

Planning Board (PB) Minutes, 9-19-22 Village of Sodus Point, NY

Members Present: Bruce Evener (Chair), Kathy Berretta, William Kedley, William McKee, Daryl Walker, Janine Fogarty (ad hoc)

Staff Present: Keven Druschel, Code Enforcement Officer (CEO) (zoom), Linda Youngman – Clerk

Present: B Evener asked attendees to sign in when arriving

Via Zoom: Thomas Ross, Joan Zerbe-Brandt, Sue Bassage, Laurie Verbridge, Gale , Thomas Ross, iPhone Mike, Erik Will, Gretchen DePoint, Brandon Martin

From Sign-In Sheet: Greg Switzer, Cindy Deway, Laurie Hayden, Maxine Appleby, Michael Damia, Shawn Matla, Mike & Donna Stern, John & Rita Ratkovics

Establishment of a Quorum: A quorum of 6 members was established.

Announcements: Advertisement of the meeting was published in the Times of Wayne County and posted on the Village website.

Call to order: The meeting was called to order by Chair Evener at 7:00 pm.

Review minutes from previous meetings: August 15, 2022. J Fogarty moved to approve, W Kedley seconded, approved by all.

Preliminary Subdivision Review, Donna Stern, 7565 7th Street, to divide lot into 27'x80' and 23' x80' per site plan. (190-11, 190-50).

The proposal is to subdivide a 90' X 49.47' lot into original 2 lots one 27' X 80' and one 23' X 80' as per subdivision map. The Kearneys would own the larger portion of the subdivision. A letter was enclosed with the proposal from Christine and Cristino Rodriguez and Richard and Rita Kearney saying they agreed to the subdivision of the lot between 7571 and 7563 Seventh Street. They stated that it is not their intention to merge their portion of the lot into their lot.

Janine Fogarty expressed concern over the creation of such an undersized lot. It would also set a bad precedent. The split is problematic as the lot is not buildable in the sense

of a conventional house in that the minimum square footage would only permit a very small house which is not permissible with current codes.

The PB expressed concern saying, in the past, they have advocated for smaller parcels to be incorporated into an adjacent lot. Bruce Evener agreed with this approach as expressed by W Kedley. Merging parcels is easier than subdividing and was advocated by the CEO who indicated that total taxes would remain essentially unchanged.

The Board completed the SEQOR, which addresses environmental concerns.

William McKee made a motion to approve recommendation of the subdivision to the Zoning Board (ZB) with the condition that the property owners merge the lots into the adjacent larger lots. Daryl Walker seconded; the motion passed.

Both sets of property owners will need to merge the substandard lots into their larger lots.

Final Site Plan Review, Bob Straubing, 8518 Greig Street, to demolish and reconstruct structure on same footprint per stamped plans Structure is 44'10" x 28'4". (190-49)

Mike Collins, the Straubing's contractor, said the ZB did not approve the encroachment off the original footprint and suggested the new structure keep to the existing foundation (the differences were minor – fractions of inches 0.02" and 0.03"). The overhangs are now gone on the new blueprints.

Mr. Straubing noted that per the drawings, they plan to remove the existing structure to be replaced by a single-story structure. The property has been residential and it will continue to be so in the future.

Daryl Walker moved to approve the revised plan with no encroachment as per the direction of the ZB; K Berretta seconded; motion was approved.

Final Site Plan Review, Gretchen DePoint, 7582 Fifth Street, to remove a portion of existing structure and construct addition connecting to the garage 24' x 25'4" of which will be 3.7' from north property line where 5' is required and 12' from rear property line where 12.5' is required. (190-11, 190-49).

The ZB approved the requested variances. The DePoint blueprints are in the Village offices for review.

Gretchen said they will take off the existing kitchen, connect to existing garage, adding a second story for an office, and improve safety measures for the house and property. Existing stairs are quite steep and not up to current code – they will replace the stairs to new codes. They will keep the slab at 249' toward the back of the garage so it will not pump water continuously. There were no further questions from the PB. K Berretta moved to approve as put forward by the ZB; W McKee seconded; the motion passed.

Fence Review, Shawn Matla, 8631 Greig Street, to construct a 16' living fence per plot drawing. (190-22(g), 121-4)..

The current application is to increase the size of the existing living fence to be 10' from the edge of breakwall and 16' high. Mr. Matla provided background information in support of his application which largely relates to issues of privacy.

It was pointed out that a prior dispute over the current living fence resulted in an agreement to allow the existing living fence to extend as far as the existing deck and not exceed a height of 7', however, the existing living fence exceeds this height limit which is in violation of the existing per-court agreement.

Members of the PB raised various concerns about the application including the establishment of a negative precedent, limited emergency access to the subject or neighboring properties caused by the extension of the plantings toward the breakwall, blocking of views and sunlight to adjacent properties, and Mr. Matla's lack of compliance with the existing height restrictions.

Following discussion, a motion was made by Janine Fogarty that a recommendation be made to the ZB that the exiting living fence be maintained as provided by the prior per-court agreement (7' in height, no less than 15' from the breakwall) and that extending the living fence to a 10' set back from the breakwall and allowing growth to a height of 16' be denied; W McKee seconded; the motion passed.

Fence Review, Guy Berretta, 8510 Wickham Blvd, to construct a 4' fence per Army Corp. approval. (190-22(g), 121-4)

(K. Berretta excused herself as a member of the PB for purposes of discussion of this application.)

Guy Berretta, K Berretta and their lawyer (Michael Damia of Harter, Secrest & Emery, Rochester, NY) presented their application for the construction of a fence along their east property line. It was noted that installation of the fence has received consent from the Army Corps of Engineers who retains a 20' right-of-way (ROW), more or less paralleling the shoreline of the Bay. The basic issue is whether the Berettas can install a fence which may conflict with the historical use of the ROW as a pedestrian pathway as provided for in the original ROW agreement and if the proposed fence blocks all or a portion of the ROW. It was noted that extensive opposition to the proposed fence has been provided via letters to Village officials .

It was also noted that among other considerations, the consent received from the Army Corps of Engineers references other "permission as may be required on account of any other existing rights" which calls into question the Sodus Point LWRP (Local Waterfront Revitalization Program) that references the ROW and the community pathway through the Beretta's property.

A lengthy discussion ensued regarding the significance of the LWRP, which is referenced in Chapter 186 of the Village Code, in contrast to other sections of the Village Code. No clear agreement was reached on this issue.

As separate discussion followed concerning the location of the proposed fence and the location of the ROW and whether the proposed fence would block all or a portion of the ROW. Reference was made to a 2018 survey which may no longer be accurate due to erosion caused by the high-water events of 2019. Mr. Berretta pointed out that several survey pins have recently been located on the property but it was also separately pointed-out that the pins may not be indicative of the location of the ROW. Again, no clear agreement was reached on this issue.

It was suggested that an updated survey be prepared locating the property lines, the ROW, the current waterline and the location of the proposed fence. The Berrettas opposed incurring the added expense of an updated survey. Chair Evener asked if the lawyer for the Berrettas and the Village Attorney could get together with the surveyors to sort these issues out. Art Williams expressed his hope that the parties could arrive at a compromise that permits the pathway to continue and the Berrettas to have a fence.

A motion was made by Janine Fogarty to table further discussion of the application for 1 month for a possible solution to be worked out by the parties; Daryl Walker seconded; the motion passed.

W McKee asked that the minutes reflect that Art Williams has stated this is not an enforceable ROW. In addition, Chair Evener noted that all correspondence, both pro and con, concerning the application will be maintained on file in the Village Offices. The application will be taken up again at the October 17, 2022 PB meeting.

Old Business, Brandon Martin, 7118 Route 14, mandatory 3-month review of temporary use of commercial parking lot.

As previously agreed to, the PB has committed to recurring reviews of Mr. Martin's use of the commercial parking lot every 3 mos. Chair Evener offered that in his view Mr. Martin has met what was agreed to, the property is neat and well kept, however, he would like to see some of the weeds taken out. Janine Fogarty offered that everything is organized neatly. W Kedley indicated that better maintenance of the weeds and tall grass would be desirable; visibility when entering Rte 14 is difficult – trees should be moved, as proposed, to improve visibility; and private property signage should be installed. Boat trailers looked neat and tidy over the course of the summer. K Berretta felt Mr. Martin had done everything the PB asked. W McKee said it would be helpful to get feedback from the DEC on points 1-6. He asked Chair Evener to follow up on these items. Chair Evener asked how the DEC permit is coming. Brandon Martin said it was taking some time. He asked if Brandon is still on target for the items planned for October. Brandon said they needed to get boats out of the way so they could proceed with building the new

docks. Chair Evener said the PB would discuss the issue again at the December PB meeting. W McKee asked how many boats might be stored at the CPLS for the winter – Brandon said minimal or none.

Chair Evener reminder all PB members to keep their training up to date.

Motion to adjourn: D Walker motioned to adjourn, J Fogarty seconded, the motion carried, the meeting was adjourned by Chair Evener at 8:58 pm.

The next PB meeting will be October 3 unless plans change.