

**Village of Brewster
Planning Board**

July 26, 2011

Regular Meeting

Board Members in Attendance:

David Kulo, Chairman
Mark Anderson
Renee Diaz
Tyler Murello

Board Members Not in Attendance:

Rick Stockburger, Assistant Chairman

Also in Attendance:

Anthony Mole-Planning Board Attorney
Bruce Martin- JRFA, Village Engineer
Michael Liguori, Esq., Hogan & Rossi

The **Pledge of Allegiance** was recited.

Call to Order

Chairman Kulo indicated that this was the regular Meeting of the Village of Brewster Planning Board. Chairman Kulo noted that Board Members Mark Anderson, Renee Diaz and Tyler Murello were in attendance along with himself while Rick Stockburger was not present. Mr. Anderson made a motion to open the Meeting, which was seconded by Ms. Diaz. The motion passed by a vote of 4-0.

[Whereupon the Meeting was called to order at 7:32 p.m.]

Pending Projects-

2-4 Allview Avenue-Brewster Honda-Site Plan Approval

Chairman Kulo stated that this item would have to be passed to a different day inasmuch as with Mr. Stockburger's absence, along with the fact that Ms. Diaz and he would recuse themselves on this matter, the requisite quorum was not available.

New Business-

571 North Main Street-Fountain of Faith Church-Site Development Plan

Michael Liguori, the attorney representing the Church, was invited to address the Members of the Planning Board. Mr. Liguori noted that this matter had been before the Planning Board in the recent past, when the Board of Trustees of the Village of Brewster had referred it for the Planning Board's recommendation of use upon the Church's Application for a special permit for continuation of a preexisting nonconforming use. At that time, the vote was 2-2, meaning in effect that the Planning Board could not make a recommendation to the Trustees. Since then, Mr. Liguori stated that he had assiduously researched the Village records and had discovered that in 1989 a use variance, which runs with the land and continues if there is a Zoning Code change, had been granted in connection with the property. Pursuant thereto, Mr. Liguori noted that he had discontinued the Application before the Board of Trustees after meeting with the Village's Building Inspectors (one of whom is Joe Hernandez) as there was no longer a question of use but rather one of complying with the current Code; now, since the inspectors had indicated that in their opinion the use of the Church would fall under public assembly, Site Plan Approval was being sought from the Planning Board. Mr. Liguori stated that the building inspectors had given the Church a list of items that required address; the Fire Code and Building Code matters required approval from Mr. Hernandez. Mr. Liguori stated that the building's owner, Steve Alonge, had completed the necessary work. It was noted that on July 25, 2011 in connection with the Building Code violations a plea of guilty had

been entered. Mr. Anderson pointed out that a \$2,500.00 fine had been imposed (which had not yet been paid as of the Planning Board Meeting) and a conditional discharge granted-this discharge required that in order to be effective outstanding violations had to be remedied within 90 days or the matter would be returned to Court.

Mr. Liguori stated the subject building (*viz.* 571 North Main Street) had been built in 1981 by John Petrillo as a warehouse. When this did not prove to be viable an Application was made to the Zoning Board of Appeals of the Village of Brewster for the building to be used as a community center. The ZBA allowed this use, noting that the use of the building was for people to assemble-what was done inside didn't matter as long as there was sufficient parking and the State Code, for example emergency lighting, was complied with. In response to a query from Mr. Anderson, Mr. Liguori stated that in 1981 the zoning for the property was Industrial I (light manufacturing and wholesale). A question was raised about some of the previous uses allowed at the property. Mr. Liguori stated that Mr. Alonge had rented to a dance studio, not the bar that was eventually there; when Mr. Alonge ascertained that the bar was operating there he made calls to the Village's former counsel, Gary Kropkowski, to attempt to rectify the situation and to apprise him that he (*i.e.* Mr. Alonge) was not complicit in the bar's operation.

Mr. Liguori noted that the Church would occupy Suites 102 and 103, a total of about 4,100 square feet of the 9,000 square foot building. Mr. Liguori presented architectural plans to the Members of the Planning Board showing the various uses of the spaces in the building. Chairman Kulo pointed out that the last time this matter had been before the Planning Board the other uses of the property were not offered while this time they are. Mr. Anderson stated that the last time the matter had come before the Planning Board he had voted in favor of allowing the adaptable use, but he also believed that the agreement should not have been entered into without first consulting the authorities. The violations that have been issued are because the Church is operating on the property without the requisite approvals. Mr. Murello inquired as to how long Mr. Alonge had owned the building, to which Mr. Liguori replied since 2002. Mr. Murello then asked what Mr. Alonge had initially done with the property; Mr. Liguori advised that he had used it as a warehouse for his business,

S&L Plumbing. Mr. Liguori stated that when Mr. Alonge bought the building the Village of Brewster officials advised him that it predated the Zoning Code and was a preexisting nonconforming use (which the Chairman noted was erroneous, inasmuch as the Zoning Code was promulgated in about 1969); at the time Mr. Alonge purchased the property it was a mixed use for commercial and industrial purposes, public assembly seemed to be okay as it was consistent with what had gone on in the past.

Mr. Liguori acknowledged that Bob Serino, the Village of Brewster's prior building inspector, had taken issue with the Church and thought that it was not a permitted use but the church went ahead anyway. However, Mr. Liguori stated that Mr. Serino was not cognizant of the fact that a variance had been granted appurtenant thereto. Mr. Anderson asked if the variance had been in the file to which Mr. Liguori responded no. Mr. Mole stated that a public assembly use was permitted but the Village Code does not have a "public assembly use," thereby necessitating that the New York State Code be resorted to.

Mr. Anderson said that he was looking at the 1989 Minutes when the variance had been granted and that the variance was subject to approval by Putnam County because of its proximity to the County line and to Main Street. Mr. Liguori stated that he had this approval and gave a copy thereof to Mr. Anderson for his perusal. Mr. Anderson reviewed this document and then noted that Putnam County had backed up the vote of the Zoning Board of Appeals and accordingly that Mr. Liguori had presented proof that there was a use variance in existence for the subject building. Mr. Mole suggested that the Planning Board Members might want a note from the building inspector indicating why public assembly is a permitted use under the State Code; Mr. Liguori responded that he would obtain such document.

Mr. Liguori stated that his next submission to the Board, a revised Site Plan Application, would be a revised document that would address the Comments contained in a September 28, 2010 Memo from Paul J. Pelusio of JRFA to the Village of Brewster Planning Board, such as a Table of Tenants, their hours of operation, associated parking and things of that nature. However, Mr. Liguori

stated that he would be appreciative of the Planning Board's input concerning parking. Mr. Liguori stated that the Code has a special provision for public assembly (such as theaters and places of worship) parking, requiring that there be either one spot for every 75 square feet of space the Church has or alternatively that there be one spot for every five fixed seats of capacity (the Church's current seating is unaffixed chairs). However, per Mr. Liguori, there are no pews in the Church and the Code does not define "fixed"; there is not enough parking to satisfy the square footage criterion. Mr. Liguori asked if the Church could affix the seats in such a way as to satisfy the Members of the Planning Board. Mr. Anderson noted that he had never seen the building's parking lot full, an observation also expressed by other Members. Mr. Liguori stated that the congregation currently numbers about 75 members, and Mr. Anderson noted that a church's membership is dynamic and that planning must envision the future and allow the building to change over time. Mr. Liguori remarked that the Church is crowded on Christmas and Easter but not most other times. He further stated that an Operating Permit and ultimately Certificates of Occupancy are required to be obtained from Joe Hernandez but before that can be gotten Site Plan Approval is needed, following which an inspection would occur. Mr. Liguori expressed his desire to reach a more global resolution and to get Site Plan Approval for all of the tenants that he represents in the subject building. Mr. Anderson thought that that seemed like a reasonable approach and opined that the dance studio and karate school seemed to him to constitute public assemblies. Mr. Liguori stated that that is how they had been treated by the Building Department and it would be beneficial to get matters resolved while thinking long term.

Mr. Liguori reiterated that he would get a letter from Joe Hernandez addressing Mr. Pelusio's comments, but added that he was still unsure of how to address the parking issue-should he explore with the Building Department the idea of affixing the seats, should a letter be obtained from Kobackers indicating parking could be shared, etc. Under the square footage standard 53 parking spots would be needed just for the Church while if the seats were affixed 15 would be requisite for it. If all the other uses in the building were factored in 37 spots would be required; although there are only 35 Mr. Liguori stated that for that zone the Code allows off-site parking so long as it is within 500 feet of the subject property and the other property owner

consents to allowing parking there-Mr. Liguori stated that Kobackers owners would approve such an arrangement. A question was raised concerning the fairness of allowing the Church to have its parking requirements computed on the affixed seat basis while other businesses were compelled to meet the square footage mandate, to which Mr. Liguori replied that the Code gives a church the option of selecting which of the two methodologies it would conform with. Section 263.18 of the Code states that the sum of all parking required at a building is the sum of all parking spaces needed, computed separately.

Mr. Anderson expressed the view that it would be helpful if Mr. Hernandez submitted his written review to the Members prior to the next Meeting of the Planning Board, and Ms. Diaz stated that it would be helpful if Mr. Hernandez attended this next session-the other Members of the Planning Board reiterated these sentiments and Mr. Liguori indicated that he would endeavor to effectuate all of this. Mr. Liguori thanked the Members for their time and attention and Chairman Kulo thanked Mr. Liguori, at which time the latter departed the Meeting.

Accept Outstanding Draft Minutes of June 28, 2011

Chairman Kulo stated that the next item of business was the Minutes of June 28, 2011. He inquired as to whether any Member had any changes he or she sought to have made, to which the Members responded in the negative. Mr. Anderson made a motion to accept the Minutes of June 28, 2011. Ms. Diaz seconded the motion, which was passed by a vote of 4-0.

Member Training 2011

Chairman Kulo noted that Member training was the final item to be discussed. He stated that he had sent out copies of the registration in connection with the Conference being offered by The Planning Federation of the State of New York in Albany from

October 9-11, 2011, and that if any Member desired to attend he or she should fill out the registration and return it to the Chairman. The Chairman further stated that he was happy to report that the Village's Board of Trustees had approved membership in The Planning Federation of the State of New York, entitling the Members to a discount on the tuition rates. If any Member could not be present for the full Conference attendance could be broken up-Sunday is a light day, featuring the keynote speaker, while Monday offers the most classes and substantive features; Tuesday is a half day.

Close Meeting

The Chairman inquired if anyone had any other issues for discussion, to which query the Members responded in the negative. Mr. Anderson made a motion to close the Meeting. This motion was seconded by Mr. Murello. The motion was passed by a vote of 4-0.

[Whereupon the Meeting was closed at 8:50 p.m.]

