

DRAFT

VILLAGE OF BREWSTER  
PLANNING BOARD

PUBLIC HEARING AND REGULAR MEETING  
APRIL 25, 2007  
MINUTES

*Public Hearing*

Present: Chairperson Christine Piccini; Board Members: James Bruen, Mark Anderson, Rick Stockburger.

Not Present: David Kulo

Others Present: Village Attorney Gary Kropkowski

Christine Piccini-Everyone it's 7:33pm. This is a public hearing of the subdivision held before the planning board. In attendance this meeting for the planning board are Mark Anderson, Jim Bruen, Rick Stockburger, Christine Piccini. David Kulo is not here at the moment.

Christine Piccini-The only item on the agenda for the public hearing part of this meeting is to receive from the public comments on the subdivision for 114 Main St./41 Oak St. a property that goes through to both streets. And the applicant or his representative is here.

Christine Piccini- James, would you mind taking just a few minutes and generally saying what's going to happen then?

James Nixon- The public notice was mailed to all property owners with in 500 ft.

*114 Main. St./41 Oak Street.*

James Nixon-The subject property was 114 Main St. /41 Oak Street  
Main St.--at this map Main Street is at the bottom of the drawing, Oak Street is at the top.

James Nixon-There are two houses on the property with the two addresses as I just stated. To locate people to the left side or west of the property is the Presbyterian church to the right or east side of the property is the Brewster house. The lot not only runs through from Main Street to Oak Street, but it also crosses zoning district lines which is somewhere roughly in the middle of the property according to the zoning map.

James Nixon- I say somewhere roughly because it is not specifically defined as a location. When this proposal was first presented to the planning board a couple of years ago by a previous owner, when he suggested and the board agreed that if and when this subdivision becomes final, the line between the two properties would also become the demarcation between the R75 zone to the north and the B1 zone to the south.

James Nixon-The properties are generally conforming w/ zoning requirements. The rear yard of

the Main Street property is conforming. It's 25 feet deep. The rear yard of the Oak St. property is non-conforming and going 7 feet and we see the Main Street house here and the Oak Street house here. There's not enough room between the two houses. Here we have a 25 ft rear yard and a 35 ft rear yard for the Oak Street property because of the layout...

James Nixon- The zoning board of appeals did grant a variance for the nonconforming rear yard...However in all of the respects, the 2 parcels will conform with their respective distances.

*No proposal for construction*

James Nixon- At this time or in the department's application there are no proposals for construction, reconstruction, reconfiguration of what is on these properties other than the drawing of the line between, the drawing of the line in the middle of the current parcels to make it 2 parcels...

Is there something going to be built then? Are they going to rip down and put up something?

James Nixon-No...What I said was not at this time...meaning nothing that I know of; this proposal is only to subdivide this property. The owner has not represented to me that he wishes to do anything other than that, and we're not requesting anything other than that.

The purpose of the subdivision is not to facilitate any construction.

Adrian King- My name is Adrian King. I live directly across the street from 41 Oak Street at 36 Oak Street. Basically all you're doing is you're trying to get an order to divide this property into 2 separate properties and you're not building anything there.

James Nixon-That's correct.

Adrian King- So no apartment building.

Nothing is proposed. No kind of construction is proposed at all in this proposal.

James Nixon- The primary reason this owner wants to do that, the previous owner was the one who started this process...is that having a parcel of 2 houses to 2 family houses, four units, is sort of a practicable difficulty in terms of financing insurance and potential resale. But the purpose of the subdivision is not to facilitate...

Adrian King- So it's just that we'll have 2 different parcels of land.

James Nixon-That's correct.

Adrian King- So he could if he wanted to, sell the house in the back, sell it and keep the house in the front.

James Nixon-That's correct.

Terri Stockburger- James, I was reminded that the Main Street property is B1 correct?

That's correct.

Terri Stockburger-B1 according to the zoning is business on the 1st floor, residence on the 2nd floor, if I'm not mistaken...

James Nixon-You're correct on that.

Terri Stockburger-Right now the occupation of that house, it does not have a business on the 1st floor that I know of; I think it's fully residential.

Terri Stockburger-I believe that there are even but not more than 2 apartments in that front house because there are 3-4 mailboxes. But that's something that the building inspector is going to have to find out.

James Nixon-That is correct.

Terri Stockburger-Something that excludes them from the requirement of a business on the 1st floor, business for the zone that they're in.

Mark Anderson- Are they required to change their current use to get the subdivision...  
Are they required to change the use of the building (they're in the B1 zone already)

*Preexisting nonconforming use*

Mark Anderson-Is it considered a pre-existing non-conforming condition in the B1 zone or do they suddenly have to conform?

Gary Kropkowski- What I'd say is that it was kind of the same condition the last time you guys met. That's a good question, I thought what you were going to ask is do they have to be in compliance with the code before they can come in and get approval. And the answer to that is certainly yes.

Mark Anderson-You're saying they would have to put a business on the 1st floor once they're subdivided.

Gary Kropkowski-Unless the existing use now is a preexisting nonconforming use.  
So they would need to have that on the application that that is a preexisting nonconforming use.

Mark Anderson- I think the subdivision law is that they can't make it more nonconforming than it already is.

Gary Kropkowski-That's the general rule. Municipalities say you can't say something is nonconforming and then make it even more nonconforming.

Well in fact, it's a pre-existing nonconforming use on the front lot, say Main Street already because it's B1, and they don't have a business; then subdividing it's going to be nonconforming with the variance or the short backyard.

James Nixon-The Oak Street property becomes non-conforming with the short backyard.

Your zoning board has a variance already for the backyard so it already is addressed.

What about the issue that there are more apartments than there should be?

JN The house was officially a two (2) family; Unless something changed from the certificate of occupancy for 2 families for the Main Street house and the Oak Street house, there is no proposal as a part of this application to change that.

Rick Stockburger wrote a memo because there were multiple meters and multiple mailboxes to check whether their properties were in conformance with the foreseeable 2 families...So the building inspector is asked to go check that out...

I see that you have a short backyard and a regular backyard...So the whole thing do you want to draw a line there and say is it OK to have a short backyard, is that the whole thing?

James Nixon-Well actually the zoning board has already said it's ok to have a short backyard. It's the same thing ... but now in this form, the rear yard becomes a moot point.

*Close public hearing, Open regular meeting*

Mark Anderson- I make a motion to close the public hearing.

Christine Piccini- Thank you Mark (Anderson), and do we have a second?

Rick Stockburger seconds that.

All in favor? 3 Ayes from Jim Bruen, Rick Stockburger, and Mark Anderson.

Christine Piccini-Close the public hearing, we will move on to the regular meeting and this will be discussed in the regular meeting.

7:42pm Public hearing ends.

Christine Piccini-We are going to open the regular meeting now at 7:47pm.

*December 14, 2007 minutes (regular minutes only)*

Christine Piccini-December 14th minutes and resolution

Motion by Rick Stockburger to accept minutes with the attached resolution.

Mark Anderson. I second the motion.

Ayes: Jim Bruen, Christine Piccini.

...

12/14 Minutes (public hearing minutes) were approved at 3/28 meeting.

...

Corrections on March 28 minutes.

Meeting called to order at 7:36pm.

At top of 2nd page-Mark made a motion to accept

David Kulo made motion to second.

Rick Stockburger abstained.

And passed with 3 Ayes.

3rd page

Rick Stockburger made a motion to accept this resolution, Mark Anderson seconded, and four ayes (David Kulo, Jim Bruen, Rick Stockburger, and Mark Anderson) with Christine absent.

Mark Anderson-I motion we accept the minutes with the changes.

Rick Stockburger seconds.

In favors three ayes with Christine abstaining.

Christine Piccini-By email you all now have a copy of our long missing minutes from the 12/14 regular meeting.

Is there a 2nd page of that resolution that is signed.

Christine Piccini -The signed copy is in the file.

Add that Rick Stockburger closed the meeting (at 9:30pm and was seconded by Mark Anderson, all ayes).

Do we want to include that resolution as part of the minutes or does it stand alone.

Christine Piccini-Yes, attached to it, we did resolve that.

I make a motion to accept the minutes with the attached resolution.

Mark Anderson- I second that.

Ayes from Jim Bruen and Rick Stockburger.

Those are our minutes with that correction.

*February 28th minutes*

Christine Piccini-The next set of minutes is Feb. 28th, those are minutes that I generated; I believe you discussed them at the last meeting...

We did approve it.

Christine Piccini-We did.

I'll go back and check my notes. If you want to make that correction for the 2/28 minutes. Mark Anderson made a motion to accept them. David Kulo seconded, we have 3 ayes with Rick Stockburger abstaining.

At the last meeting, March 28th , regarding the Feb. 28th meeting, corrections for the 2/28 minutes were previously accepted.

### *March 28 minutes*

Mar. 28 minutes, last month's meeting,  
Rick Stockburger-I made a motion in the beginning that the meeting was called to order at 7:36pm

Anybody have any changes on 1st pg.

On the second page where it says looks fine, just has to be finished, we need to insert That Mark made a notion to accept, David Kulo made a motion to second, and it looks like Rick Stockburger abstained, and 3 ayes passed.

(top of second page) (3/28 cont.)  
No comments on second page

On the third page.

Rick Stockburger made a proposal to accept the resolution, Mark Anderson made a motion to second, and 4 ayes with Christine absent.

On the same page down (p. 3), where it says all in favor aye, 4 ayes, we need to insert Rick Stockburger signed 2x as planning board acting chairperson.

James will be James Nixon

Jim will be Jim Bruen

Rick Stockburger- No comments on pg. 4 or 5.

Rick Stockburger-Motion to close the meeting at 9:41pm, do not have record of who made the motion or who seconded, all agreed.

So I move that we accept the minutes w/ the changes indicated from Mr. Stockburger.

Mr. Stockburger will 2nd

In favor: aye, aye aye.

Christine Piccini abstains.

*Old business*

Subdivision 141 Main Street, 41 Oak Street

The other issue was Paul Pelusio's memo and what we think that means...

Rick Stockburger- I think what you're saying in part 4 is were we to approve the subdivision today, he has 60 days to file it, having met the terms of the Board of Health statement.

I was essentially referring to the language in the approval stamp from Putnam County.

*60 days for approval*

Rick Stockburger- What I was looking at when saying the applicant is advised the final approved subdivision plat must be filed by the court w/in the 60 days for approval. It is unclear if the conditions for approval set forth can be satisfied within the specific period.

If we did this today, he would have 60 days to meet these requirements.

And you're basically saying it won't be done by then, therefore he won't be able to file, and the subdivision will become null & void, and we have to start the process all over again.

Christine Piccini-Now were you able to get anything in writing that said it's not what we meant.

James Nixon- Kaczynski explained it to me In addressing the issues together, therefore it can be subdivided prior to a connection to a sewer, given that the properties are not sold separately, and the septic system is maintained, and as soon as the sewer is available the septic system is abandoned and the houses are separated, given that the properties are not sold separately.

James Nixon- you wouldn't stop a subdivision because you don't have the sewer yet.

James Nixon-We had represented on our map that we intend to use the sewer system.

Mark Anderson- They share a septic?

Yes.

James Nixon-On the Main Street front yard. Gravity is feeding the backhouse down to that front yard.

James Nixon- That's correct.

James Nixon-Mike Kaczynski's concern if you sell the property off to different people, you buy one and he buys one, if the guy on Main Street lets the septic system fail, the guy on Oak Street is out of luck.

*What does the owner need to subdivide?*

Mark Anderson-Jim I read the subdivision law on prelim conditional and final platts. What does the owner need in order to subdivide; can he subdivide and get his refinancing on a conditional approval?

Mark Anderson-If we were to approve a conditional platt...

Rick Stockburger- Would he be able to refinance or would the mortgage title co. want a final platt...

James Nixon- I don't honestly know, I'm sort of guessing that it's going to come down to, what I need, what he needs is a proof platt that the county clerk's office can accept for the subdivision, and therefore assign 2 tax numbers

James Nixon-And what exactly the mortgage companies, the insurance companies are looking for, I don't know.

Terri Stockburger-Well the way we're talking about this right now, that each building can be separately sewerred, is a condition, so the approval would be, if approved that way, it would be conditional ...It's a subdivision conditioned upon them connecting separately to the sewer line.

Mark Anderson- If I read the New York State Village Law subdivision, it says conditional approval of the final platt was approved by the planning board, a final platt subject to conditions set forth by the planning board resolution is conditioned on approval of such a platt.

Such conditional approval does not qualify for a final platt, for recording the authorized issuance of any building permits prior to the signing of a platt.

Mark Anderson-I don't think financing should even be on the topic, it's irrelevant.

For your decision it's irrelevant.

Mark Anderson- Yes, going to conditional approval is way to go

Rick Stockburger-And having it held there, ready, doesn't bother me.

Jim Bruen-Doesn't bother me either.

What kind of a burden do we do a hardship, do we make by the owner?

Conditional or not do we put another burden on him...I don't think even doing a conditional is going to help him any.

Mark Anderson- I think going to the conditional approval, if it is the way to go, and just having it held there, ready, that doesn't bother me.



Christine Piccini- The only paperwork that I think we're missing at this point in time is that we did not send the application to the county planning department which we have become aware is something we have to do with nearly every application that we get here in the Village.

Because of 239m, we are within the system of state roads, waterways, and municipal borders and nearly every lot is in the village. So anything that we receive a plan for, anything that we can make a decision on, must go to county planning.

Mark Anderson- That means every fence that goes up, under new law everything that gets done except for a shed under 400 sq ft, has to go to the county to decide the location of every lot inside the village.

Mark Anderson- How much notice do we have to give them prior to us making decisions...

Christine Piccini-What 's supposed to happen by law is we have to, 30 days, 30 days before our public hearing

Did we have to given them at least 30 days?

I would suggest 10 days **before a public hearing**; they have 30 days to respond. After the 30 days we don't have to wait any longer. But we allow them 30 days before we make a decision.

Could we send them a letter saying the public hearing was done now...We didn't send you a notice...we'd like to schedule a vote possibly at the next meeting...It is a negative response if we have no response...

We have to wait 30 days (unless we get a faster response)

Rick Stockburger- Could we send them a letter, we didn't send a notice, would like to schedule a note next mtg.,

Christine Piccini- Do we have to renote everybody...

Christine Piccini- Can we just send them an application and ask for their comments and not allude to when the public hearing was...

Gary Kropkowski-It really should say 239m because it has triggered 1 or more of the certain actions referred to the county, this is what it is, please be advised that we would expect to hear from you within 30 days of receipt hereof or we'll proceed accordingly.

Can we put in a line a speedy reply is requested?

Gary Kropkowski-Christine here's the opt out provision that I suggest you and the rest of board think about. The county planning agency and the local referring board may enter an agreement to modify certain of the otherwise strict requirements of the municipal law...such an agreement may do one or both of the following it may define a full statement in terms other than the 6 criteria state law definition (1) , it may categorize certain kinds of projects with state law would

otherwise make referable as instead being of purely local rather than a county wide or inner community importance and thus not referable.

Like a subdivision in the middle of the village of Brewster.

Gary Kropkowski- I'll call him and say consider doing this.

Christine Piccini-And we'll assume that that applies to this.

Mark Anderson-Are meters all active, and under what names are they active under.

Christine Piccini- Does it stand in the way or give pause to moving forward to grant the subdivisions...And what is the timeline to get activated...

James Nixon- The health dept has conditions, can be subdivided between 2 owners...

Christine Piccini- Complete approval: gets conditional approval, must meet conditions to make it a final approval...

Gary Kropkowski-Subdivision approval, need a final platt.

James Nixon- no sewers in the village, except 2 blocks on Main Street.

James Nixon- Here we have a subdivision, the 2 houses use 1 system, subdivision on Michael Neuner behind Williams station.

Subdivision 2 houses, each had own septic system.

James Nixon- Approval granted, not change.

Mark Anderson- Not approved by them yet.

James Nixon- They refer to it as common ownership...

Rs How vote w/o conditions on it?

Rick Stockburger-Common ownership, makes it a conditional platt.

The sewers have not been awarded yet.

Christine Piccini-Hold over until our next meeting, may be more information on what's going on in sewer...

Christine Piccini-Old business at next meeting, hopefully will point back to the bldg inspector...

*New business*

None.

*Other business*

Rte. 22

Had a meeting w/ interim building inspector (Bob Serino) and he said first, the meeting with the planning board; then have to do appropriate paperwork and fees to continue.

Rick Stockburger- Preliminary meeting.

Christine Piccini-You need to supply to us with a packet of info, copies, which goes to the village engineer, items of concern or flags, they will speak to planning, then discussion on item.

Christine Piccini-I know that no report is done because there is no application in their hands yet...

Christine Piccini- Traffic flow concerns, water use impact (minimum)

Rick Stockburger-Re B1 zone

Professional offices allowed, professionals permitted to have offices; not personal services.

Professional. Person, personal services, and an office, definitions.

Rick Stockburger-Review the language, what fits in what.

Rick Stockburger- Why separate professional “office” from”office”

Mark Anderson-The B zone should allow the ebb and flow of businesses here.

Rick Stockburger- What is the definition of office?

Mark Anderson- Good law leaves latitude.

Mark Anderson- Commerce-we’ve seen in 23 yrs here a group of businesses move out to rte 22, a cycle, a mix of businesses...

Mark Anderson- Dance studio, automotive allowed.

Rick Stockburger- I understand that.

Rick Stockburger-If the application says professional space on his application...

Mr. Nasser-I’ll discuss traffic issues with the architect.

Rick Stockburger-Get an application from the building inspector with all the approval stuff...

Mr.Nasser-I’ll speak to Folchetti.

Christine Piccini- 5/23 next meeting, submit by 5/9.

Christine Piccini-We'll look for your application.

*Training sessions*

Flowchart needs timelines added,  
Everyone needs to understand all the timelines, new requirement.

Christine Piccini-Will send email;  
Christine Piccini-All in agreement, meet w/ John again.

Mark Anderson- No dates yet.

Mark Anderson-I move that we close the meeting..  
Rick Stockburger-I second.  
All aye Jim Bruen, Mark Anderson, Christine Piccini  
9:25pm