

**PLANNING BOARD
MINUTES
FEBRUARY 27, 2013**

Chairman Johnston called the Planning Board Meeting to Order at 7:02 P. M. with the following members present: Ms. MaryLou Fitzgerald, Mrs. Evelyn Brant, Mr. Dwight Anson, Mr. Chris Maron, Mr. Ken White, and Alternate, Ms. Cynthia Fairbanks. Also present, Mr. George Hainer, Building/Codes Zoning Officer and Secretary, Ms. Barbara Breyette. Guests in attendance: Ms. Anne de la Chapelle, Ms. Heather Liberi, Mrs. Carol D. Linder and Mr. Dan Linder.

Minutes: The Minutes of January 23, 2013 were approved on a motion by Mrs. Brant, second, Mr. White, no discussion, all in favor, carried.

Heather Liberi - Tax Map No. 66.66-6-10.000 - New home construction. Bounded by George Toomey (West Side), adjacent to Ulrich Hoffmann (North Side). V-BUS District within Village Center Overlay District. Plat Plan and site markers will be available shortly. Planning Board to set site visit date. -

Chairman Johnston - Normally this would not come before us because a single-family dwelling is a "as-of-right-use", in all of our Zoning districts, I believe. The reason this is coming before us is, that this particular piece of property is within what's called the Village Center Overlay District and this is something that dates back to the Village Zoning Law and because it's within the Village Center Overlay District, the Planning Board has to go through an additional step or procedure before a permit can be issued; and that's the reason for this. It seems like a very straight-forward project to me. Let's ask our Code Enforcement Officer to walk us through it. He has prepared a packet of information for us.

Mr. Hainer - Mr. Hainer introduced Heather Liberi, applicant. She is going to be constructing a new home. The packets that I gave you has the application, the next page is the V-BUS District, which is where it's located and you can see the Zoning map, the yellow area. There's actually two building lots in that area and the border around here, broken heavy line is this Village Center District. On the

Planning Board Minutes
February 27, 2013

next page are the regulations, Section 26, which shows procedure that must be followed.

Chairman Johnston - Could I just stop you there, George, for a second. This is the Village Planning Study that dates from the late 1970's, 1977, and when this particular Planning study was undertaken, the old Westport Inn property was on the market and there was a lot of concern about what would happen to the property, so this Planning study really kind of focused on that property and it proposed some guidelines for development of the property that were intended to attempt to insure that whatever development took place on that property was compatible with the rest of the development in the Village Center. That is the history behind this Village Center Overlay District. Now, a lot of things have changed since 1977. For one thing, this piece of property which, at one point it appeared might be up for some sort of development, hotel development or condominium development or something like that, has been turned into a park. The relevance of this is a lot less than it was today. If you look at what George has given you, these findings, here, where it says, (Section 26.042 Regional Finding) "the Planning Board shall issue such special permit where it finds that, to the extent feasible and appropriate, the proposed construction is compatible with the Westport Village Development and Preservation, Program, as expressed in the Development Guidelines Isometric"--- well, that's this drawing, here, and it's no longer relevant. I'll pass this around. Has everyone seen this report, at one time or another? (Some Board members have not, copy is in the Planning and Zoning Office). These criteria, here, it's kind of, because this isometric is no longer relevant, it's a bit of a stretch to try to apply these criteria. Because this has not been removed from the Law, we need to go through the process. It says here "that the procedure, (Section 26.040, Procedure) that is to be followed, is the procedure that's laid out in Section 5.030 of the Special Permit Section and that entails a Public Hearing. We need to schedule a Public Hearing on this for next month. George, is there anything else you wanted to add about this?

Mr. Hainer - Yes, let me just finish a packet here.

Chairman Johnston - Ok.

Planning Board Minutes
February 27, 2013

Mr. Hainer - We have the Short Environmental Assessment Form, which will determine the Type, to classify it and then there's a plot plan that shows, the yellow, the approximate location of the new structure. It is marked out and it was marked out quite well and since then the rain and snow the ribbon has sagged, but, if anyone has been down there, there are the yellow markers.

Mr. Anson - The yellow markers.

Mr. Hainer - Yellow.

Mr. Anson - Not the orange one?

Mr. Hainer - The orange one is the survey. Now that may be, maybe your survey (to Ms. Liberi) or maybe the house across the street that's for sale or that has sold.

Mr. Anson - Ok, but it's where the yellow one -

Mr. Hainer - Yes. Then there's different elevations which are what you see there and lastly there's a couple aerial shots of it, and there's one, not a very good quality, of the actual markers on the land. There's water and sewer, we have a water and sewer map, the water and sewer department has laid out where the mains are and that's not a problem. The rest is all yours.

Chairman Johnston - Ok, we need to schedule a Public Hearing.

Mrs. Brant - Would you like a motion for that?

Chairman Johnston - If you would like to move it, sure.

Mrs. Brant -- I so move.

Mr. Anson - Second.

Chairman Johnston - Any discussion? There being none, all in favor, carried.

SEQR, this happens to be a Type II Action, construction of a single-family dwelling. I think we can dispense with that.

Mr. Anson - Class B?

Planning Board Minutes
February 27, 2013

Chairman Johnston - Doesn't apply, Type II Action.

Mr. Hainer - The height of the scale drawing looks like it's about 25 feet from the first floor, in this Zone I think it's 35 feet from the first floor, (inaudible).

Chairman Johnston - The designation for Type II Action is on the first page of the Special Permit Application.

Mr. Hainer - The classification will be reflected/designated in the Minutes.

Chairman Johnston - This is SEQOR Regulations 617.5, Type II Actions. Structure expansion of a single family, two-family or three-family residence, on an approved lot, including provision of necessary utility connections as provided, Paragraph 11, in the installation, maintenance and/or upgrade of a drinking water wells, septic system - so, it's a TYPE II Action, everyone on board with that? Do any Planning Board members have any questions?

Mr. Maron - When you talk about this District is based upon the plan that's been passed around -

Chairman Johnston - Yes.

Mr. Maron - and, that, I assume that one (1) on 26.040, is the guideline, that you're referring to. (Section 26.040, attached, Page 4A).

Chairman Johnston - What are you referring to?

Mr. Maron - Just that 26.040, you mentioned that there's a number of guidelines that -

Chairman Johnston - Yes, if you read Section 26.042, it specifically refers to this, the isometric.

Mr. Maron - Right. And yet, "e-i", are there any in there that we should consider? I see these are all facets, that should be considered for this project.

Chairman Johnston - Ok. Why don't you point out the relevance.

Mr. Maron -- I mean all of them, glancing at them, you'd want to consider the building location, the scale, the

26.040 New Construction

26.041 Special Permit

Within the Special Village Center District, construction of any new, or substantial enlargement or substantial alterations of any existing building shall be only pursuant to a special permit issued by the Planning Board in accordance with this Section.

26.042 Regional Finding

The Planning Board shall issue such special permit where it finds that, to the extent feasible and appropriate, the proposed construction is compatible with the Westport Village Development and Preservation Program, as expressed in the Development Guidelines Isometric. In particular, the Planning Board shall consider the proposed construction's conformity with the Development Guidelines Isometric with respect to the following:

- a. Building location, configuration, and scale, including height, roofline, and set back (if any) from street
- b. Facades including crenellation, materials, transparency, porches
- c. Character and location of uses including ground floor retail, residential uses, and proposed inn
- d. Preservation of landmark buildings
- e. Preservation of view corridors
- f. Road extensions
- g. Beach-promenade easement
- h. Street and sidewalk improvements
- i. Open space improvements

26.043 Application

An application for a special permit under this Section shall be filed in 5 copies with the Zoning Inspector, and shall include a site plan of the property in question drawn to scale and plans for the proposed new building.

26.044 Procedure

The procedure for a special permit under this Section shall be that set out in Section 5.030 hereof.

SECTION 27 SPECIAL OPEN SPACE DISTRICT (SOSP)

27.010 Findings and Purpose

It is hereby found and declared that

- a. There are within the Village particular open spaces which are of special visual and scenic significance and value to the public as open space, or which are so located or of such character that their development in most cases would present unacceptable adverse environmental consequences,
- b. That the conservation and protection of such open spaces is a public necessity and is required in the interest of the health, safety, and welfare of the people. The purpose of this Section is to conserve and protect the visual and environmental quality of the Village through the conservation and protection of such open spaces.

27.020 General

27.201 Application of Regulations

The regulations contained in this Section apply within the Special Open Space District which appears on the Zoning Map over open spaces having special visual or environmental character.

27.022 Relation to Other Districts

The special Open Space District is an overlay district mapped over other districts. It modifies and, where there is inconsistency, supersedes the regulations of such other districts. Except as so modified or superseded, the regulations of the underlying districts remain in effect.

27.030 Projects Within District

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Planning Board Minutes
February 27, 2013

façade, and apparently this is a picture of the neighborhood. Character and location of uses, residential. Preservation of landmark buildings, (inaudible). Preservation of view corridors, that's something to consider. Road extensions, is not relevant. Beach-promenade easement, that's not relevant. Street and sidewalk improvements, nothing there and open space improvements (inaudible). So there are certainly things there, we would want to consider.

Chairman Johnston - Ok, do you propose that we consider them now or after the Public Hearing?

Mr. Maron - Probably both, if there's anything on the top of our minds now, I can't think of any off the top of my head, but, I know the Public Hearing will be certainly an opportunity to hear what the public might have to say.

Chairman Johnston - Why don't we go through the ones that you felt might possibly be relevant.
Building location configuration, and scale -

Mr. Anson - It's there, you can't move it much. It looks like a pretty nice configuration, looks to me like it would fit right in.

Chairman Johnston - Is that drawing right here, please pass it over to Chris.

Mr. Hainer - It's basically centered in the lot and it's back towards the back end of the lot, the driveway, looks like on the plot plan is 25 feet wide and the house is 40 by 60, referred to the drawings. The windows will be double hung as opposed to some of the ones that are casement. Probably six or nine panel lights (to Ms. Liberi). Yes.

Chairman Johnston - Let's move on to "b", façade, --

Mr. Maron - What's crenellated?

Chairman Johnston - Castles are crenellated, you know the up and down, they have.

Mr. Hainer - A detail.

Mr. Maron - Ok.

Planning Board Minutes
February 27, 2013

Chairman Johnston - This is really oriented towards large-scale, commercial type, buildings. To try to apply this to a single-family dwelling is a bit of a stretch. "C", character and location of uses. It seems like it's a single-family neighborhood. Street and sidewalk improvement, I don't think there are any contemplated, it's an existing lot, the road is there - there is no sidewalk in the area.

Mr. Maron - View corridors, is that an issue with the neighbors? I'm not sure of the other houses, (inaudible).

Mr. Anson - It's all brush in back of it.

Chairman Johnston -- It is a lot of record and the owner of a lot of record has the right to build a house -

Mr. Maron - I'm not objecting to (inaudible).

Chairman Johnston - We can go through these again one-by-one, after the hearing. Anything else, anyone want to say at this point?

Ok, we've scheduled a Public Hearing and we'll have that at the next meeting, right.

I guess we're ready to move on - **William Palmer - Tax Map No. 66.2-1-30.112** - George, can you tell us about this one.

Mr. Hainer - Bill Palmer owns a piece of land up by what was the Velvet Boot on Bessboro Lane and it's about 38 acres in there, he has a single family dwelling that he constructed, next to the Highway Garage, or in that area, and his son wants to put a single-wide mobile home on another part of it, which is on Bessboro Lane, here is a map that shows the driveway. A mobile home is allowed by Special Permit, he was supposed to be here tonight, either he forgot. It's 12 x 52, he's supposed to mark it out, so if you want to set up a site visit. I think it's up higher as you drive around Bessboro Lane, coming from the Highway Garage.

Mr. Anson - Is he South of the Velvet Boot, though?

Mr. Hainer - No, I think it's North of the Velvet Boot.

Mr. Anson - Really.

Planning Board Minutes
February 27, 2013

Mr. Hainer - I think the Velvet Boot is here, this is the Highway Garage, over here, he's talking about putting it up here. I went by there today and you can see some clearing, they did some logging back there and you can see a clearing and if it's where it looks like it might be, it's might be kind of visible, how it's situated. I asked him to put some markers up.

Ms. Fitzgerald - Is there a ledge, up there?

Mr. Anson - It's all ledge there.

Mr. Hainer - There's ledge in spots, they did get a perc test in an area where there's quite a bit of sandy soil, there is ledge up there. There's a culvert off the side of the road, the ditch looks about six feet deep or more.

Ms. Fitzgerald - Is he going to try to put that up on top of the ledge or down?

Mr. Hainer - I think it's going to be up higher and the road will go up in there, but the markers were not there today.

Ms. Fairbanks - May I ask what the Velvet Boot is.

Mr. Hainer - It was a bar.

Ms. Fitzgerald - Will that be close to Kaleita's old place?

Mr. Anson - No, near the Velvet Boot.

Mr. Hainer - Not the Sherman Road.

Ms. Fitzgerald - Ok, that's right.

Mr. Hainer - It's a Special, it's not a "use by right", it's a Special Permit, now. The law, Section 32, Mobile Homes. Anticipate how they should fit on the lot. Whether they will need screening or not, we will have to see where the markers go. It's a "division by site" not an actual "subdivision", at this time, he's not planning on dividing it, but in the future if his son gets a job, then he may actually consider building a house there, taking the trailer off, it's really only temporary.

Planning Board Minutes
February 27, 2013

Chairman Johnston - We don't issue temporary permits, though.

Mr. Hainer - No, no, but it would be a "division by site" -

Chairman Johnston - But, I would think we'd have to imagine what might happen if he wants to sell it.

Mr. Hainer - Right, right, I did say to him that it would be, we would go through a process if it was going to be subdivided, even though you say, "you're not going to subdivide" and it makes sense that it's not going to mess up the rest of the property, just the way it's configured.

Chairman Johnston - Because, if they do decide to sell it, and it turns out the lot is sub-standard or for some issue

Mr. Hainer - It's a 38-acre parcel.

Chairman Johnston - It would be better to fix that now.

Mr. Hainer - There are wetlands on the property, but they're over by the railroad tracks so that, depending on how much property he would want to put with it, it's right there, he owns this all around here.

Chairman Johnston - Why don't we plan a site visit towards the end of the month, with the hope that the ground is not covered with snow and is reasonably dry. I'm looking at the week of March 25th; what if we try for Monday morning the 25th, we'll meet there at 9 A. M. We'll meet at the Velvet Boot, ok and then after we do this, we can go down and take a look at the other property, the one in the Village (Liberi), that we just talked about, ok, we'll do them both.

Mr. Maron - When you say this is allowed by Special Permit, I guess the other way you might say that is, that's it's not a Special Permit.

Mr. Hainer - If he's building a house then yes, but if he's building a home, it would still be a "division by site", any way you look at it.

Ms. Fitzgerald - Or, in other words, "hard to deny it".

Planning Board Minutes
February 27, 2013

Mr. Maron - Inaudible.

Chairman Johnston - No, Chris, there's a presumption, but a Special Permit is presumption, that if you meet the criteria, you're going to get the permit, ok. It's not like, I think you sort of put a negative twist on it, like he has to go through some ordeal to get his permit. The presumption is, if you go through the process, if you meet the criteria, you get the permit. This law has a certain expectation to that extent.

Let's jump over 5 for a moment. George, do you want to bring us up-to-date on this **Beneficial Homeowner Service - Tax Map No. 66.2-1-24.220** - That was the former Collin's Mobile Oil terminal. It was foreclosed on by Beneficial Home Finance Company. They put it up for auction, it was sold at the auction, three or four weeks ago, and I'm not quite sure who bought it, but, they tell me it's up for sale again and Tony Glebus wrote the APA asking if there were any issues with it. Anything that does occur there will require APA review. The APA does have a permit on it, Class A Permit on it.

Ms. Fitzgerald - Did they clean it up pretty good?

Mr. Hainer - Yes, it had an environmental clean-up, it has their seal of approval, until the bank gets involved and then they will have to do testing again. It's supposedly up for sale, again. Whatever goes on there it will come before us as a Class A.

Chairman Johnston - Number 7, **Alternate Vacancy** - Last month we interviewed Stites McDaniel, who had submitted a letter of interest for the Alternate position, and we voted to recommend him. The next day, after the meeting, the day after the meeting, a second resume was submitted. I just want to throw it out for discussion, what you think we ought to do about this, whether we should just say, "we're sorry, too late", or whether we should consider the second resume, and rank the two applicants as we had done previously.

Ms. Fitzgerald - Do we have to rank them, aren't the recommendations going before the Town Board, right? It's in their hands.

Planning Board Minutes
February 27, 2013

Chairman Johnston - If we don't rank them, it's in their hands, but why wouldn't we rank them?

Ms. Fitzgerald - Well.

Mr. Anson - I think they should be ranked, no doubt about it. The second one has a lot of knowledge.

Mr. White - The recommendation didn't go to the Town Board.

Chairman Johnston - No. I did not pass it on because the next day I was informed that there was another resume. Barbara, could you pass around the second resume. I felt because of the arrival of the second resume, I mean the day after the meeting, that I should hold off until we decided how we were going to handle this second resume.

Ms. Fitzgerald - I'm not sure we have to do anything, because at the time, we did something, what we had to work with and we can just let the Town Board do what they want.

Chairman Johnston - They look to us for a recommendation.

Mr. White - We should make a recommendation to them.

Ms. Fitzgerald - I don't even know who the second person is.

Chairman Johnston - You're going to find out as soon as the resume works itself around the table.

Ms. Fitzgerald - Ok. Does that mean he has to come in and make a presentation to us?

Chairman Johnston - I would think so.

The individual Planning Board members were reading the resume at this time.

Chairman Johnston - Well, what do you think. Someone going to venture an opinion?

Ms. Fitzgerald - We have two, that's all you need. You got a majority, bring them in to speak to us, I don't think it's necessary that everybody knows them.

Planning Board Minutes
February 27, 2013

Mr. White - We should be consistent, with what we did last time.

Chairman Johnston - Ok, we'll interview the other applicant at our next meeting.

Mrs. Brant - I think we should interview them, because whoever, it's someone we're going to have to work with, so we'll have a better idea.

Chairman Johnston - I agree for the sake of consistency.

Ms. Fitzgerald - The last time we had more candidates, we suggested they stay in line for Alternates, keep them in the book for Alternates.

Chairman Johnston - That's what I'm saying we should do this time, as well.

Ms. Fitzgerald - I think -

Chairman Johnston - because we have one Alternate vacancy.

Ms. Fitzgerald - Right.

Chairman Johnston - and we now have two resumes and Cynthia is next in line to move up when there's a vacancy on the Board, then we'll have a second vacancy, I think we have a good system here, where people come on as Alternates, they serve for a couple of years, get familiar with what we do, so forth. Chris, you moved up through the ranks.

Mr. Maron - Longest serving Alternate, ever.

Mrs. Brant - I was an Alternate for three years.

Chairman Johnston - Ok, you were an Alternate, right, Dwight.

Mr. Anson - Yes, not very long though.

Ms. Fitzgerald - I was an Alternate for a long time.

Chairman Johnston - We'll invite the other applicant to come to the meeting on the 27th, and we'll interview him.

Mr. Anson - Ok. May I say something.

Planning Board Minutes
February 27, 2013

Chairman Johnston - Certainly.

Mr. Anson - When we go ahead and interview the next one, afterwards, I think, if it was me sitting over there, I think we ought to do it on a piece of paper rather than verbally.

Chairman Johnston - That's the way we did it the last time, when we ranked them.

Ms. Fitzgerald - When there were three.

Mr. Anson - When we get ready to vote to send our recommendation to the Town Board, when it goes around us, it should be on paper rather than verbal.

Chairman Johnston - I was anticipating doing it that way.

Mr. Anson - Ok.

Mr. Maron - What's your reasoning, Dwight, I'm not questioning it, I'm just wondering why.

Mr. Anson - Because if you were sitting over there and we were involved, you would know who voted for you and who didn't and you might hold a grudge against someone that didn't vote for you.

Ms. Fairbanks - I had to go outside the room when you voted.

Chairman Johnston - It was a secret ballot, we ranked the three applicants and then we totaled up the ranking and then, Barbara, can probably find in the archives the scraps of paper.

Dan and Carol (Linder) I'm sorry that I didn't jump ahead to you, I should have, are you here for a reason.

Mrs. Linder -- I originally came in because we had gone past the 60 days for filing our map on our 3.8 acre lot and you did sign them -

Chairman Johnston - Yes, but I wasn't authorized to resign them.

Planning Board Minutes
February 27, 2013

Ms. Linder - Oh, I'm sorry. So you want me to tell everyone what -

Chairman Johnston - Very briefly.

Ms. Linder - Dan and I have both come in a year ago to request that we take .6 acres of the 3.8 acre parcel and create another building lot. The Board did approve it and I guess it was our fault that it wasn't filed on a timely basis, so we don't have a tax map number and that's why we're here so we can get that taken care of.

Chairman Johnston - In other words you want the Planning Board to authorize me to resign the maps -

Ms. Linder - Yes.

Chairman Johnston - Because the time period for filing has expired.

Ms. Linder - and I apologize for that.

Chairman Johnston - Would someone please authorize -

Mr. White -- I move we authorize you to resign the maps.

Mr. Anson - I second.

Chairman Johnston - There being no discussion, all in favor, carried.

Ms. Linder - Thank you and I apologize that we had to come in twice, should it be today's date on here.

Chairman Johnston - Yes, you can write it in.

Ms. Linder - Thank you.

Chairman Johnston -- We're now up to review of Zoning Amendment Definitions. Did everyone bring their new copy of the Zoning -

Ms. Fitzgerald - No, because I thought it was going to be too inclement weather to drive home later than we absolutely had to, so I didn't bring mine.

Planning Board Minutes
February 27, 2013

Chairman Johnston - Alright, that sounds very reasonable,
MaryLou,

Ms. Fitzgerald - Mr. White, we need you.

Mr. White - I move we adjourn.

Chairman Johnston - Alright, we cannot put this off,
forever, and we're going to review these definitions, next
month, bring your copy of the Zoning, please.

Mr. Hainer - the Zoning Amendments are on line.

Chairman Johnston - Is there a second for the motion.

Ms. Fitzgerald - I second it.

Chairman Johnston - All in favor, carried.

Meeting adjourned, 7:48 P. M.

Respectfully submitted,

Barbara A. Breyette
Secretary