



Planning Board (PB) Minutes, 5-1-23 Village of Sodus Point, NY

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

Staff Present: Linda Youngman – Clerk (in person), Village of Sodus Point (Kevin Druschel) (in-person)

Others present: Laurie Verbridge (zoom), Sue Bassage (zoom), Phil Leone (in person), Guy Berretta (in person), Matthew St Martin, Village lawyer (in person), Charles Majors (zoom), Thomas Reina (zoom), Tom Piekunka (zoom), Gale XX (zoom), Tim XX (zoom), Tim Roberts (zoom), John Wiender (zoom), McKinley Ludwig (zoom), James Taylor (zoom), Ginger (zoom), Smith (zoom), Brenda Hinsman (zoom), Jim Keileln (zoom), Mark C. (zoom), Tim Wilbur (zoom), Katie Tierney (zoom),

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

Announcements: Chair Evener announced that John Cook passed away last Friday asking attendees to extend condolences to the Cook family.

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: 4-17-23 PB minutes were reviewed and approved. Kedley motioned to approve; McKee seconded; the minutes were approved.

Votes: Evener-aye, Berretta-aye, Kedley-aye, McKee-aye, Walker-aye,

1. **Special Permit Review**, Mike Majors, 8642 Greig Street to place a 6'x60' temporary dock with an 8'x8' landing creating an L shape allowing 2 docks on 130' of frontage where 150' is required. (86-28)

Mike Majors (zoom) spoke saying he is asking to install a second dock and it would be a communal dock so others could use it. He wants a dock for friends to drop by and visit. It would be an L-shaped removable (seasonal or temporary) dock. Length would be 60 ft L x 6' W with an 8 ft by 8 ft landing at the outer end. Kedley said the code requires each dock have 75 ft frontage; Majors' lot is 130 ft. Meeting minutes from 2020 when the initial dock was

requested said the water was too shallow at western portion of the property. Kedley asked if a hoist would be put on either side – Mr. Majors said no, it is for visitors. No questions from McKee or Berretta. Fogarty asked how many visitors does he expect – Mr. Majors said he does not expect a lot of visitors and he does not expect overnight visitors.

Chair Evener opened it for public comment. Brenda Hinsman urged everyone on the PB to vote no to this temporary dock. Tom Piekunka lives E of the property saying the code was written to disallow docks with limited space – he thinks the proposed dock would add additional congestion which should not be allowed, not just for water congestion but for street vehicles as well. Sodus Point has a parking issue and this will add to the congestion.

Mr. Majors said he doesn't see how a dock would add traffic congestion. He wants to add it to help other neighbors. He said it will help to have visitors to the area. Berretta said permitting a second dock in an undersized area would make people want to add additional docks to undersized lots. Kedley agreed saying it would open a Pandora's box, a never-ending battle by others to add second docks. Fogarty also said it would open Pandora's box.

A waterfront assessment form was completed by the PB. Kedley made the motion to recommend to the ZB that the proposed dock be permitted, McKee seconded, all PB members voted no.

Voting record: Chair Evener-nay, Daryl Walker-nay, Bill McKee-nay, Bill Kedley-nay, Janine Fogarty-abstain, Berretta- nay

The application will go to the ZB without recommendation from the PB.

Old Business:

Planning Board Discussion: Fence Review, Stop Work Order, Guy Berretta, 8510 Wickham Blvd, Sodus Point

Chair Evener said the second topic was the PB review of the Berretta's fence. Kathy Berretta excused herself from the discussion as a member of the PB. J. Fogarty voted in her absence.

Lawyer for Berretta's said they put the fence where they thought the PB had approved the fence.

Chair Evener pointed out that the PB had agreed the fence would terminate at the large cottonwood tree which would have left room for people to walk around it and use the ROW. The fence was not supposed to block access to the ROW. Chair Evener also pointed out instances in the October 17, 2022 meeting recording where Mr. Berretta said the fence was intended to terminate at the cottonwood. He also referred to flags and lines that Guy had placed to show the fence would lead to the cottonwood.

Chair Evener recently visited the site and observed that the fence installed is not as approved. McKee said he understood that there would be clearance left open near the cottonwood tree. Kedley agreed saying the E/W portion of the fence in the survey and application, was to be at a 90-degree angle to the section that ran to the N/S. What was installed is closer to 105 degrees which blocks access to the ROW. Walker agreed. Fogarty

agreed. Chair Evener said the PB had not given approval to block access to the ROW that exists on the Berretta property.

Guy Beretta said that a recent survey revealed that his property line does not extend to the cottonwood tree and he could not put a fence on someone else's property, they can only put it on their property line which is what they did.

Chair Evener said the fence location does not agree with what was approved by the PB. The ROW corridor has been closed off with the fence. Chair Evener said the Berrettas should have come back to the PB to report the changed location of the property line from the recent re-survey instead of putting the fence across the ROW.

Additional comments by others included the following;

- Chair Evener said he and the mayor met with the Department of State and they pointed out that the ROW should be maintained.
- Village Attorney St. Martin said in his opinion the PB should not have approved any fence and the ROW should continue in existence.
- Berretta's lawyer said that once approved, the PB does not have the authority to re-consider the case for the fence. The PB can only re-consider if there are extreme circumstances.
- Chair Evener said the fence does not agree with what was approved by the PB. The corridor has been closed off with the fence. The map highlighted by the Village Attorney at the October 17th PB meeting should take precedence and it shows the fence ending at the survey pipe by cottonwood, not going to the water.
- Kathy Berretta said the CEO only questioned the fence after it was built. She said they did everything according to the law.
- The CEO said he did not approve putting the fence where it is currently.
- Guy Berretta showed a photograph of the fence which showed that they had no legal authority to put the fence on other people's property.

Various resolutions to the situation were discussed. Chair Evener made the motion to either remove the unapproved sections of fence or to open the gate in the fence to permit public access to the ROW. It was agreed that opening and closing of the gate would be too problematic.

Berretta's lawyer asked about the fence section proposed for removal – does the PB have the authority to say it has to be removed? Chair Evener said that placement of the E/W section is not in the location where it was approved to be placed. The PB has required the removal of unapproved fences in other instances.

Fogarty made a motion that the E/W section of the fence which does not conform to the approval at the 10/17/22 PB meeting should be removed; Kedley seconded; with one dissent (McKee) the motion passed.

Voting record: Chair Evener-yea, Daryl Walker-yea, Bill McKee-nay, Bill Kedley-yea, Janine Fogarty-yea, Berretta-recused

McKee asked if the PB could make a proposal to address the continuing issue of the use of

the ROW by the public in the courts. Chair Evener said the public would have to take this action.

Guy Berretta said they would contact the police every time someone tried to go through their private property.

Chair Evener said the Berrettas could resubmit a revised proposal for this section of the fence.

Motion to adjourn: Motion to adjourn was made by B. McKee, Janine Fogarty seconded, all in favor, the motion passed unanimously.

The meeting was adjourned by Chair Evener at 8:37 pm.