

**Village of Brewster
Planning Board
September 25, 2012**

Regular Meeting Minutes

Board Members in Attendance:

David Kulo, Chairman
Rick Stockburger, Assistant Chairman
Mark Anderson
Renee Diaz

Board Members Not in Attendance:

Tyler Murello

Also in Attendance:

Mayor Jim Schoenig
Greg Folchetti-Planning Board Attorney
Stephen Abels, Esq.
Daniel Ledley
Michael Sirignano, Esq.
John Watson-Insite Engineering
Demetrius Doupis
James Nixon

The **Pledge of Allegiance** was recited.

[Whereupon the proceedings were called to order at 7:34 p.m.]

Public Hearings

Public comment concerning the Village of Brewster Planning Board acting as lead agency under SEQRA regarding the amended site plan for parking spaces at 220 East Main Street, Tax Map ID 67.36-2-4

Chairman Kulo made a motion to open the public hearing portion of the Meeting. This motion was seconded by Mr. Stockburger and was passed by a vote of 4-0. Chairman Kulo inquired as to whether there was any public comment concerning the Village of Brewster Planning Board acting as lead agency under SEQRA regarding the amended site plan for parking spaces at 220 East Main Street, Tax Map ID 67.36-2-4. There was no response from the public to this query from the Chairman. Mr. Stockburger made a motion to close the public hearing concerning this. This motion was seconded by Ms. Diaz and passed by a vote of 4-0.

A resolution concerning the Planning Board acting as lead agency under SEQRA regarding the amended site plan for parking spaces at 220 East Main Street, Tax Map ID 67.36-2-4 was read into the record; *inter alia*, this resolution, as amended, recited that the Planning Board would be the lead agency under SEQRA in this unlisted action and that there was no significant impact on the environment. Mr. Stockburger then moved to offer the resolution as amended. This motion was seconded by Ms. Diaz and passed by a vote of 4-0.

Site plan review and public comment regarding 220 East Main Street, Tax Map ID 67.36-2-4

Chairman Kulo moved to open the public hearing on the site plan review of 220 East Main Street, Tax Map ID 67.36-2-4. This motion was seconded by Mr. Stockburger and passed by a vote of 4-0. Chairman Kulo inquired as to whether there was any public comment concerning the site plan. Mr. Sirignano responded by stating that he had some comments that he wished to make, whereupon the Chairman recognized him and asked him to please speak.

Mr. Sirignano stated that the site plan followed the strictures that were set forth by the New York State Supreme Court, as amended by the Appellate Division thereof, including the ones concerning an

easement on the property. Mr. Sirignano then asked to be allowed to cede the floor to Mr. Watson, which request was assented to by the Chairman. Mr. Stockburger inquired as to which revision of the site plan was being presented to the Planning Board. Mr. Watson answered that it is the July 13, 2012 revision, wherein some of the parking spaces that had been proposed *ab initio* had been eliminated to avoid the need to obtain variances, there were mountable concrete curbs, the curbs were striped so as to avoid cars parking in ingress and egress areas and parking was formalized by striping.

Chairman Kulo inquired as to whether there was any public comment concerning this. Mr. Abels stated that he wished to be heard and was recognized by the Chair. Mr. Abels agreed that there had been court cases and that the Supreme Court had ruled substantially as had been articulated; however, Mr. Abels said that the court ruling was not binding on the Planning Board. Mr. Abels further stated that the Appellate Division reversed most of the Supreme Court's holding, save for a marking of the easement area and parking. Mr. Ledley said that he had photos showing that the building gets numerous truck deliveries. Mr. Anderson stated that the applicant's own need for truck deliveries would be thwarted by the proposal. Mr. Abels opined that the property does not need so many parking spaces. Mr. Abels added that the Court had ordered that trucks making deliveries to Mr. Ledley's property could park for 30 minutes although trucks delivering to other businesses on the property could not. Mr. Abels further stated that his client's complaint was that trucks making deliveries, for example to Enterprise Electric, would either park on Route 22 or in Mr. Ledley's easement, and that the proposed site plan did not have provision for unloading. It was Mr. Abels' opinion that the current situation is far superior to the one being proposed. Mr. Abels asked how would 18 wheel trucks turn around after a delivery was complete. He further stated that only Mr. Ledley had an easement on the property and that there was no easement over his property, and that Mr. Ledley did not want other tenants to park on his right of way, where the Court had held that only Mr. Ledley could park.

Mr. Ledley stated that trucks that cannot fit into standard parking spaces come onto the property. Mr. Anderson inquired as to whether there had been any discussion of reciprocity. Mr. Abels

replied that there had been talks for 15 years without an accord. Mr. Anderson said that a valid point had been raised, *viz*: that the commercial nature of the property meant that there would be deliveries. Mr. Abels said that trucks can't get into the property, and Mr. Anderson added that if the parking spaces were occupied that trucks would then either block Route 22 or block Mr. Ledley's property.

Mr. Sirignano stated that his client, Mr. Doupis, had rights to use the property too. Mr. Sirignano stated that Mr. Doupis has the right for his visitors and delivery people to use the 17 foot driveway. He also said that the Court had hired its own engineering expert to write a consultative report and rendered its decision in light of that. Mr. Sirignano added that Mr. Doupis has the right to design his own parking spaces and that the engineer for Brewster had signed off on the proposal. Mr. Stockburger inquired if an 18 wheel truck could drive over the mountable curbs, to which Mr. Sirignano replied yes.

Mr. Anderson asked Mr. Abels why Mr. Doupis's delivery trucks stop on Mr. Ledley's easement. Mr. Abels answered that this was per the court decision; he added that the trucks do have the right to pass over Mr. Ledley's property. Mr. Sirignano stated that the proposal would organize what up until now had been willy-nilly. Ms. Diaz stated that under the proposal Enterprise Electric would be unable to get deliveries; Mr. Sirignano responded by stating that the Code of the Village of Brewster does not require tractor-trailers on the property and that the proposed site plan is Code compliant. Mr. Folchetti said that the engineer has articulated that the number of spaces is okay and that the issue has arisen over how the spaces are configured. Chairman Kulo inquired if there was any public comment, to which question no one requested to be heard. Mr. Stockburger made a motion to close the public hearing. This motion was seconded by Ms. Diaz and passed by a vote of 4-0.

Call to Order

Mr. Stockburger made a motion to open the regular meeting. This motion was seconded by Chairman Kulo and passed by a vote of 4-0. The Chairman stated that this portion of the proceedings was the

regular September Meeting of the Planning Board and noted that he was in attendance along with Rick Stockburger, Mark Anderson and Renee Diaz while Tyler Murello was absent.

Mr. Stockburger stated that any problems getting trucks in and out of the afore-discussed property were of Mr. Doupis's creation. He continued that as it is now cars can park anywhere in the lot, and that striping does not add any impediment to ingress and egress of trucks. Mr. Anderson stated that currently Mr. Doupis does not have to worry about overcrowding in his lot. Mr. Anderson further stated that the Planning Board had to focus on whether the proposal complies with what the professionals are saying and that if Mr. Doupis cannot get trucks in and out that it would be his problem. Mr. Stockburger noted that if Mr. Doupis leaves trucks where they ought not be then Mr. Ledley could take him back to court. Mr. Anderson stated that the Planning Board had to follow the rule of law and not hew to emotion.

Mr. Stockburger stated that he had a notarized letter from the Code Enforcement Officer stating that the sign on the property had to be taken down. Mr. Sirignano replied that he did not think that the Code Enforcement Officer was correct and that Mr. Doupis might have to challenge the Officer's assertion. Mr. Folchetti asserted that any resolution passed by the Planning Board should have a provision that it was subject to compliance with Section 199 of the Code of the Village of Brewster concerning signs. Chairman Kulo stated that he believed the Planning Board should leave the sign issue to the Building Department. There was an inquiry if anyone had the letter from the Code Enforcement Officer, which no one did. Mr. Anderson made a motion to approve the site plan as presented, subject to compliance with the aforesaid Section 199; this motion was seconded by Mr. Stockburger. The Chairman inquired if any of the Members desired discussion before voting. Ms. Diaz stated that the sign concerned her and that she wanted the letter from the Code Enforcement Officer to be put in the record. Mr. Folchetti stated that in that case Mr. Anderson's motion would have to be tabled inasmuch as the letter was not present. Ms. Diaz stated that she did not want to set a precedent. Mr. Folchetti replied by stating that approving the site plan did not mean that the sign was being approved. Mr. Anderson stated that he viewed the sign issue as an independent fight. Mr. Stockburger stated that he would not sign off without the letter

being in the record. Mr. Folchetti stated that the sign might require a permit in and of itself. Mr. Sirignano opined that no Certificate of Occupancy would be granted if there was not compliance with the sign ordinance. Mr. Stockburger reiterated that he would not consider voting yes without the letter, whereupon he made a motion to table Mr. Anderson's aforesaid motion to approve the site plan as presented, subject to compliance with the aforesaid Section 199 to the next meeting of the Planning Board. This motion was seconded by Ms. Diaz and passed by a vote of 4-0. Mr. Folchetti noted that if the Planning Board opted the Members thereof could untable the motion at its next Meeting.

Pending Business

55 Main Street-*Cache Restaurant expansion-exterior design*

Mr. Folchetti noted that interior changes to the property fall within the purview of the Building Department if there is no change of use. Mr. Stockburger inquired if there has ever been an approved site plan for the building. Mr. Anderson answered that the community had largely been erected prior to the advent of planning and zoning and that many businesses were operating *sans* a site plan because there had been no major changes in use. Mr. Nixon stated that he had submitted packages showing that all of the work to be done would be on the interior of the premises except for the façade. Mr. Nixon said that the owners wished to enlarge the interior, by making it wider and deeper, by adding the adjacent vacant space behind the garage door onto the restaurant.

Under the proposal, the outside would become light color stucco and the awning would be widened and made of stiffer material than the extant fabric; the roof would be metal with a terra cotta look. It was noted that site plan waiver requests were included in the front cover letter. Mr. Stockburger inquired if SEQRA would be requisite, to which Mr. Folchetti replied that this was a Type 2 with no SEQRA or negative declaration needed. Mr. Stockburger noted that the proposal would have to go to Mr. Folchetti as well as Bruce Martin, the Village engineer, to see if a site plan was required. Chairman Kulo told Mr. Nixon that he would have to come to the next Meeting

of the Planning Board for the engineer's report, as well as for comments from Messrs. Folchetti and Martin. Mr. Folchetti noted that if a site plan and public hearing were required it would nevertheless be within the purview of the Planning Board to waive some or all of it.

Accept Outstanding Draft Minutes of August 28, 2012

Chairman Kulo stated that the next item of business was approval of these outstanding Draft Minutes. Mr. Anderson made a motion to accept the August 28, 2012 Minutes. This motion was seconded by Ms. Diaz and passed by a vote of 4-0.

Other Business

Chairman Kulo inquired if anyone had anything else he or she wished to raise. There was no other business that anyone desired to discuss.

Close Meeting

Chairman Kulo made a motion to close the Meeting. This motion was seconded by Mr. Anderson and passed by a vote of 4-0.

[Whereupon the Meeting was closed at 8:48 p.m.]

