

MINUTES OF A REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT  
COMMISSION OF THE VILLAGE OF MAMARONECK HELD NOVEMBER 19, 2009 AT 7:30 P.M. IN  
THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT: Mr. Steve Goldstein Chairman, Mr. Anthony Weiner Vice Chairman, Ms. Laura Schneider, Mr. Mark Karell, Mr. Birman

ABSENT: Tim Keebe, Mr. Cary Sleeper

ALSO PRESENT: Janet Insardi, Village attorney

The meeting was called to order at 7:35 P.M.

**1. Mamaroneck Boats and Motors-622 Rushmore Avenue**

John Hilds appeared and addressed the Commission representing the Deutermann's. Mr. Hilds stated that the plans were submitted to the Building Department and he trusts the Commission has received all the submitted documents.

Mr. Goldstein stated that the documents submitted so far both the Engineering Consultant and Environmental Consultant have indicated that there is an awful lot of stuff missing. Mr. Hilds asked for a list of what is missing. Mr. Goldstein asked if they have received the Memos regarding their statement and Mr. Hilds responded he has not.

Ms. Insardi stated that the engineers memo was delivered 11/18/09 an

Mr. Goldstein stated the memo is referring to an email to the applicants attorneys Paul Noto dated 10/22/09.

Mr. Hilds asked for a description of Mr. Furey's, the Consulting Engineers concerns.

Ms. Insardi gave the applicant her copy of the memo.

Mr. Goldstein stated in addition a memo from Mr. Furey dated 11/18/09 stating that to date he has not received responses to his inquiry. Mr. Furey recommends that no further action be taken until such time that these issues have been adequately addressed.

Mr. Hilds asked to address these inquiries, Mr. Goldstein stated not without our Village engineer who has to see the plans and address the issues for the commission. Ms. Insardi stated that Mr. Furey is unable to attend tonight's meeting.

Mr. Hilds stated for the record he would like to go over the list so the commission is aware that progress is being made.

- As far as the dotted line around the boat racks to indicated maximum overhang of the boats, that is simply an amendment to the Site Plan that is being prepared by Cucco Structural Engineers.

- Time table for installation of new steel bulkhead, is greatly dependent upon getting through the HCZMC so they can move forward with the Army Corp of Engineers and the DEC permits for replacement of the bulkheads as well as the relocation of the floating docks currently in the Federal Navigation project.
- Storm Water Management Plan is being prepared by Chris DiAngelis, a sub contractor to Cucco Engineers. The plan is being developed.

The Board and Mr. Hilts discussed the deadlines for submittal and notification. It was decided that they will wait for all submittals to the HCZMC and the PB to be reviewed by Mr. Furey before returning for a public hearing.

Mr. Birman stated before the application is adjourned he wanted to discuss the memo from the EEA dated 11/12/09; Mr. Hilts stated that he never received it.

Mr. Hilts asked who is the central conduit for communications between this commission and the applicant. Ms. Insardi, responded the secretary to the Board, Sally Roberts. Mr. Hilts then inquired why the applicant's are constantly directed to Mr. Winters for submittals. Ms. Insardi responded that once the initial application is made subsequent submittal will eventually go to the secretary to the Board.

Mr. Hilts asked what the deadline for submittals is.

Ms. Insardi stated that once the applicant submits anything it is then circulated to the Board and the consultants for review there is a delay obviously. She, therefore, suggested the sooner the applicant submit the materials the sooner the consultants can review and generate a memo.

Mr. Hilts requested an adjournment, but wanted to make it clear that they are working diligently to develop adequate plans drawings specifications to address the numerous concerns raised by this commission and other Boards.

Mr. Goldstein stated that if the applicant is not prepared he should have notified the Board and requested an adjournment. Mr. Goldstein stated that the concerns of Mr. Furey in his memo to Mr. Noto 10/22/09 were not prepared.

Mr. Hilts asked Mr. Noto to comment on the Memo.

Mr. Noto stated he received the memo and circulated it, he also stated he is involved in the Planning Board process of the application not the HCZMC part. The memo involved the Storm Water Management Plan and the Dutermanns Engineer requires more time to prepare, Mr. Noto further stated he understood there was a conference call Monday the 16<sup>th</sup> to discuss the progress.

Mr. Goldstein stated that is fine that he was just suggesting to Mr. Hilts that it would have been nice if he had just called in and requested an adjournment.

Mr. Noto asked if everything is parallel between the Planning Board and the HCZMC and whether everything should be addressed to both commissions or are the issues separate and different.

Mr. Goldstein responded that some issues are probably related, the Boards will be asking some of the same questions and some obviously not, but in order to expedite matters you should send to both.

Ms. Insardi asked whether they were on the Planning Board agenda and Mr. Noto responded yes hopefully they will have all required submittals in time.

Mr. Hilts stated that there doesn't seem to be any insurmountable obstacles to the Storm Water management, but he is not sure when the engineer will have it ready. If it is ready for the Planning Board meeting 12/9, it will be presented to the HCZMC for the 12/17 meeting. Mr. Hilts stated the EEA memo has its own list of items to respond to.

Mr. Hilts asked if the EEA could cc: both himself and Mr. Noto any memos.

Ms. Insardi stated typically what happens is the commission ok's the forwarding of the memo; the Village will endeavor to see that the memos are forwarded timely.

Mr. Hilts stated that would be greatly appreciated.

Ms. Insardi stated response time is directly affected by a timely submission of the applicant.

Mr. Hilts stated it is not their intention to stall or delay but at the same time if the application is put on the agenda and they are handed memos at the meeting as opposed to beforehand, he would have contacted the commission to say they were unable to fulfill the concerns and ask for an adjournment.

Ms. Insardi stated that chair was referring to the memo from 10/22/09 regarding the Storm water plan therefore this was not going to happen in any event.

Mr. Hilts stated that that was not clear in Mr. Fureys memo of 10/22/09 addressing concerns about plans that Planning Board concerns are the same for HCZMC.

Mr. Goldstein stated that the commission raised this concern in the very beginning; therefore it should come as no surprise that it something that they are very interested in, and without it the Commission can't make any kind of ruling.

Ms. Insardi stated it is pointless to go back and forth the matter should be adjourned.

Mr. Goldstein stated that it should be adjourned until such time that all materials are received complete and intact.

Mr. Hilts agreed, he asked for his clarification that the two memos are the only information required to be answered.

Ms. Insardi answered that once the memos have been addressed by Mr. Deutermann's consultants; the Village consultants will review and will determine what other issues come about. The HCZMC cannot make a decision without the review of the consulting engineer. The applicant can address the consultant's comments either prior to or at the meeting.

The matter was adjourned.

**2. John J. Scarlato, Jr.** Architect for 541 Wagner Avenue – One story living room addition.

Thomas Stracuzzi one of the home owners, 541 N. Wagner appeared and addressed the Board.

Mr. Goldstein asked if the applicant received the memo from the Village Engineer Mr. Furey reviewing the Storm Water Management Plan. Mr. Stracuzzi stated that both he and Mr. Scarlotta have tried to contact Mr. Furey and have been unable to.

Mr. Goldstein referred to Mr. Fureys memo dated 11/18/09 stating he is requesting clarification of the increase in impervious surface and a perk test be conducted where the culverts are to be installed and details as to how the footing drains connect to the proper drainage.

Mr. Stracuzzi said he will give the memo to Mr. Scarlotta to answer.

Mr. Goldstein asked if there were any comments or concerns, there was no response.

The matter was adjourned to December 18, 2009.

**3. AW Oakwood LLC/ Andrew Weiss 803 Oakwood Road** – Relocation of an aluminum ramp, timber floating dock and modification of a timber floating dock.

Ms. Insardi stated that the applicant resubmitted modified plans that were received yesterday. Representation was made that the revisions were made as a result of the neighbor's requests, but Ms. Insardi wasn't sure if the Board or the neighbors have had the opportunity to see the revised plans.

Mr. Goldstein stated that environmental consultants noted that the applicant would also have to return to the DEC and EEA for modifications to the permits.

Mr. Weiss the applicant appeared and addressed the Board. Mr. Weiss stated that the revised plan was sent to three people by email the Lighters, Jennifer and Giddon the HCZMC and John Winters.

Mr. Goldstein asked if all the adjoining neighbors received the email and Mr. Weiss responded to the landward neighbors did not receive.

Mr. Goldstein stated that all adjoining neighbors must be notified and the Board requires proof of that notification. Without proof of notification the matter will have to be adjourned at some point.

Mr. Hilts appeared and addressed the Board on behalf of the applicant. Mr. Hilts stated that Mr. Weiss received Army Corp of Engineers, and NYS DEC approval for the relocation of the floating docks and ramp, subsequent to the approval he met with the neighbors who expressed concerns regarding the location of the floating dock. The results of these conversations are the revised plans, shortening the 6X30 floating dock to 6X20 feet. An entire relocation of the floating docks 5 feet south of the authorized location, the ramp and landing would stay the same. One of the anchor pilings for the floating docks would be eliminated since the float is shortened. The proposed authorized davit would be moved to a point 10 feet south of the concrete landing. As the Engineer stated this would require modifications to

the issued permits, the applicant just wanted to come before this commission and have a chance to hear any further concerns on the part of the neighbors and Board. Once all the issues are put to rest the applicant would go back to the Army Corp and the DEC requesting modifications of the issued permits.

Mr. Hilts stated that Mr. Furey the consulting engineer requested and has been provided with additional photos of the site and explained the photos to the Board.

Mr. Goldstein asked if there has been any on site soil testing, because of concerns about the half submerged engine blocks.

Mr. Hilts stated that there may be some about oil seepage but that is usually a concern for dredging with permits from the DEC. Current restrictions make it impossible to dredge the area.

Mr. Goldstein stated that he was not thinking about dredging but oil seeping in to the ground water supply and the harbor.

Mr. Hilts stated that best management practices would be used during cleanup.

Mr. Goldstein stated with permission of the rest of the Commission he would like to suggest the EEA do a site review of the project re: decontamination of the soil, and protection of the Wetlands as well, and Mr. Furey do a site review as well.

Mr. Weiss stated that the engine block has been removed after the pictures were taken.

Mr. Hilts stated in all fairness there is a working marina across the creek in an inter tidal area; oil can be disbursed in the creek.

Mr. Birman stated the issue is finding out what is there today and going forward, the issue of where the oil came from might not be a factor but we would like to know it is there.

Ms. Insardi stated that the Commission is hoping to avoid any potential problem and there may be none.

Mr. Hilts asked what would be the nature of the review by the EEA and the Consulting Engineer.

Ms. Insardi stated the EEA is the Village environmental consultant.

Mr. Weiss stated that the property was subject to the Planning Board and HCZMC two years ago when the house was built and there was a Phase 1 was done at that time. He will send the Village a copy of the phase 1 for review.

Ms. Schneider asked if a Phase 2 was required, and Mr. Weiss responded no.

Mr. Goldstein stated keeping in mind this is not a public hearing the asked if anyone from the public had any comments or questions.

Ms. Insardi stated that while the public is conferring there were two issues raised in a letter she received 11/18/09 that she would like addressed by Mr. Hilts.

1. Impact on riparian rights of the neighbors.
2. Interference with navigation in particular a designated area.

Giddon Maldavy stated that he is very happy with the principle, but not sure where the davit will be.

Mr. Hilts showed where the davit will be on the plan. Plan revision 2 dated 11/17/09.

Ms. Insardi suggested that the chair ask the public for their comments to date and adjourn the meeting.

Mary Leitner 750 Rushmore stated her concerns about the davit that it is 8 feet tall and that she doesn't see a need for it.

Mr. Weiss stated the remains of the old davit are on the wall and he would like to be able to lift his small boat out of the water to be cleaned and not for boat storage. The boat to be lifted is 2,500 lbs. and the davit is sized to lift up to 5,000 lbs. He further stated that other properties have boat davits.

Susanne McCorrey of 720 The Crescent stated that she is concerned about the elevation, grade level and possible flooding.

Ms. Insardi stated that the property is in the flood zone.

Mr. Hilts stated that the Spinelli survey gives the elevation information.

Mr. Weiss stated that the sea wall is higher than grade and the area floods now.

Ms. McCorrey asked if the proposed wall is higher than the present wall, and Mr. Weiss answered about 6-8 inches higher.

Mr. Maldavy stated that he has seen deteriorate over the years.

Mr. Hilts stated the intention of the sea wall is to retain what is there now not to raise the elevation to stop flooding.

Mr. Maldavy stated that the present wall is collapsing and he is in favor of redoing the wall, the position of the docks and davit are not considered by him to be a major problem. He is much happier with the davit behind the fence.

Mr. Goldstein stated that for the record Mr. Birman had to leave as he was not feeling well.

Ms. McCorrey stated that there is confusion as to who owns the underwater land the 1873 Elisa Rushmore grant seems to go to the middle of the creek.

Mr. Goldstein asked if she was laying claim to the underwater land.

Mr. Weiss stated that according to his survey and the title company he owns the land underwater.

Ms. McCorrey gave the Board a copy of a google earth map and a copy of the 1873 Rushmore Grant.

Ms. Schneider asked about the effect wave action on the proposed sea wall will have on the adjacent properties.

Mr. Hilts responded that the deterioration of the sea wall caused by being poorly built with old railroad ties and not maintained properly impact adjacent neighbors.

Susan McMichael of 700 The Crescent and Julie Long of 715 The Crescent asked if the davit could be camouflaged.

Jennifer of 705 The Crescent asked the Board if her letter was received and Mr. Goldstein responded yes. She then stated that she doesn't want the davit or any reconfiguration of the docks to be granted. She believes that the docks should remain where they are at present, and questioned why they should be moved.

Mr. Hilts responded that where they are now there is no water at low tide and the neighbor has 2-3 feet at low tide.

Ms. Insardi asked if there is any restriction and riparian rights attached to the property.

Mr. Hilts responded that there is no restriction.

Ms. Insardi stated that the legal documents need to be reviewed.

Ms. Insardi stated that the applicant needs to quantify the amount of fill on the plans and send a complete set of plans to the DEC.

There was a question as to whether or not the davit would require a variance.

Mr. Goldstein adjourned the matter to the December meeting.

## **NEW BUSINESS**

### **1. 579 N. Barry Avenue(C-1 District) Site Plan review for detached garage and infill housing (2 Existing units and one proposed unit).**

Paul Noto applicant's attorney appeared and addressed the Board. Mr. Weiss the applicant appeared also.

Mr. Noto stated that this is a Type II action approved by the Planning Board for infill housing.

Ms. Insardi stated that SEQRA has been completed.

Mr. Goldstein stated that they have Mr. Fureys memo dated 11/12/09 and 11/18/09 stating that the plan dated 11/12/09 is satisfactory.

Ms. Insardi stated that they are before the HCZMC for consistency Review.

Mr. Goldstein asked about dry wells and water containment.

Ms. Insardi asked if there were perk tests.

Mr. Weiss responded that yes and the results were given to Mr. Furey by Mr. Salinitro the engineer and shown on the plans given to the Planning Board.

Mr. Goldstein asked about stock piling soil, and Mr. Weiss responded that the silt fence was shown on the plans.

Mr. Goldstein stated that the commission requires that hay bales be used also, Mr. Weiss agreed.

Mr. Goldstein stated that the street is the high point and water will flow back onto the property to the dry wells.

There were no questions or comments from the public.

A motion was made by Mr. Weiner, seconded by Ms. Schneider to find the application consistent with the LWRP.

Ayes: Karell, Goldstein, Weiner, Schneider

Nays:

**2. Gerald Byrne 316 Union Avenue Demolish existing and construct new one family dwelling on same site. David A. Barboti, Architect for Applicant.**

David Barboti the applicant's architect appeared and addressed the Board. Mr. Barboti stated that he had a conversation with the building inspector Mr. Winters and in order to obtain a building permit must appear before the HCZMC < ARB and acquire a building permit to demolish and rebuild the house.

Ms. Insardi stated that the Engineering Consultant has a medical problem and as a result the Board doesn't have his assessment of the project.

Mr. Goldstein asked about cultecs and perk tests.

Mr. Barboti stated that this is the first time he heard Mr. Fureys name.

Ms. Insardi asked if the property is in the flood zone and Mr. Barboti responded no.

Mr. Barboti stated that the calculations were based on the 25 year storm; the number of chambers for the proposed structure are for 100% retention.

Mr. Goldstein stated that the Board has to have Mr. Fureys confirmation on the calculations

A motion was made by Mr. Karell, seconded by Mr. Weiner that this is an unlisted action under SEQRA



Ayes: Karell, Goldstein, Weiner, Schneider  
Nays:

A motion was made by Mr. Karell, seconded by Mr. Weiner to adopt a Negative Declaration subject to a perk test.

Ayes: Karell, Goldstein, Weiner, Schneider  
Nays:

#### MINUTES

The minutes were not discussed as there was not quorum to vote.

#### NEW BUSINESS

Mr. Goldstein stated that he received a letter from the Planning Board regarding 1000 Taylor Place stating that the Planning Board declared intent to be Lead Agency for this 5.16 acre parcel, the matter was reviewed by Mr. Furey.

Ms. Insardi stated that Taylors Lane is famous for hazardous waste and is still being reviewed by the DEC, because of complaints from the neighbors. The HCZMC is a concerned agency and she will request Mr. Furey to cc the HCZMC on all reviews.

Mr. Goldstein stated that this meeting would have been Mr. Sleepers last meeting and he appreciates his service and would like to thank him.

Mr. Goldstein stated that at the next meeting an election for a new chairman will be conducted.

#### ADJOURNMENT

On motion of Mr. Karell, seconded by Mr. Weiner the meeting was adjourned at 9:20 P.M.

Minutes prepared by

Francine M. Brill