



## Planning Board (PB) Minutes, 10-17-22 Village of Sodus Point, NY

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

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

Present: B Evener asked attendees to sign in when arriving, Guy Berretta, Laurie Hayden, iPhone Lisa (zoom), Laurie Verbridge (zoom), Matthew Corino, Joan Zerbe-Brandt, Gale, Damian Weidmann, Sue Bassage, John Miller, Art Williams, Dan Polk (architect), iPhone (9) Barb, Fred Niechman, Maxine Appleby, Phil Leone

**Establishment of a Quorum:** A quorum 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:** September 19, 2022. W McKee asked to have wording for Beretta fence to be “retain” rather than “maintained” by the Army Corps of Engineers and all documents “for or against” to be kept at the Village Offices. The Stern proposal to have wording changed on sub-divided lots to “property owners to merge that two sub-divided lots to be finalized (Stern and Kearney)”. W McKee motioned to approve, J Fogarty seconded, approved unanimously. Kathy Berretta recused herself from voting since she was an applicant.

### **1. Preliminary Site Plan Review,**

8528 Greig St LLC plans to add a 7’6”X34’ addition 2.9’ from the front where 25’ is required and allowing 57% lot coverage where 40% is allowed. Also, constructing a 7’ block wall on the property line to later be painted or covered in a stone facade.

Dan Polk (architect) spoke saying they want to put an addition onto the property. The purpose is to expand the interior space to be opened up as much as possible. The fence would be on the property line. There would be approximately 4 ½’ of clearance between the extension and fence.

W Kedley asked if the extension could be set back further from the street. Matthew Corino said he would prefer not to have it set back. He said there would be a patio area in the back. W McKee questioned the height of the fence along the parking lot asking would it be about 4’? The CEO said it could be up to 5’ per the zoning code. W Kedley asked if it would be cinder block fence and Matthew Corino said it would not just be cinder block. He wants to shield the building from noise of the parking area. Chair Evener open public comment, there was none offered. Chair Evener asked for a motion. Daryl Walker motioned to approve, Janine Fogarty seconded, the motion passed unanimously. The matter will be considered by the zoning board next week.

**Fence Review**, Guy Berretta, 8510 Wickham Blvd, to construct a 4' fence per army corp. approval.

Kathy Berretta recused herself from voting since she was an applicant. J Fogarty was asked to vote in place of K Berretta.

Chair Evener recapped the application's progress over the last three months, stating that at the first hearing there were questions about ownership, ROW (right of way) and abstracts needed to be reviewed, at the second hearing the Berrettas' lawyer asked for continuance to allow the Berretas and the Village to reach a compromise and at the third hearing it was agreed that there were two differing surveys and the lawyers asked for time to determine which one was correct.

The Chair asked the lawyers representing the Berretas and the Village to discuss their findings as to which survey was correct. They concluded that the survey done by Greene Land Surveying, PLLC was the correct.

Mr. Damia, the Berrettas' lawyer, thanked the PB for their consideration of this application. He said 121-4 and 190-22g are the applicable zoning laws. Mr. Damia said the undisputed facts are the Beretta's own the property and have the right to enjoy their property and the Army Corps of Engineers gave the Beretta's consent to put up a fence. The planned fence would be 4'. All conditions have been met by the Berettas as put forth in the Army Corps of Engineers letter. In 190-22g, the fence is permitted except if it precludes traffic. Mr. Damia said they are entitled to put up a fence for their safety.

Art Williams, the Village's lawyer, said the survey map from 2018 by Greene was correct and the proposed fence would cut off the right of way (ROW). The reason the proposal comes into question is because of the LWRP (Local Waterfront Revitalization Project) which sets forth the ROW in front of the Berettas property. Part of the question for the PB is whether the proposed fence is a type 1, a type 2 or unlisted action. Under SEQRA if it changes the use of the land it is an unlisted action. Art Williams said the first issue for the PB to consider is whether it changes the use of the land.

Chair Evener said that since the PB agreed that the Berretta's fence represented a change in the use of the land and therefore is an unlisted action. That being determined the PB needed to consider all points raised in the SEQRA (short environmental assessment form) parts 1 and 2. Chair Evener went through part 1 and part 2 with the PB.

Art Williams said code 186 in the LWRP does say that the ROW has been established. However, he conceded that the Village has no legal ROW across the property.

Chair Evener stated that the fence as proposed in the amended application and the map drawn by Art Williams would end approximately at the cottonwood. W McKee said it is unfortunate that the LWRP was written with a false assumption that the ROW existed.

After further discussion, Chair Evener asked for a motion. Janine Fogarty made the motion to approve the Berettas fence application, together with the SEQRA and the WAF, as presented on a map prepared by Art Williams and the CEO (the fence will run along the east property line, 60'S from Wickham Blvd., then 16' to SW, and then 68' to the E, approximately to the cottonwood tree). W McKee seconded. The motion was unanimously approved.

**Old Business**, Revisiting maintenance code chapter 141

Chair Evener asked that PB members review the maintenance code chapter 141 having to do with property maintenance.

**Motion to adjourn:** D Walker motioned to adjourn, J Fogarty seconded, the motion carried, the meeting was adjourned by Chair Evener at 9:01 pm.

The next PB meeting will be November 7.