



Planning Board (PB) Minutes, 6-5-23 Village of Sodus Point, NY

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

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

Others present: Laurie Hayden (in person), Matthew St Martin (lawyer), Guy Berretta (in person), Resident (zoom), Gale (zoom), Keri Wallenhorst (zoom), Peter Hallagan (zoom), Ginny (zoom), Jeremy Foss (zoom), Village of Sodus Point (zoom), Blaise Weidman, Tim Wilbur, Sue Bassage, Mike Damia, Rob,

Establishment of a Quorum: A quorum of 3 was established (5 members attending).

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: 5-15-23 PB minutes were reviewed and approval was postponed pending Bruce Evener's review. Kedley moved to postpone, Fogarty seconded, postponement of the minutes was approved.

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

1. **Preliminary Site Plan Review**, Terry Vanderwall, 8623 Greig Street, to construct a 47.83'x29' residential structure with a 23.50' x15' garage 3' from the property line where 5' is required per preliminary plans. (CODE, 190-11, 190-15, 190-18, 190-49)

Terry Vanderwall (and his partner) spoke saying they want to knock down their existing cottage and build a new home. They have a variance on the E side and have approval of their neighbor. They passed out a letter from Ellen Renner Thiel saying that she agrees with the requested variance for the garage. B Kedley wanted to verify the house would be on a new slab.

Kathy Berretta wanted to verify the property line for the new house. Terry Vanderwall said they planned to live there year-round. Other PB members did not have questions. The CEO said there was a public comment. There were no public comments. The CEO said they were not within 25 ft of the waterfront. Terry Vanderwall said the covered linnae will go out 13 ft.

but it would not impact the 25 ft. B Kedley confirmed the garage would be 2 ft off the property line and the map is correct as written except for the linnae being 13 ft instead of 12 ft. Fogarty motioned to approve, Kedley seconded, the motion passed unanimously. The case will go to the ZB next on the 26th.

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

2. **Fence Review**, Robert Agopian, 7526 N. Fitzhugh Street, Sodus Point to construct a 48" Fence per plot drawing going a total length of 24' feet. (CODE 190-22(g))

Robert Agopian spoke saying he wanted to construct a fence, construct a fence 24 ft. long along their back lot line – a 4 ft high picket fence. The CEO viewed the property today and they will put the fence exactly on the lot line. Chair Evener asked about the existing fence - Robert said it was the fence which came with the house. It is a removable fence and they can move it with no issues. B Kedley reviewed the project today and has no issues, Fogarty had no issues, none of the other PB members had issues. Kedley moved to approve the fence construction at 4 ft and as submitted, Fogarty seconded, the motion passed unanimously.

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

3. **Fence Review**, Guy Barretta, 8510 Wickham Blvd, seeking approval for existing 48" fence of which starts at the edge of ROW travels 50.67' south, jogs 16.33' then traveling eastward 41.83' per plot drawing. (CODE 190-22G)

Kathy Berretta recused herself. Guy Berretta spoke asking if Mr. Damia (Berretta's lawyer) was available. They own 8510 Wickham Blvd. They want to install a fence approx 51 ft by 42 ft. The fence is installed on their property line. After the fence was installed, the CEO viewed the fence and verified that the fence was on their property line. Kathy passed out a map showing the fence and Federal land and Berretta property. The Army Corps of Engineers approved an easement for the property.

Guy Berretta said they needed the easement and had been approved by the Army Corps of Engineers. He wanted to correct an earlier statement that the easement did not go into the water – Kathy passed out a map showing the easement (dotted line) going out into the water. The squiggly lines show the water line. The Army Corps said the line was not moved due to erosion. For many years, the Village said the public had a ROW over this easement and the Berrettas question this claim by the public due to the easement approval by the Army Corps of Engineers. This matter is between the Federal Govt and the Berrettas. They said this is a prospective easement and it should not be part of the planning board's decision. This is a hardship decision. They have had personal property stolen, people sitting in their lawn chairs, littering on their property, people use their dock for pictures, a motorcycle was driven across their property, etc.

There was a sign for people to be considerate of their property. Kathy said they tried working with the Village on this and the Village said they would work with the Berrettas on their claims of people disrupting on their property. This has been going on for 5 years and the Village said call 911. Kathy Berretta said they're done, they don't want to have threatening people on their property. The Berrettas have called the police on numerous occasions.

They said the fence is on their property. The easement leads over rocks into the water. Public opinion should not be a factor on the PB's decision tonight. A considerable amount of money has been spent on sidewalks along Wickham – Guy Berretta said a difference of 2 ½ minutes if people walked along the sidewalk or past the fence across the easement.

Chair Evener said much of what the Berrettas have said is true. He passed out a map showing the ROW which ends in the water. However, the proposed easement was confirmed and the ROW should be maintained. Chair Evener said the ROW should remain viable and asked Mr. Damia to weigh in. He said that Mr. Damia and Art Williams liaised on the survey map together and came up with a compromise which preserved the ROW. Later, Mr. Damia said there is no ROW. Guy said there is no ROW except for going into the water. Chair Evener said Mr. St Martin said there is a ROW and the Dept of State said there is a public ROW.

Mr. Damia said are we talking about two ROWs? Chair Evener said there is a sticking point. The Dept of State says there is a ROW. Mr. St Martin questions whether the PB should ever have approved a fence. Guy Berretta questioned the PB's earlier decision. Sect 186D. Mr. Damia said they need to consider whether certain standards were met. He said this standard was met in the earlier hearings. Chair Evener persisted saying the public ROW was supposed to be kept open with the fence along the Berretta property.

Mr. Damia questioned whether the ROW should be kept over the Berretta's property. Chair Evener said it went back to the deed, the Army Corps of Engineers, and the PB's earlier decision. Mr. Damia said there was an 1899 document concerning the public's ROW and the Berretta's property. Mr. Williams disagreed with this earlier document. Mr. St Martin said that the 1899 deed and the ROW was still in force and supported by up to 100 people per week-end using the ROW.

Chair Evener said the question is whether to approve the fence, not to the correctness of the deed.

Mr. Damia said 121-4 does not give the PB permission to disagree with an earlier decision. The CEO said the fence didn't meet the prior approval of the PB – that is the main point. Chair Evener asked for the PB's thoughts. Fogarty said the fence is up without an approved permit – we're starting over.

Kathy said they put the fence up where the attorney said to put it. Kathy said it has nothing to do with the ROW. Fogarty reiterated that the fence is currently not in the place where the PB gave prior approval. Fogarty said the Dept of State points are very concerning to her – the Dept of State wants to maintain the ROW. Mr. St Martin said 121-4 said the fence should not interfere with public ROW.

B Kedley said the Oct approval was for a fence which would not block the ROW (up to cottonwood). The PB's intention was not to block the ROW. The Dept of State did not want to block the ROW either. In his opinion, the ROW should be maintained and continue to exist. He doesn't want to minimize the public being a nuisance on the Berretta's property. He does think the Berrettas should continue their fence westerly along the easement line. In terms of the request on the table, he does not believe the fence should be approved as currently in place.

Guy Berretta said they can't put their fence on the federal property. Guy Berretta said the fence placement suggested by B Kedley would preclude him from using much of his property.

He said it would cut off usage of their dock and waterfront. He thinks the ROW has to end as people would go onto the Berretta property.

Kathy said they would go to 47, not 48 – then the fence would end on their property. The CEO said 190-22d applied. Kathy said the problem is because of people like the ones in attendance at the PB meeting today.

B McKee said a ROW is difficult and he thinks the Village found in the past when they eliminated existing ROWs, they have been unhappy that they did so. He feels the ROW should be maintained. There was disagreement over maps – Guy questioned the map referred to by Chair Evener.

Chair Evener said they were re-hashing on both sides. 190-22g was questioned by Mr. Damia. He says fences up to 4 ft should be permitted. The CEO said they needed PB approval. Fogarty read the code 190-22g and it stipulated PB approval was required. Fogarty motioned for the 48 ft fence to be approved, McKee seconded, the motion did not pass.

Guy Berretta asked for an injunction speaking to Mr. St Martin.

Votes: Evener-no, Berretta-no, Kedley-no, McKee-no, Fogarty-no

Old Business: The CEO asked for a special meeting on the 20th or 21st. Several PB members would be available on the 20th.

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

The meeting was adjourned by Chair Evener at 8:00 pm.

The next PB meeting will be June 19, 2023 unless plans change.