



123 Mamaroneck Ave., Mamaroneck, NY 10543 ph: (914) 777-7700

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**VILLAGE OF MAMARONECK  
PLANNING BOARD SPECIAL MEETING MINUTES  
TUESDAY APRIL 14, 2020 7:00 PM  
ONLINE**

**NOTICE OF FIRE EXITS AND REQUEST TO TURN OFF ELECTRONIC DEVICES**

**These minutes primarily record the actions voted on by the Planning Board on April 14, 2020. The full public record of this Meeting is the audio/video recording made of this meeting [https://lmcmedia.org/videos\\_list/village-of-mamaroneck-planning-board-meeting-4-14-20/](https://lmcmedia.org/videos_list/village-of-mamaroneck-planning-board-meeting-4-14-20/)**

**PLEASE BE ADVISED, that the next Meeting of the Planning Board of the Village of Mamaroneck is scheduled for April 22, 2020 at 7:00 P.M. ONLINE**

**PRESENT:** KATHLEEN SAVOLT, CHAIR  
CINDY GOLDSTEIN  
LOU MENDES  
RICHARD LITMAN

GREG CUTLER, VILLAGE PLANNER  
BOB SPOLZINO, VILLAGE ATTORNEY  
STUART MESINGER, VILLAGE CONSULTANT

**RECUSED:** JOHN VERNI, BOARD MEMBER

**EXCUSED:** BRIAN HILDENBRAND, VILLAGE CONSULTING ENGINEER

**CALL TO ORDER**

Chair Savolt called the meeting to order at 7:01p.m.

**1. WORK SESSION**

- A. WORK SESSION 1025 COVE ROAD HAMPSHIRE COUNTRY CLUB;** 1025 Cove Road (Section 9, Block 35, Lot 700; Section 9, Block 36, Lot 1; Section 9, Block 42, Lots 568, 695 and 367; Section 9, Block 43, Lots 1 and 12) Hampshire discussion of Final Environmental Impact Statement for an application for a proposed Subdivision, Site Plan and Special Permit  
**BOARD DISCUSSION OF DRAFT FINDINGS STATEMENT**

Chair Savolt:

We have 2 items on the agenda both regarding the Hampshire application. The first one is the Draft Findings Statement which we reviewed last week and are continuing our review. The second one is a resolution scheduling a public hearing with regards to the applications that Hampshire submitted with their original application back in 2015.

An e-mail from Hampshire was forwarded to the Board at 4:05 p.m. today requesting that they be able to submit some changes to their proposal. Mr. Spolzino, perhaps you could give us some advice about what we should be doing with this letter.

Mr. Spolzino:

It's interesting because Hampshire has been complaining all along that the Planning Board was looking for too much information and should close this proceeding and get down to the decision right away.

I can't speak to the planning issues here and the extent to which they might require further analysis, I'll leave that to Mr. Mesinger and Mr. Cutler. It seems to me that first of all, it's within your discretion to not accept this document at this time, but if you do accept the document, I think, since the FEIS is closed, I think it's going to require a supplemental EIS and some additional analysis. If that's the case, if you do accept it, I wouldn't accept it unless Hampshire agrees to waive all the deadlines that they have been throwing at the Planning Board for months.

Chair Savolt:

Is there anything in the SEQRA Law that requires us to accept, to look at this?

Mr. Spolzino:

I don't believe so, maybe Stuart or Greg thinks differently, but I don't believe so.

Mr. Mesinger:

I don't think differently. There's 2 parts to this letter as I see it. One is taking issue with the standard that you've employed evaluating the level of sea rise, and frankly, I don't think there's anything. It basically is saying you should've used one standard and not the other. I think the information you have in the FEIS is based on factual information from the NOAA. They're further arguing that because the duration, you should take into account the duration of the flood event, that a problematic flood event is very short. That's true and it might be something we would note in the Findings and whether that caused you to change your mind or not would be up to you.

The second part of it is a new piece of evidence that we've never seen before, which was not previously submitted and basically is purporting to show that the issue could be solved by raising the road and building a wall. We haven't had the opportunity to evaluate it. It's clearly come in after the record has been closed. If you chose to accept it and put it in, I'm not sure if you would do that in a supplemental EIS or whether you would withdraw the FEIS and put it in.

The one part is argumentative, and I think you're on solid ground with respect to the Findings that you've made based on the data that's there. You might want to make note of the duration of the flooding event because that's factually also true.

It's a whole new piece of evidence, it's basically an offer of mitigation that we haven't seen before. SEQRA doesn't require you to look at it. The FEIS is closed, they've had ample opportunity to make this mitigation to you for many months now.

Mr. Spolzino:

I also want to note that the Planning Board has been receiving communications every week, right before and after every meeting regarding first the FEIS, then the conclusion of the FEIS, then the Findings. This is substantively different this is not a comment on what the draft

said relating to what's in the record already. This is for the first time introducing something that is completely outside the record after the record has been closed. You have the discretion to reopen the record effectively. Procedurally I think it's proper to do as a supplemental, but the substantive decision is do you want to reopen the record or not. I believe that's entirely within your discretion. As Stu noted, the issue of Cooper Avenue is not a new issue, it's been around and analyzed for years now. I'm not sure the equity is on the side of Hampshire here putting this in at the last minute, but that doesn't mean you can't consider it. It's totally up to you.

Chair Savolt:

Do we need to take a vote on whether or not we accept this letter or not?

Mr. Spolzino:

Yes, just to make the record clear.

Char Savolt:

As far as I'm concerned, we're past the 11<sup>th</sup> hour, it's almost midnight. We're on the final stages to edits to the final Findings document. This is rather late and I'm not sure exactly what the purpose of this was.

Mr. Litman:

If you like, I'll make a motion to close the consideration because the procedure is closed.

Mr. Spolzino:

To reject the letter.

Ms. Goldstein:

The applicant has had plenty of time to submit a plan like this. I remember we questioned quite extensively during the record gathering process asking if what they proposed for getting people out of harms' way in a flood event or other emergency if there was anything else they could do because they knew we had concerns about this and now we get a potential solution. I'm not in favor of accepting this and doing a supplemental or considering this any further.

**On motion of Mr. Litman, seconded by Ms. Goldstein, and carried the Board rejected the letter from the Applicant submitted today.**

**Ayes: Mr. Litman, Ms. Goldstein, Mr. Mendes, Chair Savolt**

**Nays: None**

**Recused: Mr. Verni**

Chair Savolt:

That brings us to the Findings Statement. We have a draft dated April 9<sup>th</sup>. We got almost all the way through the document last time so we're going to start at the beginning and look at the edits we made last time and get to Section T, which is where we stopped last time and have a more substantive discussion.

Ms. Goldstein:

Page 4, #2 the description of the proposed project. The third paragraph that starts large portions of the project site, if you go down to the last sentence, I just want to confirm that this is

correct. All new buildings would be built with a minimum finished floor area elevation of 16', which is 4' above the 100-year flood elevation of 12'. This is not presuming any sea level change, this is just as is, but this doesn't take into account the basements, right?

Mr. Mesinger:

Correct. There's a statement later in the document on page 26 which we need to correct because we have it as the lowest finished floor including the basement, it doesn't include the basement. The basement extends below the 16' elevation but it's not a finished basement, however your regulations require that the basement be elevated 2' above the BFE. There's actually a non-compliance with your regulation in here that we need to track through the document.

Ms. Goldstein:

Would you make any changes to page 4?

Mr. Mesinger:

I don't believe so. I'll double check but I think that's correct.

Ms. Goldstein:

It's correct but it's not 100% reflective of the basement question.

Mr. Mesinger:

We'll clarify finished floor and basement. I'll go back and see what was written in the 2 EISs.

Ms. Goldstein:

The first sentence of the 4<sup>th</sup> paragraph starting 3 existing access roads, I think it would be important for clarification purposes to note that all 3 of these are private roads or some portion is private.

Mr. Mesinger:

The first sentence could be clarified if we said 3 existing privately owned access roads.

Ms. Goldstein:

Page 6 under Land Use, second paragraph, first sentence, and operated by Hampshire Club, Inc., a not for profit membership club, would be my suggested language.

Chair Savolt:

Page 7, paragraph 10, the Zoning Code requires that the membership club be owned by a not for profit corporation.

Ms. Goldstein:

You can't own a not for profit corporation.

Mr. Mesinger:

Must be a not for profit corporation.

Chair Savolt:

Page 10, paragraph 25, the last sentence where it says the LWRP recommending that the property be designated. It needs to be said that it was subsequently designated.

Ms. Goldstein:

It was back in 1980 or 85, it's Section 168-1.

The Board had some comments and questions for Mr. Mesinger that he was able to clarify that didn't affect/change the document.

### **Page 63, Section T**

Chair Savolt:

This is where we ended our discussion last week. A paragraph was added at the end of the document on page 71. Because of the inclusion of that, there may be some parts of this section that need to be changed.

Ms. Goldstein:

Wouldn't we want to include the reduced density alternatives and no action alternative would have equal or lesser impact.

Mr. Mesinger:

I think we would, and we should probably add a paragraph about the no action alternative. I would give what the applicant had to say, that it wasn't financially viable, and I would add the language that we have elsewhere in the Findings about not having enough information to fully evaluate that.

Chair Savolt:

Paragraph 6, the sentence that starts with only information about infrastructure costs and without information about variable costs associated with the various alternative development alternatives, it is impossible for the Planning Board to find that economic considerations require the alternatives provided for 75, 15, 25 years (inaudible) which would have lesser environmental impacts. We're basically saying we don't have complete financial information to determine whether or not the economic considerations outweigh considerations and lean us towards the alternatives. Is that basically what the sentence says?

Mr. Spolzino:

I don't think it's 100% accurate to say you don't have enough information to determine whether they outweigh. I think what you're saying is you don't have enough information to figure out what they weigh. It's not the comparison, if you're comparing A to B, you don't really know A is because they've only provided half of the financial equation.

Chair Savolt:

So, we're basically saying it's impossible for us to figure this out at this point in time because we don't have all the data.

Mr. Spolzino:

It's a little more than that. In order to proceed, in order to proceed with the actions here, you've got to make a finding and there's certain information you need. The applicant wants you to find that these alternatives are not reasonable alternatives and therefore you can't weigh them, and here what this says is, we don't have enough to determine that, therefore we can't make the finding.

Chair Savolt:

The paragraph under this where it says based on the applicant's decision not to provide a complete cost analysis for the alternatives, the Planning Board concludes that a complete cost analysis would establish that each alternative is reasonable. How can we conclude that?

Mr. Mesinger:

It should read unable to conclude.

Mr. Spolzino:

My view of this is, if it's to the applicant's benefit to submit proof that these costs, that these alternatives are not economically feasible and the applicant chooses not to submit that proof, you can conclude that the information would not be favorable to them.

Ms. Goldstein:

We're implying like we did with certain emergency responders that didn't tell us that they could evacuate people, sometimes we have to read between the lines.

Chair Savolt:

I'm not comfortable with saying that. We can't say it's impossible for us and then go ahead and say that we're concluding something based on data we don't have.

Mr. Mesinger:

Would you rather change would to might or could?

Ms. Goldstein:

Stuart, when you have alternatives and the applicant lays out the feasibility of the alternatives or not, do they typically give you the variable costs in a situation like this.

Mr. Mesinger:

This is pretty unusual; this is especially unusual because you're denying the project and most times projects get molded over the course of time into something that is approvable and can be lived with.

Ms. Goldstein:

In the Scoping Document, wasn't the thought way back when, that the cost analysis would be provided?

Mr. Mesinger:

Right and until you have the cost analysis for some of the alternatives, the cost analyses cover some aspects of the costs, but not all of the costs. So, your finding in paragraph 6 is basically saying it's possible for you to make findings about the alternatives because the cost analyses is incomplete.

If you're not comfortable with the first sentence in 7, then (inaudible) the sentence.

Chair Savolt:

I'm not comfortable with it.

Ms. Goldstein:

But then we are going on to say that any costs associated with the size and scale of the project could be mitigated by reducing the units.

Mr. Mesinger:

That's a true thing, but you're not saying which alternative right now because you just don't have enough information. You find in 8 that the smallest alternative would have the fewest impacts. You (inaudible) have cost information on that.

Ms. Goldstein:

6, 7 and 8 feel a little disjointed.

Chair Savolt:

I don't have a problem with 6 but I have a problem with 6 saying it's impossible and then 7 drawing a conclusion.

Mr. Mesinger:

Read it without the first sentence.

Chair Savolt:

They submitted something.

Ms. Goldstein:

Limited or partial.

Mr. Mesinger:

We can add that word.

Chair Savolt:

I don't have a problem with that (inaudible).

8, of those alternatives permitted by Zoning, we find that the 25 unit no fill alternative would have the fewest environmental impacts, but they still have environmental impacts that would have to be mitigated because they're still relying on Cooper Avenue as an egress. I don't have a problem with that.

Ms. Goldstein:

The applicant hasn't submitted information on the cost of this alternative, or any alternative, other than to say it's not viable. The 50 unit wasn't viable so we're presuming the 25 would also not be viable.

Mr. Mesinger:

The difference is this is the 25 unit no fill alternative, so you don't have all the costs associated with the development platforms.

Chair Savolt:

They're still building platforms, they're just moving it around, they're not trucking in fill. There's still a lot of movement and building the platforms to raise the houses.

Mr. Mesinger:

You're not saying go ahead with thing.

Ms. Goldstein:

We still don't have enough information. We still don't know how people will get off the site.

Mr. Mesinger:

Maybe we need to add a sentence that says that.

Ms. Goldstein:

We can talk about costs all day. If you can't get people safely out of that residential development in an emergency, I don't care if there's 100 houses or 2 houses.

Mr. Mesinger:

We probably should say that too.

Chair Savolt:

All the other Findings would have to all still be mitigated. We'd have to look at the PRD, the filling in the flood plain.

### **Sections U, W and X**

The Board didn't have any questions/comments on these sections.

### **Certification to Deny – Section 4**

Ms. Goldstein:

The second paragraph, at the end, it refers to because the application as proposed causes 5 significant impacts that aren't mitigatable. Does that go back to the list we were just talking about in U?



Mr. Mesinger:

Yeah, I'll insert numbers, we probably want to change that.

Ms. Goldstein:

The second sentence of that newly inserted paragraph that starts the applicant's property, is it in a designated CEA or is it a designated CEA? It is, I don't know that it's in.

Mr. Mesinger:

You're right.

Chair Savolt:

The next time we'll see another draft will be in time for next week's Planning Board meeting?

Mr. Mesinger:

I'd like to get it out to you tomorrow.

Chair Savolt:

That brings us to a draft resolution that we have in front of us. We were reminded last week that Hampshire did submit some applications which we need to close. There's a Subdivision Application, a Flood Plain Permit Application, a Site Plan Application, a Wetlands Permit Application, a Special Permit for the PRD. I don't know if the Flood Plain Application is a request for Variance.

Mr. Cutler:

There's a Wetlands Application, but we don't believe it's required because they're not proposing a regulated activity within the wetland buffer, however we need something stating that from the Building Inspector. I'll talk to the Acting Building Inspector this week.

Mr. Spolzino:

Hold the public hearing on it and deny it because it's not necessary.

Chair Savolt:

Right now, the resolution calls for a public hearing on the PRD, the subdivision and the site plan. It also now has to include the Wetlands Permit.

Mr. Spolzino:

I'll modify the resolution accordingly

Chair Savolt:

We have a lot of Whereas clauses with a lot of dates in it and it gets us down to the resolve without a date for the public hearing to be held and then we have a question different here with regards to the waiver of a public hearing.

Does anyone have any comments with regard to the list of applications that need to be heard?

Mr. Spolzino:

May I explain why I added the waiver to that? Arguably, everybody is entitled to a public hearing, those who are for a project and those who are against a project, but in this case based on the document you've just essentially completed, which way you're going on this application, unless the applicant wants to have a public hearing, I don't think it's necessary to hold a public hearing. I would leave it up to the applicant as to what they want to do, however, I would suggest, as I've written in the draft, if they don't waive a public hearing or don't agree that the public hearing on the DEIS should be considered a public hearing, they should waive the deadlines. We don't want to get caught in a deadline problem.

Mr. Cutler:

Everyone in attendance is muted, Chair. If you would like me to allow someone to speak, just let me know and I can unmute them. No one is raising their hand.

Ms. Sherer:

If we do have a public hearing and the Wetlands Application is being considered in any way, that requires a 15-day notice whereas a subdivision requires 10-day notice.

Chair Savolt:

We have to adjudicate that application to close it in some fashion. What is the earliest date we can schedule a public hearing for?

Ms. Goldstein:

Bob, does this have to be done by May 8th?

Mr. Spolzino:

Unless the applicant agrees to waive it.

Chair Savolt:

It's the applicant's decision to waive it even though it's a public hearing and a chance for the public to speak.

Mr. Spolzino:

That's what I'm suggesting, but you don't have to do that.

Chair Savolt:

The public has already spoken quite at length with regards to this application, but the Code does say the applicant is the one who can waive a public hearing. We don't have to accept their request for a waiver if we wanted the public hearing.

Ms. Goldstein:

Can we just schedule it and do what we have to do and not rely on someone to waive it or not waive it? Let's just do it.

Ms. Spolzino:

You should take the waiver stuff out.

Chair Savolt:

We should leave the waiver stuff in, pass a resolution scheduling it for a date unless we hear from them by a certain date in which case the public hearing is canceled.

Mr. Cutler:

Because of the notification requirements, it would be good to know if they're going to waive it or not. It's a tight time frame.

Ms. Sherer:

I need 3 days prior to the actual date to get it to the newspaper. Looking at the calendar, further out, it would be May 4<sup>th</sup> or 6<sup>th</sup> that we could schedule the public hearing for. I think April 29<sup>th</sup> and 30<sup>th</sup> might be a little too close.

Mr. Spolzino:

I prefer to do the 4th because we have to get this done by the 8th.

Everyone agreed the public hearing would be scheduled for May 4th.

Chair Savolt reading from the waiver:

That it either waives or consents that the date for subdivision approval is extended, how can the date be extended to May 8th, isn't that already the date?

Mr. Spolzino:

The issue with that is this, the reason I put in May 8th is because we know May 8th is the deadline. If the applicant deems the public hearing of the EIS to have been the public hearing, we don't want them to come back and say you've should've gotten these findings done 2 years ago. You had 60 days from whenever the public hearing was 2 years ago to do the Findings, so you're late so we got a default approval. That's what I'm trying to avoid there.

On the subdivision, if you don't make a decision within 62 days you get a default approval. You don't want to leave open the possibility of a default approval.

They might agree to extensions. If there is a public hearing and there's something to discuss, they could do that. My suggestion is to ask them to respond by April 21st, that way you know at the meeting of the 22nd whether you're holding a public hearing or not.

We'll be working on the resolutions. I can have them prepared so that if the applicant waives the public hearing, you're ready to vote on them on the 22nd.

Chair Savolt:

The resolution before us schedules the public hearing on May 4<sup>th</sup> unless the Board is notified by April 21<sup>st</sup> that the applicant is waiving.

We've made a couple of edits to this resolution adding the Wetlands Permit and all of the old references regarding the Wetlands Permit.

On motion of Ms. Goldstein, seconded by Mr. Litman, and carried the Board adopted the resolution.

Ayes: Ms. Goldstein, Mr. Litman, Mr. Mendes, Chair Savolt

Nays: None

Recused: Mr. Verni

## 2. ADJOURN MEETING

On motion of Ms. Goldstein, seconded by Mr. Litman, and carried the Board adjourned the meeting at 8:05pm

Ayes: Ms. Goldstein, Mr. Litman, Mr. Mendes, Chair Savolt

Nays: None

Recused: Mr. Verni

Respectfully submitted,

*Betty-Ann Sherer*

Betty-Ann Sherer