has happened?

Mr. Greene-Hold it over.

Chairman Ruchala-And it seems like it needs work, is that correct?

Mr. Greene-I'm willing to vote on the nine spaces. That's all that's in front of us and the rest of the things don't need the Zoning Code so we'll just vote on that.

Chairman Ruchala-Anything further?

Ms. Kropkowski-I have nothing further to add.

Mr. Greene-If there is an engineer's report I wouldn't mind seeing it.

Mr. Folchetti-You can hold it over.

Mr. Greene-Do we have the engineer's report? It's for the record.

Mr. Stockburger-He's got it.

Mr. Greene-Is it available?

Mr. Szilagyi-Joe Hernandez is handling this matter so he would have it.

Mr. Folchetti-You can make a motion to hold the matter over for whatever proceedings you wish.

Mr. Watson-We would like to request an adjournment. The Planning Board sent us here and we would like to go back to them before finishing here.

Chairman Ruchala-Rick, will this be a one Meeting thing at the Planning Board?

Mr. Stockburger-It won't be one Meeting, as we would have to schedule the public hearing. Is your 239-m also my 239-m?

Mr. Folchetti-It was submitted as a joint Application to the County so they're the same 239-m.

Mr. Stockburger-The public hearing could be in July for the Planning Board if they do everything on time.

Chairman Ruchala-A public hearing in July for you, which would be what date?

Mr. Stockburger-The fourth Tuesday.

Chairman Ruchala-Which would be July 24th. That means we could have our hearing on July 30th.

Mr. Folchetti-I will not be here on July 30th. With SEQRA and the public hearing the Planning Board won't be one hearing no matter what.

Chairman Ruchala-How about Monday August 6th at 7:00 p.m.

Ms. Kropkowski-That's good for me.

Mr. Greene-Me too.

Chairman Ruchala-The Meeting will be continued to Monday August 6, 2012, 7:00 p.m. at 50 Main Street in the Village of Brewster.

Mr. Watson-Thank you.

Chairman Ruchala-Thank you all as well. When is the Planning Board going to meet next?

Mr. Stockburger-June 26th.

Chairman Ruchala-The next thing is the Minutes of February 13, 2012.

Ms. Kropkowski-I would make a motion to accept those Minutes.

Chairman Ruchala-Second. All in favor.

Ms. Kropkowski-Aye.

Mr. Greene-Aye.

Chairman Ruchala-Richard Ruchala, aye. The note is 3-0 to accept the Minutes of February 13, 2012. Any other business?

Mr. Greene-No.

Ms. Kropkowski-No.

Chairman Ruchala-Then I would make a motion to close this Meeting.

Mr. Greene-Seconded.

Chairman Ruchala-All in favor.

Ms. Kropkowski-Aye.

Mr. Greene-Aye.

Chairman Ruchala-Aye.

[Whereupon the Meeting was closed at 8:03 p.m.]

