

**MINUTES OF A REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION OF THE VILLAGE OF MAMARONECK HELD FEBRUARY 16, 2011 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK**

**PRESENT:** Mr. Carl Birman, Chairman  
Ms. Laura Schneider  
Mr. Jim Bilotta  
Mr. Bert Siegel  
Mr. Nick Allison  
Mr. Sven Hoeger, Environmental Consultant

**ABSENT:** Ms. Alice Pernick

**RECUSED:** Mr. Peter Jackson

**OLD BUSINESS:**

1. Al Nolletti – Nolles Ridge subdivision – 800 Fenimore Road – Proposed Seven Lot Subdivision which includes one conservation lot and six buildable lots; includes an access road, utilities, stormwater pond and retaining walls – Hahn Engineering. **Coastal Consistency Appeal**
2. Shore Acres Point Corporation – 504 The Parkway – Perimeter Permit and Seawall Maintenance – Daniel S. Natchez and Associates. **No new material received – Tabled**

The meeting was called to order at 7:34 p.m.

Chairman Birman announced that with regard to the Nolles Ridge subdivision, the applicant contacted the Village on or about February 5, 2011 with three new documents which have been circulated among the Commission. Chairman Birman also announced that copies of these documents were available for the public through the Village Clerk's office.

Chairman Birman went on to explain that late on the afternoon of February 16, 2011, he received a phone call from Mr. Jim Hahn, Engineer, Nolles Ridge, to advise that since Mr. Keith Fury and Attorney Silberberg would not be in attendance this evening, he has decided to postpone the hearing this evening and asked to have the application rescheduled for the March meeting.

Ms. Schneider questioned the status of the Nolles Ridge application since the Commission did previously vote on Consistency. Ms. Schneider questioned whether the applicant would reapply to the Village. Chairman Birman stated that the question may need to be answered by legal counsel. Chairman Birman went on to state that the three new documents which have been received address the issues of flooding and erosion control along with additional statistical analysis and he believed that it is a new application. However, he would need the advice of counsel prior to proceeding.

Mr. Anthony Weiner, 203 Beach Avenue, Mamaroneck, New York presented himself to the Commission to comment on the question of whether or not the Nolles Ridge application was opened or closed. Mr. Weiner stated that upon voting on the application and finding a consistency review and issuing a finding, technically, the application is closed. Mr. Weiner stated that if the Commission continues to open applications on appeal, a mockery is being made of the entire process of land use boards in the Village. The applicant does have a right to reapply, however, they will need to follow the process as if it is a new application. Mr. Weiner cautioned the Commission to be careful in making their determination on this issue.

Chairman Birman mentioned that the resolution regarding consistency on this application specifically invited the applicant to return with a proposal which involved moving the pocket pond. In their new materials they stated that they cannot move the pocket pond, it is not practicable. Chairman Birman again stated that he would like to seek legal counsel prior to reopening the discussion on this application. Chairman Birman also stated that the applicant should be on the March agenda and a public forum can be held to discuss the issue of potentially having to reapply.

Ms. Schneider confirmed that this issue will be discussed at the March meeting with counsel. Chairman Birman responded that in the event counsel determines that the process will need to begin anew, he would advise the applicant accordingly and the applicant may not need to be on the March agenda.

Ms. Schneider questioned whether, if the application were to be reopened per legal counsel, there be an opportunity for the Commission to debate that decision. Chairman Birman responded that he cannot determine the latitude which will be given to the Commission by counsel. Chairman Birman stated that he will contact counsel and if a determination is reached, the Commission will be so advised prior to the March meeting.

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Chairman Birman mentioned the fact that Shore Acres Point Corporation mistakenly appeared on this evening's agenda since it was to be tabled, however, he stated he does not recall receiving any communication from the applicant this month. Chairman Birman expressed his belief that it is not fair for an applicant to remain on the agenda indefinitely. Chairman Birman requested that the application be removed from the agenda in the future.

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The next item of business was the approval of the November, 17, 2010, December 15, 2010 and January 19, 2011 minutes.

All changes have been made and revised minutes have been submitted to the Village Clerk.

Chairman Birman called for a motion to approve the November 17, 2010 minutes, as amended. Motion was made by Mr. Bilotta, seconded by Mr. Siegel and passed, with Mr. Allison abstaining.

Chairman Birman called for a motion to approve the December 15, 2010 minutes, as amended. Motion was made by Mr. Siegel, seconded by Mr. Bilotta and passed, with Mr. Allison abstaining.

Ms. Schneider questioned whether the visuals or graphics that are presented to the Commission were a part of what goes into the record. Chairman Birman responded that he assumed that they were since the resolution refers to the submissions that were made. Chairman Birman stated that Ms. Roberts should be in possession of a complete set of graphics from the January meeting.

Additionally, Ms. Schneider stated the fact that the visual presented regarding High Street versus Fenimore where the elevation of the grade was discussed was not in possession of the Commission. She also stated that her comments regarding that scenario were excluded from the minutes. She feels that there are some important facts that should be included. Chairman Birman stated that copies of the materials can be obtained from the applicant. Ms. Schneider felt that much of her detail was omitted from the minutes and Chairman Birman suggested the video be reviewed if there is an issue with the minutes.

Ms. Schneider stated that if the Nolles Ridge application becomes a new application she would not be as concerned, however, if there are questions as to the status of the application, she stated she would prefer more detailed notes and a chance to review the video.

Chairman Birman disagreed with Ms. Schneider and stated the minutes portray an accurate view of the meeting and felt the minutes were ripe for approval.

Ms. Schneider again brought up the fact that she feels her discussion of the grade of the road should have been included in the minutes since it is relevant information especially since a pond is potentially being relocated higher up on the property. The question of the placement of that road and the alternatives were not explored adequately. It appears as though if the properties were closer to Highview Street, they could run a road there and there would not be such a significant change in elevation. The significant change in elevation is actually between Fenimore Road and the proposed houses at the top of the property.

Chairman Birman stated to Ms. Schneider that she did not have to vote in favor of the minutes if she is unhappy with them.

Chairman Birman made a motion to approve the minutes of January 19, 2011, as amended, seconded by Mr. Siegel and passed with Ms. Schneider opposed since she explained that counsel was not present this evening to explain how this document might be used in the future and her concern that it might not contain all relevant information, especially since this application may be reopened.

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Chairman Birman stated that, recently, there have been a number of meetings which have run past midnight and for the sake of the Commission, public and applicants, he suggested an 11:00 curfew be instated with the applicant having the option to continue past 11:00 p.m.

Chairman Birman stated that he will not be present at the next meeting and that Mr. Allison has agreed to Chair the meeting in his absence. Mr. Siegel suggested that this matter be discussed at the March meeting.

The meeting was adjourned by Chairman Birman at 8:22 p.m.

Minutes:

December 2, 2010  
Tabled to March.

Respectfully submitted,

Lorraine McSpedon