

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

BOARD MEMBERS IN ATTENDANCE:

George Gaspar, Chairman
Rick Stockburger, Assistant Chairman
David Kulo
Tyler Murello
Rick Lowell

NOT IN ATTENDANCE:

Gregory Folchetti, Attorney - Costello & Folchetti

ALSO IN ATTENDANCE:

Mr. Todd Atkinson, PE

Mr. Gaspar led the Board in the Pledge of Allegiance, whereupon the proceedings were called to order at 7:30pm.

REGULAR MEETING:

Boardmember Kulo made a motion to open the regular meeting. This was seconded by Boardmember Murello and passed unanimously.

538 North Main Street – Tax Map ID 56.82-1-18:

Mr. Nixon appeared before the Board and reviewed what was discussed at the previous meeting they had attended with regard to parking. He said the zoning changed since this was initially approved and now an amendment is being proposed to the site plan so that zoning change affects how the parking is calculated. A week ago they were before the Zoning Board of Appeals, he said, and requested a variance of 4 parking spaces as 6 parking spaces are required; 4 for the commercial use on the ground floor and 2 for the two 1-bedroom apartments proposed for the second floor. Mr. Nixon said now proposed is 2 spaces onsite for the residents because they would be more likely to park overnight where the business would not so they would be 4 spaces short but they received a variance for the 4 spaces so they are now in compliance.

Mr. Nixon continued: the other things they are not in compliance with were already discussed and they never were going to be and never will be in terms of side yards and so on. Mr. Atkinson asked if the variance was indicated on the site plan and Mr. Nixon said it is in the note that explains the parking.

Chairman Gaspar said there were two other issues that came to light: one is the retaining wall in the back and the other is the sidewalk out front. He said the building is set 3 in. higher than the sidewalk, which doesn't meet ADA compliance so there have been discussions and sketches drawn to work through that. As far as the sidewalk is concerned it's an engineering issue, he said. Chairman Gaspar said with regard to the retain wall the first drawing was a little more elaborate than the most recent one

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

distributed with the first drawing having a full retaining wall in front of the entire stone wall, which he was not sure how it would be built because the foundation would be sitting up out of the ground as there is ledge rock back there. He said the most recent drawing is a little more appropriate to its location and sensitivity of the wall and matching the wall that's there, he said, but again that is an engineering issue and Mr. Atkinson will have to review that. Mr. Atkinson said he received a hardcopy original and he took no issue with it in principle of what they are presenting but there are still some calculations that need to be provided based on the height and making sure that they are meeting the resistance that's going to be influenced on the wall. He asked Mr. Lynch about the bedrock on the bottom as the drawing is showing the wall at grade and he didn't see any exposed rock when looking at the site. Mr. Lynch said if you walk to the middle you will see a knob but if you dug you will see it goes down and Mr. Atkinson said so he is going to pin to the existing bedrock, pour it flat and then ferry stone up. Mr. Lynch said yes 3 ft. at the base and 18 in. at the top. Chairman Gaspar said I would like to see him pin it to the building as well and show it on the plans. Mr. Lynch said it will be.

Chairman Gaspar asked if this was an amendment to the previous Site Plan that was approved in 2014 and Mr. Folchetti said yes it is an amendment as there is an existing approved Site Plan. Mr. Atkinson said they had a Site Plan that they started to build off of and there were changes to it so it is an amendment.

Mr. Atkinson asked the Board if they received any information regarding the sidewalk and his and Dan Crawford's conversations regarding it. He said that there was a 1:12 slope going 4 ft. off the center of each and he would rather it go to the sidewalk breaks that are there now so instead of going 4 ft. they would go out 8 ft., taking it to that location. Mr. Atkinson said it's almost to the outside edge of the building and basically replacing that section, sloping it up and giving you the level pad that the applicant needs with a 1 and 48 slope off the front of the building towards the curb. He said everything will drain the right way but no one will get caught up walking at night. Chairman Gaspar said to go back to the two construction joints, north and south construction joint and Mr. Atkinson said yes, correct.

Boardmember Murello made a Motion to set a Public Hearing for 538 North Main Street for November 21, 2017, seconded by Boardmember Lowell and passed all in favor. Mr. Atkinson said the Public Hearing would be for the sidewalk, the Use change for upstairs, the parking that a variance was granted for, and the wall.

MOONLIGHT CAFÉ, 850 Route 22, TM ID 67.36-2-23:

Chairman Gaspar said this is back as a request of the Board for a Site Plan Review. He said the Board had reviewed a previous Site Plan and now there is a modified Site Plan, which is indicating the location of the proposed café within the building, the definition of the parking spaces, but there is still the issue of exiting the property. He said Mayor Schoenig has been asked about putting a "right turn only" sign out there. Boardmember Stockburger said he thought there was a sign right in front of the New York Riders

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

location but not one on the DEP property. He said maybe just put a sign up that says no left turn but realizing the fact that there are no legally enforceable signs.

Mr. Atkinson said with regard to sewer and water, they provided a document at the Town Board meeting but he asked Mr. Hansen for it and he didn't have it so they are looking for it. Boardmember Stockburger said they were already approved as Amore and Mr. Atkinson said they were approved for 4000 gallons by the Village Board that night but the only thing he wanted to verify was that the line that's leaving the building going to the pump station has adequate capacity. Boardmember Stockburger said Amore was approved with a CO from the Village and nothing has changed with same use. Mr. Atkinson said it was never reviewed by his office and he is here as advisory for the Board so it is up to the Board if it should be reviewed by his office. Chairman Gaspar said Mr. Atkinson should review it.

Chairman Gaspar said I think we can waive a Public Hearing on this issue but wanted the Board's input. Boardmember Murello agreed that a Public Hearing was not necessary. Boardmember Lowell said it sounds like it is close enough to the previously approved use. Mr. Atkinson said he would just like to point out that it is a similar type of Use that was approved by the Building Department and not by the Planning Board and Chairman Gaspar said understood while Boardmember Stockburger said it wasn't required by the Planning Board as it was an allowed Use. Mr. Atkinson said he would disagree with that but he is only advising.

Chairman Gaspar said we have a discussion with regarding to waiving Site Plan approval and for waiving Public Hearing. Boardmember Stockburger said if the Board wants to waive the entire Site Plan there is a requirement in the Site Plan Code that it can be waived at the request of the applicant. He said he would prefer the request be in writing. Mr. Folchetti said did you have a sketch for the Site Plan in front of you in order to waive and Chairman Gaspar said yes. Chairman Gaspar said the Board can document it as to what it is, the date that it is, drawing number, and reasoning why it is being waived. Mr. Folchetti said what is it you are looking at? Boardmember Stockburger said their current Site Plan as there is no record of a Site Plan. Mr. Folchetti said that is my question: what is the document that you are looking at? Boardmember Stockburger said it is the current Site Plan they applied for. Mr. Folchetti said so Boardmember Stockburger you are saying they don't need that? Boardmember Stockburger said we want to waive the process and accept the check. Mr. Folchetti said so you want to approve the Site Plan at the end of the day so you're not waiving the entire Site Plan review. If you want to approve the Site Plan you have to some method of approving the Site Plan. You see the Board has two options here, he said, when it's change of Use the Code requires the matter be brought before the Planning Board, the Planning Board looks at it and determines whether a Site Plan is required or not. Then if the Board determines that a Site Plan is required you can waive anything associated with that, he said. Mr. Folchetti continued: so in other words if you feel what they've submitted to you is sufficient for your purposes you can waive further proceedings with the regard to that and approve that document that's in front of you

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

without the Public Hearing so you can go ahead and approve that if you don't find there is any need to go through the other... Boardmember Stockburger said this is what we want to approve. Mr. Folchetti said so you are waiving the Public Hearing, waiving further submissions. Chairman Gaspar said we can waive Site Plan approval so long as in the resolution we make reference to this document so there won't be an approved Site Plan because we haven't approved a Site Plan but in order for the Building Department to issue a Building Permit he has to have a Site Plan on record. He said so long as the drawing in front of us tonight is referenced other than a 'no left turn' sign which would be in the resolution so we should take a vote on waiving the Site Plan. Mr. Folchetti said okay but as far as enforcement if they did not comply with what's on that plan there would be nothing to enforce or require them to do what's on that plan because there would be no Site Plan. He said in other words you can't issue a violation for noncompliance with the Site Plan when there is no Site Plan. Mr. Atkinson said you should approve what's on there with the one requirement that they have to put the sign up that says 'no left turn'. Chairman Gaspar said if we go through the Site Plan process then they have a SEQR process they have to follow as well as a Public Hearing the Board has to follow. Mr. Atkinson asked if it could be considered a Type II because you don't need a review. Boardmember Stockburger said it's Unlisted. Chairman Gaspar said other than the handicap spot which there is a paved area that can be used as handicap there is no documentation on the building or a sign for it. Mr. Atkinson said that is a Building Inspector Code issue so if there was no Site Plan he could still issue a violation if they don't provide a handicap parking spot. Mr. Folchetti said the only thing, it sounds to me, that appears to be not enforceable would be that sign; the 'no left turn' sign.

Chairman Gaspar said should the waiver of Site Plan be a resolution as well as the waiver of Public Hearing? Mr. Folchetti said yes you should have resolution state why you are waiving Site Plan and if you waive the Site Plan you don't need a Public Hearing. He said you evaluated what they are doing and determined that it is not necessary that they come in with an amended Site Plan for their use.

Chairman Gaspar said Resolution of the Planning Board, Village of Brewster October 17, 2017; subject property 850 Route 22, Tax Map 67.36-2-23 Determination waiving Site Plan approval: Be it resolved that the Village of Brewster Planning Board hereby determines pursuant to Village Code 182-R1 that the proposed Site Plan application for the improvements proposed on the drawing entitled Site Plan Area Map Zoning Data dated 2/10/2017, drawing number SY101 and requirements of Site Plan approval otherwise required under the Village of Brewster Code. The purposes of waiving Site Plan is that there are no additional modifications taking place to the site as it currently exists and parking requirements are met. The only issue we have is that we have a 'no left turn' sign stationed at the island in front of the building and in front of Moonlight Café. Therefore be it further resolved this resolution to have an effective date of October 17, 2017. Chairman Gaspar made a motion to approve the Resolution, seconded by Boardmember Murello.

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

Boardmember Stockburger said I got disciplined the other day for disobeying an arrow on the ground going the wrong way so would it be possible to put arrows pointing out on the ground in front? Mr. Stark said I don't have control of that property as the driveway is on DEC property. Boardmember Stockburger pointed on the drawing where he suggests the arrows be and Mr. Stark agreed to that area that is his property.

Chairman Gaspar said we have a motion on the floor with an amendment and I'll accept the amendment to the motion made, seconded by Boardmember Murello, and passed all in favor. Chairman Gaspar said resolution passes and waiver of Site Plan approved.

Chairman Gaspar asked if there was any further business from the floor under new business. Bill said this is a comeback from last month's meeting with the informal for 3-9 Putnam Avenue. He said some members of the Board mentioned they wanted to go and visually inspect. Chairman Gaspar said I've driven by and gone through the site and personally still hold with what is a non-conforming and a change of use as that zone has been changed. He said I see the addition of the garages and the apartments as a further increase in a non-conforming use.

Boardmember Stockburger said he agreed and the apartments require a Use Variance because they're not allowed. He said tearing down the garages and replacing the garages is a Building Department issue as long as it was being replaced in kind and footprint is the same. Mr. Atkinson said last month it was discussed taking the three garages and combining them into one garage which would make the lot more conforming because it would eliminate two structures even though it would cover the same area. Boardmember Stockburger disagreed and said it became more conforming when the middle garage disappeared but now you are going to be making it more non-conforming by putting the garage back in the center place where it was destroyed. Mr. Atkinson said but you will be reducing the number of structures on the property from two garages down to one. Chairman Gaspar agreed with Boardmember Stockburger.

Mr. Atkinson asked if a Use Variance would be required then and Mr. Folchetti said it would have to go before the Zoning Board for reasons of an Interpretation as to whether it's an expansion of a pre-existing non-conforming structure or a Variance for an expansion of a non-conforming structure. Boardmember Murello said I think it should go before the ZBA before us. Mr. Folchetti said it's up the applicant. They can go to the Planning Board, then the ZBA and then back to the Planning Board, he said, but I don't think it's within this Board's purview to make the determination. Chairman Gaspar agreed and said I think it is within this Board's purview to make a recommendation to the Zoning Board of Appeals on our feeling so if the Board is inclined to agree that it's an expansion of a previous non-conforming use then the Zoning Board of Appeals has our opinion and they can make their decision.

Mr. Ryan Walsh said I don't understand; some people put one garage, some put four garages; who's to say you can't have a number of garages? What limits the garages, he said. I understand single family and things like that, he said. Chairman Gaspar said

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

in this particular instance there are two residences on a site where there is only supposed to be one so it is non-conforming already. The amount of garages, he said, you're limited to the amount of footprint and the square foot area that you can have and setbacks so that all comes in play. Mr. Walsh said I know we thought about the setbacks and didn't want to encroach on the setbacks. He said we were going to come out of the setback so we didn't have to worry about that. Boardmember Stockburger said then you are changing the footprint. Chairman Gaspar said the drawings they saw also had a second floor on top of the garages and Mr. Walsh said I thought those were taken off the table and they were on to just garages. Boardmember Stockburger referred back to the calculations and said 'an accessory use can only be 20% of the floor area of the principal permitted use' so how big is the house and do they include both houses? He said I think you are back in front of the Building Department or ZBA for interpretation of how to determine that. Chairman Gaspar said he agrees with the thought process but not the math as the site allows one residence. Mr. Scorca said from a Building Department perspective I would look at that property now, you just want to basically replace the same structure only new and safe but if you make it bigger or combine the two it's different.

Chairman Gaspar said he would like indicated on the drawing that no further additions or alterations are to take place on those garages nor is any water or sewer to be connected to those garages. Mr. Atkinson said I thought the Code already states that unless the Village Board grants them permission to hook those two new structures then they can't and if nothing was granted and they do it's a violation. He said it can be done; it must be part of the Building Permit.

DISCUSSION: Bakery – Outdoor seating

Chairman Gaspar said there is nothing in the Code that is requiring outdoor seating or has any requirements for outdoor seating. He said right across the street is the pizza shop with two tables outside. Chairman Gaspar did not see a reason why they couldn't have outdoor seating but it comes down to the water usage for that space because there is enough sidewalk as long as the maintain a 5 ft. sidewalk. Boardmember Stockburger said he thought when the Comprehensive Plan was done it was felt to encourage outdoor dining and that which is not prohibitive is permitted. Mr. Folchetti said to an extent but I think you are right with that area. Mr. Atkinson said I did a search today in the Code for outdoor seating and it's not there. Boardmember Stockburger said I think they are fine. Mr. Scorca said as long as they have the sidewalk space I don't think it's a problem but what you have to be careful here in the Village is that others see it and say 'let me do it too' not knowing why they were approved because they had the space to do it. He said I could see other people trying to do it and they will get a ticket. Boardmember Stockburger said would you give them written permission and Mr. Scorca said there is nothing in the Code to do that. Boardmember Kulo said you could inspect the sidewalk and make sure there is 5 ft. clearance. Boardmember Lowell said anyone who can put a table on the sidewalk and maintain 5 ft. of sidewalk is welcome to do so with no permit or approval? Boardmember Stockburger said yes because we don't prohibit it, you just have to abide by the ADA requirements.

**Village of Brewster
Planning Board Meeting Minutes
October 17, 2017**

Boardmember Stockburger said page 7 paragraph 4 “this was done on North Main Street with the laundry mat” should be laundromat. Chairman Gaspar said page 5 fourth line up from the bottom “Boardmember Murello said he felt that they could entertain it’ insert the word “if”. Boardmember Murello made a motion to approve the minutes of September 19, 2017 as amended, seconded by Boardmember Kulo and passed all in favor with Boardmember Stockburger abstaining due to absence.

Boardmember Stockburger made a motion to adjourn the meeting. This was seconded by Boardmember Murello and passed unanimously.