



**VILLAGE OF MAMARONECK
SPECIAL PLANNING BOARD MEETING MINUTES
WEDNESDAY MAY 27, 2020 7:00 PM ONLINE**

These are intended to be “Action Minutes”, which primarily record the actions voted on by the Planning Board on May 27, 2020. The full public record of this Meeting is the audio/video recording made of this https://lmcmedia.org/videos_list/village-of-mamaroneck-planning-board-meeting-5-27-20/

PLEASE BE ADVISED, that the next Meeting of the Planning Board of the Village of Mamaroneck is scheduled for June 10, 2020 at 7:00 P.M. online.

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

GREG CUTLER, VILLAGE PLANNER
 CHRISTY MASON, PLANNING BOARD ATTORNEY
 BRIAN HILDENBRAND, VILLAGE CONSULTING ENGINEER

EXCUSED: **NONE**

CALL TO ORDER

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

1. APPROVAL OF MINUTES

Review of draft minutes from the April 6, 2020 meeting

On motion of Ms. Goldstein, seconded by Mr. Litman and carried, the Board approved the minutes for the April 6th meeting with the minor corrections noted by Ms. Goldstein.

All in favor?

Aye.

Mr. Verni excused.

2. OLD BUSINESS

- A. 1 SHORE ROAD, 5W-2019, NAUSET LLC FOR SEA 146 LLC WETLANDS PERMIT REVIEW (Section 4, Block 77, Lot 25-1A) CONTINUED SITE PLAN REVIEW, CONTINUED PUBLIC HEARING ON WETLANDS PERMIT AND REVIEW OF FLOOD PLAIN DEVELOPMENT VARIANCE APPLICATION –** Application for a Wetlands Permit, Marine Structures Permit, Site Plan review and Flood Plain Development Variance to construct an addition to the existing residence with alterations to the existing single family home, construct a new garage, gatehouse, a pier, boat lift and two docks. The Applicant is also proposing to replace the existing pool, spa, patio areas and septic system and reconstruct portions of the driveway, install new stormwater management improvements and new wetland buffer plantings. The property is located in the R-15 Residential District.
- 9/25/19 Initial PB review and Opened PH
 - 10/30/19 HCZMC Preliminary Review
 - 11/13/19 PB Site Plan Review & SEQRA Type II Action
 - 12/18/19 HCZMC Review, 2/1/20 HCMZC Site Visit, 2/25/20 HCZMC Review
 - 4/1/20 HCMZC Consistency Determination
 - 4/22/20 PB Continued PH
 - 5/13/20 PB Continued PH and Consideration of DRAFT Resolution
 - 5/20/20 HCZMC Consistency and Marine Structures Permit Granted
 - 5/27/20 PB Continued PH and Consideration of DRAFT Resolution

The Board didn't have any questions/comments for the applicant.

There was no public comment.

On motion of Ms. Goldstein, seconded by Mr. Verni and carried, the Board closed the Public Hearing on the Wetlands Permit.

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

Nays: None

Excused: None

On motion of Ms. Goldstein, seconded by Mr. Verni and carried, the Board approved the resolution for site plan with the changes noted by Chair Savolt.

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

Nays: None

Excused: None

On motion of Ms. Goldstein, seconded by Mr. Verni and carried, the Board approved the resolution for the Wetlands Permit with the changes noted by Chair Savolt and Ms. Mason.

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

Nays: None

Excused: None

On motion of Ms. Goldstein, seconded by Mr. Verni and carried, the Board approved the resolution for the Flood Plain Variance with the changes noted by Chair Savolt.

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

Nays: None

Excused: None

3. PUBLIC HEARINGS

A. 139 E. PROSPECT AVENUE LLC FOR PALLADIUM MANAGEMENT SITE PLAN AND CONTINUED PUBLIC HEARING FOR SPECIAL PERMIT

REVIEW (Section 9, Block 51, Lot 11B) Application for Site Plan and Special Permit Approval to demolish the existing residential structure and construct a new 3 story multi family building with 8 one bedroom units providing 1 unit pursuant to Section 342-50(B) (6) of the Village Code and associated parking. (C-2 District)

- 1/18/20 Initial BP Review, Opened PH, SEQRA Unlisted Action, PB Authorized Circulation of Notice of Intent for Lead Agency
- 1/15/20 HCZMC SEQRA Review and Consent to PB Lead Agency
- 2/8/20 Circulation for Lead Agency Ended
- 3/18/20 HCZMC Preliminary Review
- 4/1/20 HCZMC Continued Review
- 4/15/20 HCZMC Continued Review
- 4/22/20 PB Continued PH, Consider SEQRA Determination
- 5/27/20 PB Continued PH, Consider SEQRA Determination

Kristen Motel of Cuddy & Feder addressed the Board:

- We're on the agenda so Greg can present his visual model
- We haven't submitted a supplemental submission requesting to be on the agenda

Mr. Cutler:

- You received a letter from the Fire Department regarding this application

Chair Savolt:

- The Fire Chief said the driveway to the right of the building, when facing the building, allows the Fire Department to get to the rear of the buildings on Mamaroneck Avenue
- The Chief expressed concern that right now that driveway is as narrow as can be, any narrowing of it would be a problem

Ms. Motel:

- There is no proposed narrowing of that access way

Mr. Cutler presented his model on screen with views from different angles.

Rex Gedney, R.A. addressed the Board:

- He presented a distance analysis on screen for the ground, second and third floors
- On the ground floor the closest point would be 19' 2 1/2" to the rear and 8' 2" to the side
- There are no side or rear yard setback requirements
- There are no windows on the 2 sides

Ms. Goldstein:

- I think the question of the rear yard has yet to be fully figured out
- We've gotten public comment about the Multiple Dwellings Law and whether or not it applies to this site
- I'm troubled by the closeness
- I'd like to look at the site, maybe the applicant could put a few flags in the ground where the building would go

Planning Board Meeting

May 27, 2020

Page 3 of 8

Mr. Gedney presented a diagram on screen with an overlay of the new building over the existing

- There are encroachments that are in the easement that will be eliminated because our building will be further back

Ms. Goldstein:

- I think we need to clear up the zoning issue of the rear yard
- I would think the Zoning Board can give us an interpretation of the Zoning Code

Ms. Motel:

- The Planning Board doesn't have any interpretative authority here
- The issue really is closed because of the Building Inspector's memo and interpretation dated January 6th
- The time to challenge that interpretation would've been brought by March 6th
- 3 different professionals have weighed in, the Village's attorney, the Building Inspector and the Planner
- Everyone is in alignment that the Multiple Dwelling Law isn't applicable to this project
- If there's any ambiguity as to this, it has to be weighed in favor of the applicant
- We think there's nothing left to address

Ms. Goldstein:

- I understand that the Acting Building Inspector has stated that he hasn't looked at the Multiple Dwellings Law, I think we have a huge oversight problem
- It's the Zoning Board that interprets the Zoning Code with any kind of authority, everybody else has an opinion
- I think the Planning Board can request an interpretation by the Zoning Board
- I would like Counsel to look at that even if just to inform our future review of plans and applications

Ms. Mason will look into how the Multiple Dwellings Law is applied in general and whether the Planning Board can request an interpretation. At Mr. Cutler's suggestion she will also look into whether a variance can be sought from the Multiple Dwellings Law. At Mr. Litman's request she will also provide an analysis as to which takes precedence, the Multiple Dwelling Law or the Zoning Code.

Mr. Cutler:

- I have provided a draft Negative Declaration
- You would have to feel that you've taken a hard look at this application and that there would be significant adverse environmental impacts based on what's before you
- You'd have to be comfortable with the information that you have and that it addresses all the potential significant adverse environmental impacts

Mr. Verni:

- We have to get the answer to whether or not the Multiple Dwelling Law applies
- It's going to have a big impact on whether there needs to be rear and side yards
- There are viewshed considerations that are significant

Ms. Golstein:

- I agree with Mr. Verni, I'm not ready to proceed tonight

Planning Board Meeting

May 27, 2020

Page 4 of 8

Ms. Motel:

- The applicant has a forthcoming supplemental submission that's going to address some of these items

Public Comment

Bridget McGraw of 123 Mamaroneck Ave., Apt. 302:

- I sent an e-mail to Betty-Ann
- I want it to be on the record that I think the Multiple Dwelling Law needs to be applied as it's an 8-unit building

Lucia Tatavitto of 123 Mamaroneck Avenue:

- I sit on the Traffic Commission
- We attended the first Planning Board meeting and we want to make sure that our voices and concerns are heard
- We're concerned with the closeness to our side of the building

Glenn Tippet of Hill Street:

- I'm for the project
- I believe we have a shortage of apartments in Mamaroneck especially 1-bedroom units
- The Regatta residents do have a point about the closeness, but I don't think it's an overwhelming project

End of Public Comment

Chair Savolt:

- Greg, myself, Christy and Mr. Spolzino spoke about how to proceed tonight
- Perhaps it would be a good idea to have the applicant meet with some of the homeowners in the Regatta
- Mr. Spolzino offered to mediate and work with the 2 groups
- It might alleviate some fears
- This Planning Board must follow the laws, we will determine if the Multiple Dwelling Law applies
- Something will be allowed by the laws and Code to be built there

Ms. Motel will speak with her client and get in touch with Ms. Mason regarding a meeting with the Regatta residents.

B. 355 PHILLIPS PARK ROAD – CAPPETTA INC., SITE PLAN REVIEW and SPECIAL PERMIT PUBLIC HEARING (Section 9, Block 19, Lot 18C) Application for Site Plan and Special Permit to renovate the existing structure to add 2 residential stories for 6 residential units with ground floor retail and a Special Permit for providing 1 FAHU and ground floor retail and associated parking. (C-2 District) Circulation of Lead Agency ends April 12, 2020

- 3/12/20 Initial PB Review, SEQRA Unlisted Action, PB Authorized Circulation of Notice of Intent for Lead Agency
- 3/25/20 PB Opened PH
- 4/1/20 HCZMC SEQRA Review and Consent to PB Lead Agency

Planning Board Meeting

May 27, 2020

Page 5 of 8

- 4/12/20 Circulation for Lead Agency Ended
- 4/15/20 HCMZC Preliminary Review
- 4/22/20 PB Continued PH
- 5/27/20 PB Continued PH

Christie Addona of Silverberg Zalantis addressed the Board:

- We've made a supplemental submission based on comments from the April 22nd meeting including:
- A traffic and site distance study which determined that there would be adequate site distance and that the number of new trips generated would be nominal
- Revised plans and a memo from Mr. Stein responding to Mr. Hildenbrand's comments
- Revised architectural plans from Mr. Stanziale
- A memo from our landscape architect responding to Ms. Oakley's comments
- A revised EAF
- Materials in response to the HCZM memo including a letter from Ms. Evans opining that the property doesn't contain nor is it adjacent to wetlands
- Additional renderings of the project from additional viewpoints
- A determination from SHPO that the existing structure isn't eligible for listing on the Historical Register

Ms. Goldstein asked Ms. Addona to address the points brought up in the memo from HCZM as they urged a Pos. Dec.

Ms. Addona:

- The issue of the elements being within 50' of a water body, I believe that refers to the proposed retaining wall, we're working off the 2 determinations issued by the Building Inspector that it doesn't increase the degree of non-compliance
- The applicant intends to comply with Best Construction Management Practices to ensure that there aren't any impacts during construction
- I think part of HCZM's concern was their interpretation that the property is either on or adjacent to a wetland, that's not the case
- An updated EAF has been submitted, question 13B is now marked no
- There will be soil testing done

Chair Savolt asked about the Phase I and II environmental testing.

Ms. Addona:

- The Phase I was already done, I'll provide the summary
- The only tanks identified were the 2 aboveground tanks in the cellar, which are going to be removed
- Additional testing will be done verify that there hasn't been any contamination
- An asbestos survey will be done

Michael Stein, P.E. of Hudson Engineering

- Right now the stormwater isn't being controlled, it's running into the stream
- In the proposed condition we will collect all the runoff from the roof and the interior parking area and put it through a mechanical separator to cleanse it and then connect into the Village's system

Planning Board Meeting

May 27, 2020

Page 6 of 8

- The Village's line will be televised and investigated to make sure there aren't any issues in the line

Beth Evans of Evans Associates:

- I have reviewed HCZMC's memo
- According to the Village's Code for wetland protection, water courses aren't defined, they aren't included in the definition of a wetland
- There are no wetlands on this site or immediately adjacent to this site
- The Mamaroneck River is a water course that is defined by sea banks in this area
- The stormwater improvements that Mr. Stein described will improve the long-term impacts that the property has on the river
- The landscape plan will use native vegetation and will also improve what is there currently

Carlito Holt of Provident Design Engineering:

- Our study determined that the number of additional trips during peak hours will be 2 – 4 additional trips
- The project is a very nominal increase in traffic
- The American Association of State Highway Transportation Officials recommends a stopping distance of 250'
- There won't be any conflict of vehicles coming out of the driveway both from the left and the right
- The study didn't do any traffic counts, the purpose of the study was to do a trip generation analysis
- That's considering both the residential and commercial uses

Ms. Goldstein asked about the Special Permit being issued through Chapter 342-50. How does Chapter 240-30 impact this conversation? If it does, there's some difference in the language that I'm not sure is conformed.

Ms. Addona:

- My understanding is that based upon the Code amendments adopted in August 2019, the Village Board precluded the Planning Board from granting the permit under Chapter 240
- No portion of the building that's in the 50' setback is being altered

Ms. Goldstein read from Chapter 240-30. How do we marry the 2 requirements that seem to be applicable to this project? The building is being altered how do they not need the permit under 240-30? I need clarification on that from our attorney.

Mr. Verni asked about the roof terrace. Does that not count as an alteration?

Ms. Addona:

- It's just an enclosure, nothing is being added on to it other than fencing
- We designed this in a way to comply with the Code
- The Building Inspector seems satisfied

Mr. Cutler stated 342-50 says that the Planning Board may not grant the permit under Section 240-30.

Planning Board Meeting

May 27, 2020

Page 7 of 8

Chair Savolt stated we need clarification of the contradiction between 2 sections of the Code. The SEQRA determination is on hold until we get clarification of the Code.

She referenced the suggestions in the County Planning Department's memo dated March 27th.

Mr. Verni asked to see the latest façade plan.

Mr. Cutler advised Mr. Brescia that although they can go to HCZMC for preliminary review, HCZMC can't issue a Consistency Determination until SEQRA is completed.

Mr. Brescia asked Mr. Cutler, when we had the preliminary meeting with Mr. Spolzino discussed the approach to work around the 50' setback. Mr. Spolzino didn't have a problem with this. He kind of said we're in an as of right scenario with this. I'm not understanding what's been brought up tonight as far as what the concern is. Can you spell it out for me?

Mr. Cutler replied I don't think that's for me to do. I think the Board has made their comments.

Mr. Brescia stated they're asking for an opinion or interpretation from Counsel. Are they going to go back to Mr. Spolzino or is Christy going to look into this?

Ms. Mason replied I'm going to look into it with Mr. Spolzino. I was at that meeting as well, I don't remember what his comments were on the application. Hopefully we'll have a memo ready for the Board at the next meeting.

Public Comment

Glenn Tippet:

The 50' provision that was put into the law was added at the last minute, not well thought out. The trustees are currently struggling with it. I think we're going to have an interpretation that is very restrictive on it. I urge the applicant to go to a Board of Trustees meeting and give input. The trustees are looking to amend the 50' law.

End of Public Comment

4. ADJOURN MEETING

On motion of Ms. Goldstein, seconded by Mr. Verni and carried, the meeting was adjourned at 8:42 p.m.