

MINUTES OF A REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION OF THE VILLAGE OF MAMARONECK HELD ON JANUARY 21, 2009, AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK

PRESENT: Mr. Steven Goldstein, Chairman
Mr. Carl Birman
Mr. Cary Sleeper
Mr. Anthony S. Weiner, Vice Chairman
Ms. Laura Schneider
Trustee Liaison Toni Ryan
Ms. Janet Insardi, Village Attorney

ABSENT: Mr. Mark Karell
Mr. Tim Keebe
Mr. Keith Furey, Engineering Consultant for the Village

Chairman Goldstein called the meeting to order at 7:35 p.m.

Chairman Goldstein acknowledged receipt of a memorandum from the Village announcing that there will be a reception for Mr. Verastro scheduled for January 26, 2009 at 7:00 p.m. in the Board Room.

NEW BUSINESS:

RUSSELL AND PATRICIA WOLFF – 1045 NAUTILUS LANE – PROPOSED RENOVATION OF EXISTING RESIDENCE, INCLUDING MINOR ADDITION, SWIMMING POOL WITH PATIO, PATHWAYS AND RELATED WORK

Mr. Dan Natchez and Mr. and Mrs. Russell Wolff and Mr. Paul Milliott were present to represent the application.

Mr. Natchez discussed the minor addition to the house noting the following:

- The child living in the house has handicap accessibility issues
- Making the entire facility totally accessible according to ADA standards
- The addition to the garage will be accessible
- The deck area is an impervious surface and the footprint is not increasing
- The accessible ramp to the pool area is going down to the yard
- The staircase will be redone
- There will be minor grading to allow for reasonable transition with chair or walker
- There is an existing cabana
- There will be an accessible toilet, sink and shower added
- Details of pumping to be worked out with the Building Department
- No variances are required
- The roof is flat and will rise 4 ½ ‘ to the existing
- The two paths on either side will be made using stone dust, which allows for wheeled vehicle to go on it and also allows drainage
- Discussion of the planting scheme
- House is in non-listed zone
- Applicant is in receipt of EA memorandum

- Discussion of question raised in memorandum regarding the erosion line was if the applicant needs a DEC permit

Chairman Goldstein asked if there was adjoining landowner.

Ms. Insardi referenced a memorandum from the EEA dated January 20, 2009 regarding infiltration. Ms. Insardi said the chamber is within the area designated and that this will require a coastal management permit. Ms. Insardi reviewed the key points in the EEA memorandum. Ms. Insardi said this is in a flood plain and the Commission will be determining if it is a Type I or unlisted action.

Chairman Goldstein asked about the possibility of moving the infiltration chamber.

Mr. Natchez said that is a non issue, they can move the chamber. Mr. Natchez said they are not materially altering anything. Mr. Natchez said they are doing minor activities that are not subject to the DEC.

Mr. Weiner asked if the cabana is sitting on a slab.

Mr. Natchez said it was.

Mr. Weiner asked if the electrical needs are changing.

Mr. Natchez said they can do a line toward the hour or to the house, they can put in an injection pump or they can put in an injection pump below grade either by the cabana or by the coastal erosion line.

Mr. Weiner asked about the depth of the trench.

Mr. Milliot said it is 2 ½' below grade and that they plan to renovate the lower level.

Chairman Goldstein said the drawings show the cabana is less than 10' and the 3' difference is not shown.

Mr. Milliot said they need 2' of pitch for the pipe to get back to the house for sanitary purposes.

Ms. Insardi read the applicable definition for structure.

Mr. Natchez said Ms. Insardi should read further on about the things that you can't do. Mr. Natchez said there is nothing of any substance here.

Mr. Weiner said he does not agree with Mr. Natchez.

Mr. Sleeper said the issues are grading, materially altering the property and the possibility that the pipe is altering the property.

Chairman Goldstein asked how many yards of dirt they are talking about.

Mr. Natchez said two to four yards of dirt.

Mr. Sleeper asked about the sloping off of the existing patio.

Mr. Natchez discussed the grading and said he is ramping the paths up and they are approximately 4' wide. Mr. Natchez said the ground is between 6" – 1'. The paths are designed at 1-20. Mr. Natchez said there are two paths to make it ADA accessible.

Chairman Goldstein said the major issue is excavation and the installation of the sewer line. Chairman Goldstein asked if the bathroom was really necessary.

Mr. Wolff said this allows his son to get to the beach and waterway. Mr. Wolff is trying to create the property so his son can get around. Mr. Wolff would like to have the bathroom so his son can access it without having to go back to the house.

Mr. Milliot asked if they are working out the cabana to everyone's satisfaction.

Chairman Goldstein said the pathway would not be substantial but digging out the trenchway may be substantial. Chairman Goldstein said if this is declared a Type I action the DEC needs to be involved in the review process.

Mr. Natchez asked if the HCZMC can review it without the DEC.

Chairman Goldstein said at this point the DEC has not been brought into it.

Ms. Schneider said if there was not an existing cabana it would require a DEC review.

Chairman Goldstein said he spoke with the Village Engineer and he said if it was altered significantly in any way it would never be built because it's grandfathered.

Ms. Insardi said it would have to be built in a completely different way to comply with FEMA.

Mr. Weiner asked how old the cabana is.

Mr. Milliot said it has been there since 1965.

Mr. Wolff said the pipe from the cabana to the house is gravity driven.

Ms. Insardi said there is a concern about the disturbance of the soil.

Mr. Natchez said the soil disturbance is less than if they were doing plantings. Mr. Natchez said landscaping is permitted is a coastal erosion area and that they could do a trench simply with a tiller.

Mr. Weiner said he has the following concerns since it was built in 1965: that it has to be brought up to Code, putting in a bathroom is a substantial alteration, what is being represented is not what is going to happen once the work is started, just a pipe or two will have to go in and that this needs the review of the DEC.

Mr. Natchez said the DEC would be evaluating putting in the shower, sink and pipes. The applicant is aware of what is being proposed to keep the cabana. The applicant just wants a place for his child to go to the bathroom. Mr. Natchez said there are inspections and they are not simplistic.

Chairman Goldstein said the issue is how much work is going on and if it would warrant DEC involvement.

Ms. Insardi read Section 505-7 Subdivision C of the applicable regulations. Ms. Insardi said the Commission can circulate this to the DEC and make a determination at the next meeting.

Mr. Weiner said he would like that.

Mr. Natchez said what that does is allows the applicant to move ahead with the house but not the coastal erosion area. Mr. Natchez said he would prefer not to have a month delay on the project.

Mr. Weiner asked Mr. Wolff if he was currently living in the house.

Mr. Wolff said they are not currently living in the house.

Chairman Goldstein asked if there was another site for the bathroom that would be accessible to Mr. Wolff's son.

Mr. Wolff said there was not another site for the bathroom.

Mr. Weiner said while he has concerns about the cabana he doesn't want to hold up the work.

Ms. Insardi said the Commission could adjourn to legal session to discuss the application with legal counsel.

At 8:21 p.m. the Commission adjourned to a legal session.

At 8:28 p.m. the Commission reconvened to the regular meeting.

Chairman Goldstein re-opened the public hearing.

Chairman Goldstein asked if the Commission felt they could render a judgment. Mr. Birman and Ms. Schneider said they would abstain, Mr. Sleeper and Mr. Weiner said they would want the DEC's approval. Chairman Goldstein said based on the Commission's comments they would not be able to render a decision and the applicant would not get approval if the Commission voted now.

Mr. Natchez asked if it would make a difference if the cabana issue was withdrawn.

Ms. Insardi said regardless, two Commission members would not be able to vote on the application.

Mr. Natchez said so the cabana is an issue.

Ms. Schneider said the information on the cabana was just received this evening.

Mr. Birman said outside of the cabana issue he could vote on the application.

Mr. Weiner said based on the memorandum from the EEA he would not approve the application without input from the DEC or new plans being submitted by the applicant. Mr. Weiner said the applicant needs to come back with a solution.

Mr. Natchez said there are two issues, the infiltration and the cabana. Mr. Natchez said it would be a tremendous hardship not to move forward and he is willing to take the cabana out.

Mr. Weiner said he would like to see plans reflecting the cabana being taken out. Mr. Weiner is concerned about the issues the EEA brought up in their memorandum.

Chairman Goldstein asked what other changes need to be made to the EAF and asked Mr. Natchez to go through the EEA memorandum.

Mr. Natchez discussed the contour lines on page one of the plans and the grade changes.

Mr. Milliot said they will provide the proposed grade changes.

Chairman Goldstein said on the south side of the property they are not changing the grade and just west of the cabana by the property line.

Mr. Milliot said they cannot do much in that area.

Chairman Goldstein said he is surprised that the applicant would put a path in that area.

The Commission discussed the EEA memorandum points.

Mr. Milliot said they have provided inlet protection.

Mr. Natchez discussed item #3.

Chairman Goldstein said as long as it is acceptable to the Village Engineer it is o.k.

Mr. Natchez said item #4 is o.k.

Ms. Insardi discussed the frequency of inspections.

Mr. Milliot said they can make changes to the plan with regards to the inspections.

Chairman Goldstein said the applicant should amend the plan to be acceptable to the Village Engineer with regards to the maintenance plan.

Mr. Weiner asked about the perk tests.

Mr. Natchez said they did not know about the area where the rock is.

Mr. Weiner said we could put in language to use slow release fertilizers.

Ms. Insardi said a lot of people do that.

Chairman Goldstein said the excess runoff is to go to the sound and asked if the applicant would be willing to make that a stipulation.

Ms. Schneider said she would move towards integrated pesticide management.

Mr. Natchez said he would like to not put anything in at this point.

Mr. Milliot said he is reluctant to agree.

Ms. Schneider said there is a lot of grass area and would see this as a significant impact.

Mr. Milliot said it would be significant if they were taking an undeveloped property.

Chairman Goldstein said we are just suggesting that going forward, this might be prudent.

Mr. Natchez discussed the last bullet on the page and said he has no objection, except the technical aspect. Mr. Natchez said it will take more than two months and they do not have two months. Mr. Natchez said he would like to move on with being in the silk fenced area.

The Commission discussed the silt fenced area and said it would be o.k. to move on with regards to this issue.

Ms. Insardi said the applicant indicated that the construction process would take five years.

Mr. Natchez discussed what has to be done to implement the project within five years.

Ms. Schneider asked if there was time for the plan to be put together.

Mr. Milliot read and an excerpt from the memorandum and discussed the completion of the construction and grading.

Mr. Natchez said when you bring up the grading you have to stabilize it.

Ms. Schneider asked if that can be put into writing.

Mr. Sleeper said there would be a silt fence around any disturbed area.

Ms. Schneider discussed the size of the erosion area.

Mr. Natchez said best practices say you have to maintain it.

Chairman Goldstein has asked for silk fencing and hay bales.

Chairman Goldstein discussed stormwater control and perk tests.

Mr. Natchez said D and P are on the plans.

Chairman Goldstein said to designate what D and P are.

Mr. Natchez said no new drains are being put in.

The Commission discussed the site description and drains with Mr. Natchez.

Chairman Goldstein was concerned about one of the drains.

Mr. Milliot said the pipe is a 6" pipe made out of plastic.

Chairman Goldstein asked if in the event of a flood would the water backup into it.

Mr. Milliot said there is a 100 year flood and the whole backyard would be under water.

Chairman Goldstein said there is no sewage to be swept out and that this line is not an issue.

Ms. Insardi said we cannot speak for the DEC and that this would be an EEA question.

Ms. Insardi discussed the proposed infiltration.

Mr. Natchez said all infiltration will remain where they are, they will all be shifted with the area and none are in the coastal erosion area. The line coming off of the infiltration will not intrude on the coastal erosion area.

Chairman Goldstein asked how easy it would be to get a legal opinion from the DEC.

Mr. Natchez said that would be impossible.

Chairman Goldstein asked about getting an observation regarding the coastal erosion permit.

Ms. Insardi said a stipulation can be put in and she can draft that stipulation.

Mr. Weiner questioned the construction period of five yrs.

Ms. Insardi said it is usually 18 months.

Mr. Natchez said they plan to move forward quickly and that the building permits are only good for a limited time. Mr. Natchez said the HCZMC's approval does not effect the Building Department elapsed time period.

Chairman Goldstein asked if the applicant was planning to stage this for five years.

Mr. Natchez said no, but that could happen. The issue is pricing and financing.

Mr. Weiner questioned the construction time specification.

Ms. Insardi said the issue is if you open the construction site the neighbors have concerns.

Mr. Natchez discussed the information in the two letters submitted neighbors.

On a motion by Mr. Sleeper, seconded by Mr. Weiner that under SEQRA the Board finds that the application of 1045 Nautilus Lane is a Type I action and there is no intrusion to the coastal erosion area.

Ayes: Goldstein, Birman, Sleeper and Weiner
Nays: None
Abstains: Schneider
Absent: Karell and Keebe

On a motion by Mr. Sleeper, seconded by Mr. Weiner that the application of 1045 Nautilus Lane is consistent with the LWRP provided that the infiltration chamber is moved out of the flood area, that the sewage line meets requirements and the line from the infiltration obtain DEC approval.

Ayes: Goldstein, Birman, Sleeper and Weiner
Nays: None
Abstains: Schneider
Absent: Karell and Keebe

APPROVAL OF MINUTES – OCTOBER 15, 2008 AND DECEMBER 17, 2008:

The minutes of October 15, 2008 and December 17, 2008 will be adjourned to the next meeting of the HCZMC in February.

ADJOURNMENT

There being no further business to come before the Board, on a motion by Mr. Weiner and seconded by Mr. Sleeper the meeting was adjourned.

Ayes: Goldstein, Birman, Schneider, Sleeper and Weiner
Nays: None
Absent: Karell and Keebe

PREPARED BY:

ELIZABETH A. DREAPER
SECRETARY

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO
CLERK-TREASURER