

**PLANNING BOARD REGULAR MEETING SEPTEMBER 22, 2021 AT 7:00PM**

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**Members present:** Chairwoman Severance, Dwight Anson, Alan Hipps, Ken White & Elisha Bartlett. **Alternates present:** Daniel Burheide and Cheri Phillips

**Guest Present:** Catherine Simmer, George Hainer, Bill Johnston, Bradley Feldman and Nancy Page

Chairwoman Severance: Called this regular meeting to order at 7:08 pm.

Chairwoman Severance: Welcomed the new members to the planning board. Our first order of business is a special permit for Bradley Feldman, 6455 Main Street, LLC. Mr. Feldman has brought in all the necessary paperwork for us to proceed. We need to review his application and deem it complete.

Ms. Bartlett: Can we go through it? Do we have a checklist?

Mr. Hainer: This is a unique situation. We have never had to use this part of our law. This pertains to Section 25 of the Land Use Law which is our Landmark Preservation. Read aloud the following:

**SECTION 25 LANDMARK PRESERVATION**

**25.010 Findings and Purpose**

It is hereby found and declared that, as documented in the Westport Village Development and Preservation Program, there are within the Village particular buildings or other improvements of special character or special historical or aesthetic interest or value, and that the conservation and protection of the same is a public necessity and is required in the interest of the prosperity and welfare of the people. The purpose of this Section is to:

- a. Accomplish the conservation and protection of such improvements;
- b. Safeguard the historic, aesthetic, and cultural heritage of the Village;
- c. Stabilize and improve property values in the Village;
- d. Foster civic pride in the beauty and noble accomplishments of the past;
- e. Protect and enhance the Village's attractions to tourists and visitors and the support and stimulus to business and commerce thereby provided.

**25.020 Application of Regulations**

The regulations contained in this Section apply to landmarks, as designated on the Zoning Map. The landmark designation reflects buildings or other improvements of special character or special historical or aesthetic interest or value designated on the Zoning Map.

**25.030 Preservation Advisory Board**

There shall be a Preservation Advisory Board for the Village. Such board shall consist of not less than 3 nor more than 5 Village residents, not members of the Planning Board or Board of Appeals, named by the Town Board for terms not to exceed 5 years, provided that the terms of no more than 2 of the members shall expire during any 12-month period. In the case of a member's resignation or inability to serve, the Town Board shall appoint a person for the unexpired portion of such member's term. No member may serve for more than 2 consecutive terms. The Preservation Advisory Board shall, to the extent feasible, include persons skilled or knowledgeable in architectural history, architecture, real estate, carpentry, and masonry. The Preservation Advisory Board shall make recommendations to the Planning Board in its consideration of special permits pursuant to Section 25.040 hereof, and perform such other duties in aid of historic preservation within the Village as the Town Board may request. The Preservation Advisory Board shall serve without compensation, except that actual expenses of members incurred in connection with official duties may be reimbursed out of appropriations of the Town Board for such purposes. The Preservation Advisory Board shall establish rules of procedure and shall select a chairman and secretary from among its members.

**25.040 Alterations or Demolition**

**25.041 Requirement of Special Permit**

With regard to a landmark,

- a. No alteration, including painting or resurfacing to a different color or material, significantly affecting its appearance as seen from a public highway, and
- b. No demolition of all or any portion thereof visible from a public highway shall be undertaken except pursuant to a special permit issued by the Planning Board, in contemplation of the recommendations of the Preservation Advisory Board. Anything in this provision to the contrary notwithstanding, nothing herein shall prevent the demolition and clearance of any building which the Zoning Inspector determines poses a clear and present danger to health and safety.

**25.042 Application**

An application for a special permit under this Section shall be filed in 5 copies with the Zoning Inspector, and shall include the address, one or more photographs of the property in question, and

- a. In the case of a proposed alteration, a full description of the work proposed, including, where appropriate, color or material samples and, where feasible, architectural elevations, or
- b. In the case of a proposed demolition, material relevant to the finding required for demolition pursuant to Subsection 25.043(b) hereof. The application also shall

contain any available information, including drawings and photographs, as to the history and prior appearance of the property in question.

**25.043 Procedure and Required Finding**

**a.** Upon receipt of an application, the Zoning Inspector shall refer the application to the Planning Board and the Preservation Advisory Board. The Planning Board and the Preservation Advisory Board may require the applicant to furnish additional material or information. The preservation Advisory Board, within 30 days after receipt of a complete application, shall submit to the Planning Board in writing its evaluation of the appropriateness of the proposed work or demolition in light of the objectives of this Section. Specifically, in the case of a proposed alteration, the report shall evaluate the scale, color, materials, general design and arrangement, architectural detailing, and other features of the proposed work in light of the individual history and style of the building in question. In the case of a proposed demolition, the report shall evaluate the landmark in light of the demolition finding in Subsection 25.043(b) below. For a proposed alteration, the report shall contain a summary recommendation as to the appropriateness or inappropriateness of the proposed work, together with, in the case of a proposal deemed inappropriate, recommendations as to how the proposed work could be modified to render it appropriate.

**b.** In order to grant a special permit under this Section, the Planning Board shall find 1.) that in the case of a proposed alteration, that such alteration is, taking into account fundamental needs of the owner of the property in question, satisfactorily consistent with the historic and/or architectural character of the landmark, or 2.) in the case of a proposed demolition, that the landmark in its present condition or as it may be rehabilitated or altered, is incapable of earning a reasonable return. In considering such finding, the Planning Board shall explicitly take into consideration the report of the Preservation Advisory Board. In the case where the Planning Board shall reject the recommendation of the Preservation Advisory Board, the report of the Planning Board on its action shall explicitly state the reason for such rejection.

**c.** Except as otherwise provided in this Section, the procedure followed as to notice, hearing, and similar matters in connection with a special permit pursuant to this Section shall be that set out in Section 5.030 hereof, provided that no public hearing shall be scheduled until 30 days following the referral of an application to the Preservation Advisory Board.

Mr. Hainer: The Preservation Advisory Board consist of Nancy Page, Bill Johnston and Allison Kohler. This Board was appointed by the Town Board.

Mr. Hainer: I have not declared the property a danger.

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Mr. Hainer: The planning board needs to make the determination if the special permit is complete and if you have all the information that you need.

Chairwoman Severance: Does everyone know where this building is located? In your packet there are photos.

Mr. Hainer: There are twelve landmark buildings left in the Town. There were fourteen. The Catholic Church and the Yacht Club have both burnt down.

Ms. Bartlett: When were the original buildings designated landmark buildings?

Mr. Hainer: 1977; scrolling though the pictures on the screen.

Mr. Hipps: Asked if Mr. Feldman prepared this?

Mr. Feldman: Yes. When we purchased the building we did not know it was a landmark building.

Chairwoman Severance: Read aloud a narrative prepared by Mr. Feldman and thanked Mr. Feldman for the narrative. The narrative provided a history of the building. Please see narrative attached to the minutes as Appendix 1.

Mr. Feldman: We knew nothing about the historic landmark or any tax breaks. The damage was so extensive. It was purchased as a turnkey and we didn't have the resources to repair it. Interested people have looked at it, but they didn't want to properly remediate. You can't get a mortgage on the house. I couldn't live with the fact that people didn't want to properly remediate.

Chairwoman Severance: If the insurance deemed it a loss, then it needed to be remediated. The tax incentives are new. Are you possibly interested?

Mr. Feldman: We can't afford to do this work.

Chairwoman Severance: Who is 6455 Main St?

Mr. Feldman: Cousins. After my divorce, I bought out my cousin. Bradley and Michael Feldman. We have kept the property looking ok from a distance throughout this process. Curious people have been on the property. There has been some vandalism. People have gotten into the building somehow. We are concerned about squatters. Parts of the structure are not sturdy. The building is not insured.

Chairwoman Severance: encouraged Mr. Feldman to place "No Trespassing" signs around the building and on the property. We do have a copy of the LLC, which we need to deem the application complete.

Mr. Hipps: One of the perspective buyers couldn't complete the transaction?

Mr. Feldman: We kept his deposit since he couldn't get the funding.

Chairwoman Severance: We have permission to move forward from the LLC.

Ms. Bartlett: Who is the signing authority?

Mr. Hainer: Authorization is the LLC that owns it.

Chairwoman Severance: Read through the Short Environmental Assessment Form Part 2 that has been completed by Mr. Feldman.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? Mr. Feldman answered "No, or small impact may occur". The board feels a "moderate to large impact may occur".
2. Will the proposed action result in a change in the use or intensity of use of land? Mr. Feldman answered "No, or small impact may occur". The board feels a "moderate to large impact may occur".
3. Will the proposed action impair the character or quality of the existing community? Mr. Feldman and the board agree a "moderate to large impact may occur".
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? Mr. Feldman and the board agree "No, or small impact may occur".
5. Will the proposed action result in an adverse change in the existing level of traffic or affect infrastructure for mass transit, biking or walkway? Mr. Feldman and the board agree "No, or small impact may occur".
6. Will the proposed action cause an increase of use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? Mr. Feldman and the board agree "No, or small impact may occur".
7. Will the proposed action impact existing:
  - a. public/ private water supplies?
  - b. Public/ private wastewater treatment utilities?Mr. Feldman and the board agree "No, or small impact may occur".
8. Will the proposed action impair the character or quality of important historic, archeological, architectural or aesthetic resources? Mr. Feldman and the board agree "moderate to large impact may occur".
9. Will the proposed action result in an adverse change to natural resources (eg. Wetland, waterbodies, groundwater, air quality, flora and fauna)? Mr. Feldman and the board agree "No, or small impact may occur".
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? Mr. Feldman and the board agree "No, or small impact may occur". The board also feels this will depend on whether the demolition and regrading is done properly.

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11. Will the proposed action create a hazard to environmental resources or human health? Mr. Feldman and the board agree “No, or small impact may occur”. The board asked about lead paint which could be a concern.

Chairwoman Severance: Does the house have a crawl or a basement?

Mr. Feldman: Crawl

Chairwoman Severance: Is the heating inside?

Mr. Feldman: Actually, there is a building outside the house with two oil tanks, the hot water heater and the heater.

Chairwoman Severance: Read aloud the Short Environmental Assessment Form Part 2. This form was initially filled out by Mr. Feldman. The board reviewed and disagreed with some answers. Clearly marked with an X. Please see SEAF Part 2 attached as Appendix 2.

Mr. Feldman: Because of the historic nature of this building, we have contacted a salvage company that will come in to see what can be saved.

Chairwoman Severance: Did you have an estimate to restore with mold removal?

Mr. Feldman: \$500,000.00 minimum to remove the plaster and restore it.

Ms. Bartlett: Did you get a price for just mold?

Mr. Feldman: The problem is the mold is on both sides of the plaster.

Mr. Burheide: Are you approving the process before you have all the information?

Ms. Bartlett: No, once we deem the application complete the review process will begin.

The board would like Mr. Feldman to submit a corrected SEAF Part 1 tomorrow.

The board will take time to choose their words more carefully than right this minute. They would like to meet again.

Mr. Hainer: What do you need to deem the application complete?

Ms. Bartlett: Have you had a mold assessment?

Mr. Feldman: Yes.

Ms. Bartlett: Did you get a copy?

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Mr. Feldman: Not sure.

Ms. Barlett: Can you get a copy? We are relying on a statement; it would be nice to have a factual document to back it up. Findings of the insurance company deeming it a total loss would be helpful.

Mr. Feldman: We cannot reach out to the insurance company. It was a battle that took a couple of years to settle.

Mr. Hipps: We don't want your settlement, just your report.

Mr. Feldman: We used a public adjuster, he should have everything.

Ms. Bartlett: Do you have an estimate of the demolition requested?

Mr. Feldman: I already have the demolition estimate.

Ms. Bartlett: Do you have the estimate to demolish the property and remediate the property? I would like to compare the two. What was your purchase price?

Chairwoman Severance: at this time the application is incomplete.

Ms. Bartlett: Does the estimate include the method of demolition?

Mr. Feldman: It's being done by a demolition company.

Ms. Bartlett: Do they say what kind of equipment they will use? Do they have an estimated gross weight?

Mr. Feldman: \$40,000.00 is what we are willing to spend on the demolition. We have been looking into alternatives to demolition. The building is a liability at this point. We are trying to use a local demolition company. We want to do the right thing here.

Ms. Bartlett: We are working towards the same goal.

Chairwoman Severance: We represent the Town. This is a pain staking process.

Mr. Burheide: Is there a special permit needed to rebuild?

Mr. Hainer: any future buyer needs to be aware that any new building will need a special permit.

Chairwoman Severance: For now, it's not complete.

Mr. Hainer: Send Bradley a letter with what he needs.

Ms. Bartlett: The property is not currently on the market?

Mr. Feldman: No. Lauren Murphy has a potential buyer who would like to purchase and remediate.

Ms. Bartlett: Can you put together a statement of annual cost?

Mr. Johnson: I think the planning board is doing an incredible job.

Chairwoman Severance: These buildings are important.

Mr, Johnson: It's what gives Westport it's character and should be preserved at all cost. Now renovating a building has great tax benefits. The Federal government is offering 20% and the State is offering 30% tax credit. The Preservation Advisory Committee would assist.

Chairwoman Severance: We appreciate your help too.

Mr. Hipps: The tax incentives are a bottom line credit.

Chairwoman Severance: Do we have a motion to approve the minutes?

Mr. White: I'll make that motion.

Mr. Hipps: I'll second that motion.

Chairwoman Severance: All in favor? Approved.

- **Resolution 2021-17 Approval of Minutes**

**Resolved:** To approve the minutes of May 26, 2021.

**Moved by:** Mr. White

**Seconded by:** Mr. Hipps

**In Favor:** Mr. Anson, Ms. Bartlett, Mr. Hipps, Mr. White, and Chairwoman Severance

**Opposed:** None

Mr. White: I move to adjourn.

Mr. Hipps: I second that motion.

Chairwoman Severance: All in favor? Adjourned.

- **Resolution 2021-18 Adjournment**

**Resolved:** To adjourn the meeting at 8:44 p.m.

**Moved by:** Mr. White

**Seconded by:** Mr. Hipps

**In favor:** Mr. Anson, Ms. Bartlett, Mr. Hipps, Mr. White, and Chairwoman Severance

**Opposed:** none

Respectfully submitted,

Catherine L. Simmer, Secretary