

**Village of Brewster
Planning Board
October 26, 2010**

Regular Meeting

Board Members in Attendance:

David Kulo, Chairman
Rick Stockburger, Assistant Chairman
Mark Anderson
Jodi Ellis

Board Members Not in Attendance

Renee Diaz

Also in Attendance:

Paul Pelusio-J. Robert Folchetti & Associates, Village Engineer
Richard Shirley

Agenda

The **Pledge of Allegiance** was recited.

Call to Order

Mr. Kulo-I make a motion to open.

Mr. Anderson-I second.

[Whereupon a vote was taken]

Ayes-All

Nays-None

[Whereupon the meeting was called to order at 7:33 p.m.]

New Business

Chairman Kulo-This is the regular meeting of the Village of Brewster Planning Board. In attendance are David Kulo, Rick Stockburger, Mark Anderson and Jodi Ellis, our new Member whom I would like to welcome to the Planning Board.

Ms. Ellis-Thank you.

Chairman Kulo-Your name is Richard Shirley.

Mr. Shirley-Yes.

Chairman Kulo-And you're here to discuss a shed.

Mr. Shirley-Yes.

Chairman Kulo-We don't have a Code Enforcement Officer at the moment.

Mr. Stockburger-There is Jose Hernandez, Southeast's Code Enforcement Officer who is currently working part time for the Village. The Site Plan Application says it is required for all buildings except for single family residences.

Mr. Anderson-We could go over point by point what parts of the Application he can ask for waivers for.

Mr. Stockburger-It's my understanding he's putting up a shed.

Mr. Anderson-This property transferred not too long ago when the doctor sold it to the Church.

Mr. Shirley-That was about 15 years ago.

Mr. Anderson-That's not that long ago in Brewster history. The bankers back then may have required some of these things. It might help to locate the transaction papers.

Mr. Shirley-The shed is in the back corner of the parking area. The shed is for storing outside equipment. It is on the corner of Marvin Avenue.

Mr. Stockburger-We will eventually have to hold a public hearing on the Site Plan Application. Maps and surveyors will be needed. Eventually you'll have to send out notices to all property owners within 500 feet. The Town of Southeast has the information that's needed. They'll use their software to print up a list of the property owners.

Mr. Anderson-I don't think any variances will be needed as the setbacks are zero.

Mr. Stockburger-You can go online to the Village's website at <http://www.brewstervillage-ny.gov> to get the zoning table, statement of uses, variances required and the boundary setbacks.

Mr. Anderson-You can get the location of water and sewer lines and the things that can be waived.

Mr. Stockburger-You can get the things that you need to show, and you can get the old platte also.

Mr. Anderson-He's not changing any land contours.

Mr. Shirley-There are no lights or any kind of electrical hookup in the shed.

Chairman Kulo-It's a typical residential shed.

Mr. Anderson-I would suggest that we all go take a look at it.

Ms. Ellis-Have there been any complaints about the shed?

Mr. Anderson-No. The other neighbor, the other lot line, is commuter parking. It's at the very edge of any kind of residential use.

Mr. Shirley-The other thing we could have done would have been to get an utility trailer.

Mr. Stockburger-You still need maps and the location of other properties. Some of the things that can be waived are storm mains, contour intervals, improvements, storm water retention plan, sign illumination, proposed elevation along the centerline and screening and landscaping. There still has to be a public hearing in case anybody wants to complain about the shed. We can accept a photo of the shed instead of architectural plans. We'll need an Application signed by the Applicant. We can waive the engineer's report.

Mr. Anderson-Does the shed have to go through SEQRA?

Mr. Stockburger-Yes, with the short form unless it's unlisted in the SEQRA book. In your Application you put that the Applicant seeks waiver of these items.

Mr. Shirley-Is this the same Application as the one I filled out?

Chairman Kulo-You need a Site Plan Application. There are forms on the website. You will need a survey.

Mr. Shirley-I will try to get all of this together in the next few weeks.

Chairman Kulo-Be aware that sometimes the day for our meeting changes.

Mr. Stockburger-After all of this is done there has to be a public hearing to see if there are any objections.

Mr. Shirley-Thank you.

[Whereupon Mr. Shirley left the Meeting]

Chairman Kulo-I think we should talk about the next couple of months. Our next Meeting would be November 23rd.

Mr. Anderson-What has been done in past years is to combine the November and December Meetings into a meeting in early December as there is not

normally that much business at this time of the year. Has the ZBA met on Brewster Honda?

Chairman Kulo-The public hearing was held, and it was left open for comments.

Mr. Stockburger-There has not been a decision rendered yet.

Mr. Anderson-Unless and until they get their variance Brewster Honda will not be coming back to us. I heard that they were modifying their Application.

Chairman Kulo-How about December 7th for the next Meeting?

Mr. Anderson-I have no problem with that date.

Chairman Kulo-I would then make a motion that our next Meeting be rescheduled from November 23rd to December 7th.

Mr. Anderson-I would second that.

[Whereupon a vote was taken]

Ayes-All

Nays-None

Chairman Kulo-If there is any problem with that date we can reschedule the Meeting.

Mr. Stockburger-I would like to make a few comments. After the last Board meeting we went back and checked the definition of non-conforming use. It turns out that Yosh Ito was correct.

Mr. Anderson-We come back again and again that this structure was allowed to be built. Whatever the zoning was in those days, it's changed at least twice on this guy. Why would the government allow a building, of which it's the beneficiary of many tax dollars over the years, to get built.

Mr. Stockburger-They had a building permit.

Mr. Anderson-Right. And are you saying there's never been a Certificate of Occupancy issued for that building ever?

Mr. Stockburger-Not that the Applicant has shared.

Mr. Anderson-As someone who operates buildings that need to be modified for changing times, changing technology and changing everything else, and as the attorney Mr. Rossi said at the Village Board Meeting, the Village is working with the people who pay for it for survival. We are in this together. There is not one bad thing that we know of about this Church.

Mr. Stockburger-It comes down to the law. They should have had the Site Plan Application approved.

Mr. Anderson-You heard me speak out on the need to sanction this guy. He should have had a Ph.D. in dealing with the Village from the Verona issue. I am angry at the fact that they knew better. But the other side of the coin is we have people being foreclosed on their buildings in this community. There are people welching on their taxes and welching on everybody else.

Mr. Stockburger-The Planning Board does not have the authority to interpret.

Mr. Anderson-I would point out that the Village Board at it last meeting asked us, the Planning Board, to start quarterbacking the Master Plan changes. The current Plan does not deal with many of the issues that are going on here.

Mr. Stockburger-We cannot just arbitrarily pick and choose what laws we want to apply. We do not have that authority.

Mr. Anderson-We do. As Mr. Liguori argued, within the zoning structure is the ability to ask for these waivers.

Mr. Stockburger-We are not legislative, we are executive. We cannot make up our own rules. I understand what you're saying but that's for the Village Board.

Mr. Anderson-I think I have uniquely experienced what it is to develop and operate properties. As somebody wrote on Brewster 10509, the Cameo is

two technologies removed from when it was useful. It's not readily adaptable and that's why it sits empty. To me, the issue is that a building should have flexibility. Someday the building we're in now might not be Village Hall. We had polar opposites in this case-Club Verona and religion. I do not understand a community that is so inflexible that it can't accept something.

Mr. Stockburger-It's not inflexible.

Mr. Anderson-It is. It's not a light manufacturing building, it never was and yet this community allowed it to be built.

Mr. Stockburger-I understand that.

Mr. Anderson-He needs to be able to use it. This is not an argument-it's simply us philosophizing.

Chairman Kulo-I appreciate that. In supporting the Applicant I realized there were legal arguments against that position. The Trustees gave it to the Planning Board to discuss.

Mr. Anderson-And to recommend.

Chairman Kulo-Yes, and to recommend. The Trustees legislate the law and apply it and we don't. We tried to discuss and balance the impact of what the Applicant wanted to do.

Mr. Anderson-It's right there in the Minutes from the Meeting of September 28th. We have to look at the impact on the Districts.

Chairman Kulo-I don't think our role here is to go strictly by the law. I think we need to look at this community and see what kind of changes are going on and what might be appropriate uses. I think that the Planning Board is in that middle of where the law is applied.

Mr. Anderson-Every situation is unique. For example, with the shed we don't have to enforce the absolute letter of the law. We have some flexibility. It was the Village's job to interpret that portion of the Code. But it also said that here's a mechanism for exceptions to be granted. I thought

our job was to look at these impacts on the neighbors-the grocery store, the oil depot, the pile of rubble-and figure out who was going to be harmed.

Mr. Stockburger-But that's in the case of a lesser nonconforming use. This was not a lesser nonconforming use. You heard my example of the four family house burning down. Something that's not allowed at all is not a nonconforming use. That's a definition we fought over for many months.

Mr. Anderson-I would suggest that the next Master Plan needs to look at land mass, topography, existing uses, the transportation arteries, the underground arteries (water, electric, sewer and communications) and it has to understand and be broad enough to allow things to happen. We must allow this community to grow and grow via the mechanism of private capital risking money with an opportunity for return. We as planners must devise a way to get this community to grow.

Mr. Stockburger-There may be a new Master Plan.

Mr. Anderson-Simply because the community at large recognizes the need for a new Master Plan should still allow flexibility in a Plan that we find not usable any more.

Mr. Stockburger-Then you must change the law to get the authority to interpret and change the law.

Mr. Anderson-I noticed that the Village Board did not make a final recommendation so hopefully they listened to the ascending and descending side of this argument because the first time the Board was split. Jodi, you are coming into a really interesting history. You are coming into the first time that we as a group of people ever had a split decision or radically different opinions. In the past, we were at least unified on the way we voted. This time, we had a split Board, heated but respectful debate and the longest set of Minutes we've had in a long time.

Chairman Kulo-And it's continuing now.

Mr. Stockburger-And I have something else to bring up. Cache is about to open up.

Mr. Anderson-Do we as a Planning Board have anything to do in connection with that-a restaurant in a B-1 District?

Mr. Stockburger-There seems to be some question of whether it's a restaurant or a cabaret. I will read you the definition of a cabaret, which is where entertainment is the primary function of the premises. I don't think Cache qualifies as a cabaret.

Mr. Anderson-I might have to recuse myself from any vote on issues like this because my wife and my son are in bands. John Degnan said, and I agree with it, that one of the best things we can do for this Village is to encourage the performing arts to get this to be a destination location for people to spend money. If you believe in supporting Old Town Hall then you would also support private enterprise putting money for entertainment. That would be true whether or not you agree with the many people who are worried about the veiled threat here-the type of entertainment that it might become, that is, somebody else's entertainment. They are the same thing-Old Town Hall and that point on Main Street half a block away from The Whistle Stop-it's entertainment in a B-1 District.

Mr. Stockburger-I brought it up because of the question of whether entertainment is the primary use.

Mr. Anderson-On a regular basis.

Mr. Stockburger-I think The Westchester Theater is a cabaret. Music and performance is the primary business there.

Mr. Anderson-There are places, like Tom and Jerry's, where the primary business is food and drink and have entertainment once a month.

Chairman Kulo-Entertainment in not their primary use.

Mr. Anderson-Would Old Town Hall come to the Planning Board?

Mr. Stockburger-There would be a municipal waiver anyway.

Adoption of Minutes of September 28, 2010

Chairman Kulo-As far as the Minutes are concerned.

Mr. Anderson-On page 10 thereof, about halfway down, Elm Street should be changed to Oak Street.

Chairman Kulo-And in several places throughout it says “Town” instead of “Village.” And there were a couple of spelling errors.

Mr. Stockburger-I would make a motion to adopt the Minutes of September 28, 2010.

Mr. Anderson-I would second that.

[Whereupon a vote was taken]

Ayes-Three	Nays-None	Abstentions-Ms.
Ellis		

Adjournment

Ms. Ellis-I would move that we adjourn this Meeting.

Mr. Anderson-I second.

[Whereupon a vote was taken]

Ayes-All	Nays-None
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[Whereupon the Meeting concluded at 8:35 p.m.]

