

DRAFT

MINUTES OF THE REGULAR MEETING OF THE HARBOR AND COASTAL ZONE MANAGEMENT COMMISSION (HCZM) OF THE VILLAGE OF MAMARONECK HELD JANUARY 18, 2012 AT 7:30 P.M. IN THE COURTROOM AT VILLAGE HALL, MAMARONECK NEW YORK

PRESENT: Nick Allison, Chairman
Peter Jackson
Bert Siegel
Jim Bilotta
Clark Neuringer
Alice Pernick
Laura Schneider
Anna Georgiou, Counsel to the HCZM
Sven Hoeger, Environmental Consultant
Hugh Greechan, Woodard & Curran

ALSO PRESENT: Richard Slingerland, Village Manager
Frank Fish, Planning Consultant

CALL TO ORDER:

The meeting of the HCZM was called to order by Mr. Allison, Chairman at 7:34p.m.

EXECUTIVE SESSION

Mr. Allison stated the first order of business is for the commission to adjourn to Executive session to discuss pending litigation on the property at 818 The Crescent.

On motion of Mr. Siegel, seconded by Ms. Pernick the Commission entered into Executive Session to discuss pending litigation for another land use board. Unanimously.

(Mr. Allison stated a memo had been received from the ZBA but no opinion has been given by this Board on the transmittal as of yet. There is no pending litigation against this board.)

Ayes: Allison, Jackson, Bilotta, Schneider, Siegel, Pernick, Neuringer
Nays: None

The Board entered into executive session at 7:35

The Board returned at 7:41 meeting resumed.

MINUTES

The Minutes of October 19, 2011 were tabled to the February meeting.

On motion of Ms. Schneider, seconded by Mr. Bilotta the Minutes of November 16, 2011 were approved with technical corrections as per Ms. Pernick.

Ayes: Allison, Jackson, Bilotta, Schneider, Seigel, Pernick,
Abstain: Neuringer

On motion of Mr. Bilotta, seconded by Mr. Jackson the minutes of December 21, 2011 were approved as amended by Mr. Jackson

Ayes: Allison, Jackson, Bilotta, Schneider, Seigel, Pernick, Neuringer
Nays: None

OLD BUSINESS

None

NEW BUSINESS

Read into the record an email from Katherine Desmond dated 12/22/2011.

Mr. Allison stated he doesn't have a copy of the email in his packet the matter was tabled.

Open Public Hearing on the Determination of Coastal Consistency for the Comprehensive Plan Update and Coastal Assessment Form of same.

On motion of Ms. Pernick, seconded by Mr. Bilotta the public hearing was opened, unanimously.

Ayes: Allison, Jackson, Bilotta, Schneider, Seigel, Pernick, Neuringer

Nays: None

Mr. Neuringer asked for clarification of the document to be reviewed asking if it was dated December 2011 Draft..

Mr. Fish stated correct, a cover letter dated 1/12/12 from Mr. Slingerland was with it.

There was an October document draft that Mr. Allison passed to the Commission.

Mr. Slingerland gave a brief history stating the Mayor and Village Board have been working on the update since 2006, they declared lead agency status, the public hearing was opened October 4, 2011 held meetings and allowed additional time for written comments as well as prepared a coastal assessment form. The Plan is a visionary statement for the Village and where the Board would like it to be in 10-20 years.

The last master plan was done in 1986. The moratorium the Trustees set regarding building will expire 3/12/2012. The Village Board granted an extension so the CZMC will have time to review the document before voting. The Trustees wanted to give the HCZM enough time to review the plan and vote on February 15, so the Village Board can meet after that as they are the only ones that can adopt the Comprehensive Plan. So far the Board has met most of the targets and deadlines.

Mr. Fish summarized the plan, and handed out a document highlighting the differences between the October and December draft, a letter from the Westchester County Planning Department, a resolution of the Planning Board adopting the Plan, and a Negative Declaration with SEQR finished.

Mr. Fish and Mr. McCaffery are writing the LWRP and are coordinating both documents. The Comprehensive Plans content is solely up to the Trustees. The Comprehensive Plan will not go into as much depth as the LWRP which should be adopted sometime this year.

The Comprehensive Plan was developed over the past few years, by 25 people under the chairmanship of Robert Galvin.

Mr. Allison stated he received a communication from Sue McCory 90 minutes ago

Mr. Tiekert stated he felt there is a short window to make a decision and asked if the application is complete.

Mr. Allison stated the Trustees granted an extra 4 days.

Ms. Georgiou read from chapter 240-29 the filing of Coastal Assessment form that triggers the 30 days requirement.

Mr. Fish stated that this is a generic document, the Trustees made a decision and sent it to CZMC therefore it is complete.

Rare and endangered species were discussed as well as water quality

Ms. Schneider stated volunteers cannot replace professional's knowledge and that a professional should be hired to protect the water front. The Village should be proactive rather than reactive.

The DEC and the Coast Guard protect the coast.

Mr. Slingerland stated that the Village is under violation for sewer discharge, the system is 80-100 years old and requires updating. The problem is that 90% of the overflow is caused by upstream areas that impact is being worked on.

Ms. Schneider stated that if you were to walk thru the industrial area after a storm you would see how disgusting it is. Mr. Slingerland stated he will ask the Board to consider it.

Mr. Siegel stated that Ms. Schneider's comments were applicable but the Commission is only required to determine consistency with the LWRP. The stated goal of the new plan is to better the Village and make some immediate zoning changes.

Mr. Slingerland stated they are working with the Army Corp of Engineers to mitigate flooding; 5 inches of rain in a 24 hour period will cause a flood,

Mr. Allison stated this document is to set us on the correct path.

Mr. Fish stated the Commission is being asked to determine consistency, there were changes made in response to the Counties letter, this is a well reasoned plan that can be updated as the Trustees see fit.

Mr. Neuringer stated that the document tends to go into detail on certain areas and generalizes in other areas.

Mr. Fish stated that the Trustees were specifically asked to focus on zoning; they can make updates in the future.

Chairman Allison asked if there were any public questions or comments.

Ms. Rooney asked about impervious surfaces and lot coverage's.

Mr. Ticker stated that the document is vague in many ways and not clear.

On motion of Mr. Neuringer seconded by Mr. Siegel the matter was adjourned (6-1)

Ayes: Neuringer, Siegel, Allison, Schneider, Bilotta, Pernick
Nays: Jackson

M. Allison stated any comments are to be submitted to the Village Clerk.

5 minutes break

Bennett and Cynthia Golub – 710 Taylors Lane – Determination of Coastal Consistency and Marine Structures Permit for erecting marine structure to fill cavity to prevent destruction of landmark structure. (Have escrow funds)

Daniel Natchez, Pres Daniel S. Natchez addressed the Board.

Mr. Golub the owner stated that project is a result of the damage from Hurricane Irene, stating his family had to evacuate. Wave energy caused the mill room floor to buckle, siding was stripped off the house and the support beams were knocked off the foundation. When he was forced to evacuate he was not sure the room or the house would survive. He hired a structural and marine engineer to determine the best solution to prevent further damage.

Mr. Allison asked Ms. Georgiou about the Board of Architectural Review (BAR) action.

Ms. Georgiou stated there has been correspondence from Paul Noto the attorney for Mamaroneck Beach and Yacht Club (MB&YC) and Mr. Golub's counsel, the core issue is whether or not the BAR issued a Certificate of Appropriateness. The certificate is a prerequisite because this is an historic site. Whether it has been satisfied is an open issue to be determined by the Village Attorney.

Mr. Natchez stated they are here for consistency determination, and a structures permit.

Ms. Georgiou stated that the Commission permits and the Building Department issues.

Mr. Natchez stated that the Commission can move forward to determine consistency.

Mr. Georgiou stated that the problem is the structures permit.

Mr. Neuringer stated that if found not consistent the building inspector cannot issue a permit.

Mr. Bilotta stated that if the BAR doesn't approve it would be a waste of time.

Mr. Natchez stated he checked with the BAR and they deferred determination to confer with counsel.

Mr. Noto stated that the BAR told the applicant to return with alternatives, it is a delicate situation and without consistency approval nothing moves.

Mr. Marwell the Golub's attorney suggested that what happened at the BR is not a condition and the CZMC should open the public hearing. He further stated that they have a default approval by operation of law.

On motion of Mr. Neuringer, seconded by Mr. Jackson the public hearing was opened unanimously (7-0)

Ayes: Allison, Neuringer, Jackson, Siegel, Schneider, Bilotta, Pernick

Nays: None

Ms. Georgiou stated they are dealing with a SEQR Type II and a determination of consistency and approval or disapproval of a structures permit.

Mr. Bilotta asked if the application is not complete can the commission vote. Ms. Georgiou responded that the BAR approval is a prerequisite of a Structures permit not consistency. They have 30 days from the fling of the coastal assessment.

Mr. Golub stated that he is concerned that the house will be destroyed in a storm and clarified despite rumors he is not offering seasonal housing, it will remain a single family residence. The foundation was exposed to the

water, he just wants to do repairs. He stated he hired an engineer, to reduce expose to wave energy, and to prevent water from hitting under dining room causing more damage.

The siding was discussed as it is not a historically accurate feature.

Mr. Natchez stated there is no historical data to confirm when the building was changed, the mill equipment was removed long before its historical designation. The building received historical designation in the 1980's

Mr. Neuringer asked why it was landmarked. Mr. Natchez stated that the homes owner at the time believed in landmarks.

Mr. Natchez showed a video to the Board taken at the tail end of Irene. He stated that the three sided cavity under the room, gets water trapped in it and the air is pushed up into the floor boards lifting them. The foundation stones holing the support beams have been dislodged and the beams are either loose or only bolted to the flooring. Rather than a stop gap fix Mr. Golub is looking for a permanent solution. If the storm had hit at full strength the room would have been destroyed. The engineer had looked at the problem and concluded that the only solution is to put up sea wall and fill the cavity behind.

Mr. Natchez explained the view of the house from the water, stating at normal eye level you can't see the cavity

Ms. Lucas an architectural historian addressed the Commission, stating that although the building is now a residence it reads as an industrial building, and she would like to see the building rather than destroyed. It is the only surviving mill in Mamaroneck, although it is not what is looked like when it was an operating mill. It was rebuilt after a fire and was already a residence when designated a landmark. The building tells a story of what was in the Village.

Mr. Noto stated the mill was built in 1792 and designated in 1983 as architecturally significant. The BAR voiced concerns with the proposed sea wall in front of the mill section as viewed from the water and Orienta. He read section of the LWRP page 14 listing conservation areas into the record as a significant fish and wildlife habitat. The proposal is to construct 32 feet of sea wall filling the the342 sq, foot cavity with 65 cubic yards of material. The designated mill once walled off becomes just a house. The building has survived 220 years of storms. When you purchase a landmarked building you have a responsibility. The BAR suggested the applicant look at alternatives, magnitude of fill over threshold, far more significant project, big deal for the water-front,

Mr. Hoeger prepared a statement, the only environmental policy applicable is policy 44 to preserve and protect wetlands. This is a case ~~of filling in a tidal wetland, which is inconsistent with the LWRP.~~ Having said that we don't have much caves and cave dwellers, therefore it is not very significant, we have to weigh policies.

Deleted: It is a stretch, but

Deleted: it is inconsistent to

The engineer reviewed site aspect, conceptually to protect from flooding. He stated that he was surprised it doesn't get flooded more often. Environmental aspects structural not that out of line.

Ms. Schneider asked about construction impact on wildlife

Mr. Hoeger stated construction would require certain precautions the Building Dept. would be responsible to implement.

Mr. Natchez stated he applauds Mr. Noto's passion, Bottom line in terms of review, agency that you have to get through the ACoF E has issued a permit, NY State opined stating the area owned by the applicant, other agencies completing review process. This board has approved projects of greater significance. Boils down to

do you want to save the portion of the house or not. The severity of the impact has not been greater than during Irene,

Water out of the Mill Pond, sluice gate will not be impaired or impacted. Great deal of thought has been given what is proposed will protect the structure. Owning a land mark structure does not required maintenance,

Maclomn McClaren, the applicants Engineer stated the tide is about 9 feet, and at low tide sand exposed, waves flow in and push air a ½ of pSI could lift the structure, The supports have moved, A few years ago the floor was tightened and made matters worse. At high tide the cavity (18X19 feet) is not visible it is filled with water. Other alternative such as allowing vents thru the house; or armoring the floor, the bottom of the siding is not the floor.

Mr. Neuringer wants to know more regarding alternatives such as opening behind the cavity.

Mr. Golub stated that would flood the road and the pond would turn tidal and result in mud flats.

Mr. Bilotta stated that if the opening was kept above the height of the sluice gate the pond would not drain.

Mr. Bilotta asked what other ways pressure can be relieved.

Mr. McClaren stated an armored floor, turning the inside of the wall to concrete.

ASIDE re Sluice gate location and the wheel of the old mill.

An option would have been to put an 18 foot wall under the building. Mr. Natchez stated why alternatives wouldn't work.

Mr. Natchez stated the issue is foundation is damaged, and impacted, either fix it or let it fall down. Stated why consistent, actually issue long term integrity.

Mr. Noto stated there is a break wall installed already, there are lesser alternatives that might be easier for the applicant, it is incumbent on the applicant to have alternatives.

Mr. Siegel stated he is confused as to why you are here about a structure with structural issues; Mr. Noto responded the neighboring property owner is concerned with the effect on their property as this plan is a significant 3 year project with lots of fill.

Mr. Siegel asked Ms. Georgiou whether it is appropriate to question what is going on between neighbors, Ms. Georgiou stated that it can put it on the record that there is litigation between the parties, although not relevant to the matter.

Mr. Jackson stated that it is 11:05 P.M. and asked the applicant if they would be opposed to adjourning.

Mr. McClaren asked for the public hearing to be closed.

Mr. Jackson stated that we have not had and adequate for comments from counsel.

Mr. Natchez had no objection to closing the hearing and wait for an answer from the BAR and Counsel, but would want to be able to comment.

Public Comment

Lisa Rosenshein, Pres of MB&YC, and land owner, stated she is concerned about the impact to her view by the plan. She understood there was to be a presentation, would like to understand how the filling of the cavity a will affect the neighboring properties. Why can't alternatives discussed,

Mr. Siegel asked if the docks that were impinging Mr. Golub's property have been moved and Ms. Rosenshein responded yes.

Mr. Natchez stated for the record that they for three years for the permitting process not the construction.

Ms. Georgiou stated that the harbor Master indicated he has no concerns.

On motion of Mr. Siegel, seconded by Ms. Pernick the public hearing was closed allowing no further submissions but counsel's opinions. Unanimously (7-0)

The applicant has agreed to waive the 30 day time constraint.

The Matter is adjourned to February.

Richard and Meredith Canter – 516 Shore Acres Drive – Determination of Coastal Consistency and Marine Structures Permit for reconfiguration of existing recreational docking facility and shoreline stabilization. (Have escrow funds)

Mr. Jackson stated that it is 11:20 P.M.

Mr. Allison asked the applicant if the matter could be held over,

Mr. Natchez stated it might be quick, as they have fulfilled all necessary notices.

On motion of Mr. Jackson seconded by Mr. Bilotta the public hearing was opened unanimously (7-0)

Mr. Natchez stated it is a minor reconfiguration of a docking a facility. He explained the plans and stated the only concern the Harbor master had was he wanted a wider fairway.

The size of boats coming into the harbor was discussed it was stated that the Harbor Master was concerned that a limit should be set.

Mr. Neuringer stated the proposed solution is better than what exists now.

The height of the pilings was discussed. 10 feet above high water

Ms. Pernick stated that pilings visually stand out; Mr. Natchez responded that the Harbor Master prefers piles.

Mr. Jackson asked how many docks in the area have piles, Mr, Natchez responded that the fixed piers on the neighboring property have piles but not the floats, only the Gilern property has floats.

Mr. Jackson stated that he believes the Harbor Master is concerned about the number of piles.

Mr. Natchez stated he believes he is concerned moorings would be replaced with piles.

Mr. Siegel asked if the float could be moved closer to shore, Mr. Natchez stated that they need 6 feet of water under the boat at low tide.

Prior approvals were discussed and Mr. Jackson proposed to adjourn the matter for the applicant to supply the Commission with that information. Also he would like the Harbor Masters view on piling verses anchors.

Mr. Neuringer asked from a practical stands point when the applicant would want to start construction, Mr. Natchez answered hopefully next month.

On motion of Mr. Jackson, seconded by Ms. Pernick the matter was adjourned (6-1)

Ayes: Allison, Jackson, Pernick, Bilotta, Schneider, Neuringer
Nays: Siegel

ADJOURNMENT

On motion of Mr. Jackson, seconded by Ms. Pernick the meeting was adjourned at 11:45 P.M.

Minutes prepared by

Francine M. Brill