

**These are intended to be “Action Minutes”, which primarily record the actions voted on by the Planning Board on November 13, 2008. The full public record of this meeting is the audio/video recording made of this meeting and kept in the Planning Board’s Records.**

**PRESENT:** Robert Galvin, AICP, Chairman  
Carl Alterman  
Michael Ianniello  
Steward Sterk  
Lee Wexler  
Thomas A. Murphy, Trustee Liaison  
Janet Insardi, Village Attorney  
Keith Furey, Village Consulting Engineer  
Rob Melillo, Assistant Building Inspector  
Susan Favate, BFJ Planning Consultant

**AGENDA:**

**OLD BUSINESS:**

- 1. APPROVAL OF MINUTES**
- 2. 703 W. BOSTON POST ROAD – H. SPADARO – Site Plan extension**
- 3. 181 EAST BOSTON POST ROAD – BARNACLE – Continuation of site plan (deck addition to existing restaurant building)**
- 4. 1444 EAST BOSTON POST ROAD (PEOPLE’S UNITED BANK) – Construct bank where restaurant and gas and gas station now exist**
- 5. 270 WAVERLY AVE. - SHELDRAKE ESTATES CONDOMINIUM – Request for extension of site plan**
- 6. 233 HALSTEAD AVE. –M ETRO PCS NEW YORK, LLC – Installation of wireless telecommunications facility on roof of senior citizens building**

**NEW BUSINESS:**

- 1. 859 MAMARONECE AVE. – JOE GERMANO – Informal discussion, site plan amendment**
- 2. 1000 TAYLORS LANE – MARK MUSTACATO – Pre-submission discussion for 3 lot subdivision**

3. **800 FENIMORE RD. – NOLLES RIDGE** – Pre-submission, proposed subdivision (6 residential lots, 1 conservation lot)

Chairman Galvin called the meeting to order at 7:08 p.m.

**OLD BUSINESS:**

1. **APPROVAL OF MINUTES**

A motion was made by Mr. Sterk to approve the minutes of the Regular Meeting of the Planning Board held on October 23, 2008, as submitted, seconded by Mr. Wexler.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

Chairman Galvin announced that this will be Mr. Alterman's last meeting. Chairman Galvin thanked Mr. Alterman for his time and effort and said he has been an asset to the Planning Board and to the Village.

Mr. Alterman said he should be the one to thank the Village for the opportunity to give back to the Village and that he is very lucky to have worked for the Village.

2. **703 W. BOSTON POST ROAD – H. SPADARO** – Site Plan extension

Chairman Galvin said there is interior work to be done and the applicant needs to extend the site plan to do the work. Some items on the site plan will need to be reviewed during the process of granting the Certificate of Occupancy. The application meets the new FAR requirements. Chairman Galvin suggested to the Village Attorney that we might want to rethink the duration of site plan approvals.

Mr. Harry Spadaro/138 Mamaroneck Avenue was present to represent the application.

Mr. Spadaro, the owner, said that the building is up. He now has a tenant and is ready to begin the interior design work for the tenant. Mr. Spadaro said he has already done some plantings and has added more on the Boston Market side. Five evergreens were planted in the back and one has since died. He will replace the dead evergreen and add an additional five evergreens per the site plan.

Mr. Wexler said that the plan indicates an optional sidewalk leading from the street to the building. He asked if that is included in the current plans.

Mr. Spadaro said that the sidewalk would be included in the plan.

A motion was made by Mr. Wexler to extend the site plan for 703 W. Boston Post Rd. – H. Spadaro, until June 30, 2009, seconded by Mr. Ianniello.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

**3. 181 EAST BOSTON POST ROAD – BARNACLE BBQ** – Continuation of site plan (deck addition to existing restaurant building)

Chairman Galvin said the applicant has received the ZBA special permit for the restaurant and a waiver from the Board of Trustees for the waiting period for the review of the liquor license by the NYS Liquor Authority.

Mr. Coleman McCarthy/property leasee, was present to represent the application.

Mr. McCarthy distributed pictures of the back deck to the Board members. Mr. McCarthy said he asked Brewer's (the property owner) about moving the handicap parking space and they said they would prefer to leave it as it is near the front of the lot (where it is currently). Mr. McCarthy said the bushes are on the plan.

Chairman Galvin said it makes more sense to leave the existing handicap space where it currently is. The Board just wants to make sure that the area is screened with 3 foot high bushes.

Ms. Favate reviewed the following items on the to-do list:

- Green screening on the proposed deck
- Swing-out door at the foot of the stairs from the proposed deck should be exit only
- Applicant should check with the Building Department on the dimensions of the handicap space
- Lattice work on the deck
- Lighting
- Bushes to buffer the first parking space (handicap space)
- The memorandum from Ms. Favate indicating that the proposed bushes should be continued eastward to protect the first parking space and should be approximately 3'

Ms. Favate indicated that most of the items on the to-do list have been completed.

Chairman Galvin said the applicant should revise the plans to move the handicap space and indicate the extension of the bushes to screen the first space (handicap space).

Mr. Wexler said the lattice work looks great in the picture. Mr. Wexler raised questions about the ramp.

Mr. McCarthy said there is a wall there now and that he was going to put up some lattice as currently exists.

Mr. Wexler and Mr. McCarthy discussed the placement of the lattice on the ramp and the safety of the ramp.

Chairman Galvin said this is an existing structure. The applicant is adding a deck in the back and replanting in the front, adding green screening. There is no change in the footprint of the building.

Chairman Galvin said the current application is an unlisted action under SEQRA.

A motion was made by Mr. Alterman to declare a negative declaration for the application of 181 East Boston Post Rd. – Barnacle BBQ, based on the review of the plans and landscaping, seconded by Mr. Ianniello.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

A motion was made by Mr. Sterk for final site plan approval for the application of 181 East Boston Post Rd. – Barnacle BBQ, in accordance with the plans dated September 29, 2008, seconded by Mr. Alterman.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

Chairman Galvin said the Village will need four copies of the plans and they may be given to M s. Gerry Diamond, the Planning Board Secretary.

Ms. Favate reminded the applicant that the handicap space and the bushes to screen the space should be shown on a revised plan.

**4. 1444 EAST BOSTON POST RD. (PEOPLE’S UNITED BANK) –**  
Construct bank where restaurant and gas station now exist.

Mr. Paul Noto, Esq./650 Halstead Avenue and Mr. Craig Tompkins of Bohler Engineering were present to represent the application.

Chairman Galvin discussed the following issues regarding the application:

- Acknowledged receipt of and read the letter from the Westchester County Department of Planning
- Curb cuts will need to be reviewed by the NYSDOT

- Bike racks will need to be installed and shown on the site plan
- Acknowledged receipt of a letter from Atlantic Traffic and Design Engineers regarding parking generation factors which had previously been provided to the ZBA
- The Board has received Ms. Favate's comments regarding customer parking and land banking
- The Board has received Mr. Furey's comments on stormwater

Mr. Tompkins said they are planning to go to the HCZMC regarding the stormwater.

Chairman Galvin said this is basically in the ZBA and the application is still open.

Mr. Noto said they had a ZBA hearing and it went well. They had a discussion about parking on the Sterling Avenue side.

Chairman Galvin said a letter was sent to the ZBA regarding granting a variance based on the land banking recommendation of the Planning Board.

Mr. Noto said he got the impression that the ZBA was unenthusiastic about the variance on the Sterling Avenue side. Mr. Noto would like to make sure the lighting and the three parking spaces are resolved.

Chairman Galvin said one of the previous comments made at the last meeting was in regard to the expansion of the buffer to 5 feet along Toyota City's property.

Chairman Galvin said the access road adjacent to the proposed drive thru's was recommended by Georges Jacquemar of BFJ Planning. It is doubtful that both drive-thru's will be filled in at the same time and it would be more beneficial to have additional buffering and landscaping along the residential properties to the rear.

Chairman Galvin distributed pictures of other People's United Banks in the area (Thornwood and Cos Cob) and discussed the layout of the other sites, especially the drive thru's.

Mr. Tompkins discussed the following issues:

- Because of the second floor tenants at Thornwood, the applicant needed more parking spaces on-site
- Bank would like to have two drive-thru's to accommodate customers
- It is archaic for the Zoning Code to say that eight parking spaces are required
- The applicant has put together a section through the building for the canopy to indicate the impact on adjacent residential properties
- The three parking spaces in question on Sterling will likely not be permitted. The applicant has four alternates.
- Applicant would like to close out the Planning Board's questions

Mr. Tompkins showed the Board a drawing of the three spaces and described the four alternatives.

The first alternative is to eliminate the three stalls on the Sterling Avenue side and provide them in the back, eliminating the bypass.

Mr. Sterk asked in this alternative if the applicant is expecting that the three spaces will be spaces that people will back into.

Mr. Tompkins said the spaces will be designated as employee spaces.

Mr. Tompkins said the second alternative is to have the three stalls on the top, putting the driveway in the center of the Sterling Avenue frontage.

Mr. Tompkins said the third alternative is to provide two stalls on the side, (refers to the left side of the drawing bordering Toyota City), with one space on the right side.

Chairman Galvin asked about the buffer requirements related to the Toyota City property.

Mr. Melillo referred to the Village Code.

Mr. Tompkins said the fourth alternative is to put the cars on the inside of the curb at this same location.

Mr. Melillo said he doesn't think the applicant can park in the front yard.

Mr. Tompkins said the drive-thru's are excluded from the setbacks.

Mr. Tompkins said they increased the Toyota City setback to 5' as suggested by the Board. There is a liberal amount of landscaping, provided in the 5' buffer. The adjacent neighbor has two lines of fences.

Chairman Galvin said Ms. Susan Oakley has indicated the use of evergreens along the rear setback (adjacent to the residential properties).

Mr. Tompkins discussed the lighting plan and said there will be shoebox fixtures.

Mr. Tompkins said he reduced the pole heights from 14 to 12 feet and said the ATM conforms to the lighting requirements mandated by New York State.

Mr. Noto said he would like the Planning Board to give him some direction as to what alternative they like regarding the several parking scenarios.

Mr. Tompkins said they will be going before the BAR and HCZMC.

Chairman Galvin asked if they were putting a dumpster on the site. Mr. Tompkins said no.

Chairman Galvin asked what type of street tree is being used. Mr. Tompkins said they are Scarlet Oaks.

Mr. Ianiello asked what the plan for the cross sectional was. Mr. Tompkins said it is unilock and under 4'.

Mr. Ianiello asked what the height of the canopy is. Mr. Tompkins said 17', (14' and 3' for the depth of the canopy).

Mr. Ianiello asked why the height is 14'. Mr. Tompkins said the reason is to allow the recessing of the lights. Mr. Tompkins indicated that he was mistaken and that the canopy is 12' and 5'.

Mr. Ianiello asked about the evergreens along the back. Mr. Noto said he will do whatever Ms. Oakley recommends.

Mr. Tompkins said there are no shade trees in the back and the bulk of the trees are evergreens. The height of the fence is limited to 5' and they will have to supplement that with trees.

Mr. Wexler discussed the elevation and the house on Sterling being on the same grade. Mr. Wexler said the house shown on the plans is the house on the hill and it is a little deceiving.

Mr. Sterk asked about the retaining wall and Mr. Tompkins said the wall goes from 1 foot to 6 feet and back to 2 feet.

Mr. Tompkins said the thought was to see how the canopy relates to the neighboring residents.

Ms. Favate said Ms. Oakley recommended that the height of the evergreens be from 8' to 20'.

Mr. Tompkins said they will go to 8' and will confirm the tree heights with Ms. Oakley.

Mr. Ianiello asked if the border on the adjacent property was a 5' planting bed along the Toyota City side or 8'.

Chairman Galvin said it was 5' and that Mr. Spencer had indicated that the code required it to be 8' for the first 50 feet from the street and then 5' thereafter.

Chairman Galvin asked if the 8 and 5 foot provision applied regarding the parking spaces in alternative four. Mr. Melillo was not certain.

Mr. Ianiello asked if alternative four still works if you have to shift everything towards Sterling. The Board discussed this and said yes.

Chairman Galvin reviewed the alternatives and asked the Board members which alternative they would choose.

Mr. Ianiello said he would choose alternative four.

Mr. Sterk said he was not really satisfied with any of the plans but the land banking plan, (#13), is the best.

Chairman Galvin said he would choose alternative two.

Mr. Alterman said he thinks the land banking makes sense but alternative two looks the cleanest.

Mr. Wexler said that he agrees with Mr. Sterk and that all the plans are a distortion of the site and Code. Mr. Wexler said he thinks that the land banking plan, (#13), is the best option.

Chairman Galvin asked Ms. Favate about alternative two. Ms. Favate said it is closer to the intersection and doesn't know if it breaks the threshold on safety. Ms. Favate said alternative two is the best option of the four presented.

In regards to alternative two, Mr. Sterk asked if there was any reason why the entrance and exit can't be in the same place as in alternative three and four. Mr. Tompkins said yes, because the radius becomes very tight.

Chairman Galvin said if the applicant went with alternative two they might want to move it a couple of feet further way from the intersection with the Post Road.

Mr. Tompkins said if they move it up they will lose a stall and gain 4'. They are still in negotiations with Con Ed regarding what to do with the pole.

Mr. Noto asked what would be the criteria for the Board to approve the paving of one or more of the land banked spaces in the future.

Chairman Galvin said the applicant would need to provide information on parking utilization on site. When the applicant sees a problem on site, they should do a parking utilization study and bring it back to the Board.

Mr. Tompkins said for the three stalls he thought they had alternatives that would work.



Chairman Galvin said the Board should use an 85% utilization rate and have them conduct a count using a fifteen minute period in the study.

Chairman Galvin said that if there is a problem on the site, the Planning Board is providing parameters for the applicant regarding parking utilization.

Mr. Wexler said the Board's problem is not the placement of the three spaces.

Chairman Galvin said the Board's recommendation of land banking is still preferred.

Mr. Wexler mentioned that the ZBA spoke about the bypass at their meeting. Mr. Wexler said that his understanding of the Planning Board was that there is skepticism about the need for the two drive-thru's and a bypass. Mr. Wexler said it makes sense to eliminate the bypass on the site plan and increase the buffer and greenspace.

Chairman Galvin said he did not believe that the two drive-thru's would be busy at the same time.

Mr. Ianiello suggested having a teller lane and a bypass.

Chairman Galvin asked if they could have one ATM and a teller window on the wall. Mr. Tompkins said that would not work internally.

Mr. Sterk said he doesn't see the need for two banking lanes and would rather green up the bypass.

Mr. Wexler said he understands the justification for a bypass in general, but believes that it becomes much less important if there are multiple drive-thru's. .

Chairman Galvin indicated that the applicant eliminate the bypass lane and use it for buffering and green space. The Chairman indicated that there were questions about the proposed lighting plan.

Ms. Favate said she asked her associates about the lighting and has not received a review of the lighting. One comment was about having the canopy lights recessed so that there is no glare onto the residential properties. Ms. Favate said she should have the full lighting comments by tomorrow.

Chairman Galvin asked Ms. Favate to send the lighting comments to the Planning Board and to Mr. Tompkins.

Ms. Favate said we have to make sure there will be no problem with lighting spillover for the residential neighbors nor any glare for vehicles traveling on the Post Road.

Mr. Tompkins said the lighting will be shoebox lighting and a 14' shield, which should protect the neighbors from any glare.

Chairman Galvin said he will comment to the ZBA Chairman that the Planning Board feels land banking remains the best alternative and that we agree to eliminate the bypass, using it for additional landscaping.

**5. 270 WAVERLY AVE. – SHELDRAKE ESTATES CONDOMINIUM –**  
Request for extension of site plan.

Mr. Paul Noto, Esq./650 Halstead Avenue was present to represent the application.

Mr. Noto distributed information to the Board.

Chairman Galvin reviewed the application and said on December 17, 2007 the final site plan was approved.

Chairman Galvin asked who owns the property and Mr. Noto said Sheldrake Estates LLC is the owner.

Chairman Galvin said he had asked for a memo from the Building Department on the status of this application.

Mr. Noto discussed the information he distributed to the Board.

Chairman Galvin said the applicant has given Mr. Noto the stream control permit signed by the applicant and Westchester County, noting that the permit has now been issued by the County.

Mr. Noto reviewed the history of the application. Mr. Noto said there is a recreation fee of \$2,500.00 per unit and the fee has been paid and is in escrow. Mr. Noto said when Local Law #5 – 2008 was adopted on May 8, 2008, it effected the FAR.

Chairman Galvin said that the FAR under the new law for this RM -3 zoned site is a maximum of 1.2 (which includes the bonus for affordable units). The current plan using the parking and loft areas is now 1.6.

Mr. Noto said it wouldn't be difficult to get to 1.2 if the parking area was not included in the FAR calculations..

Chairman Galvin said for the record the difference between a calculated 1.35 FAR (which is excludes the parking areas) and the required 1.2 FAR comes down to approximately 78 - 80 units. When the plan was approved in December of 2007, the marketing and economic climate was different. If one were to redo the unit mix at this point, the applicant should reduce the number of one bedroom units and convert a percentage into two bedroom units.

Mr. Noto said the applicant would still have the issue of parking being included in the FAR.

Mr. Noto referred to a letter from Mr. Sullivan, the architect, and said that the Local Law applies to the project even though it was adopted after the project started.

Mr. Noto discussed the new State Fire Code.

Chairman Galvin asked if the applicant ever applied for a variance from the new State Fire Code and Mr. Noto said no.

Mr. Noto indicated that the Building Inspector has stated that the applicant would need to go to the ZBA for a variance from the FAR due to the new FAR requirements of Local Law #5 – 2008. The applicant cannot commence construction before December 17, 2008 because the site plan does not comply with the new FAR law. The applicant is asking for a one year extension to go to the ZBA for a variance from the FAR to proceed with the project. Mr. Noto said the delay is not the applicant's fault and that this has been a lengthy process. Mr. Noto said the project will be a LEED certified building. Mr. Noto said the applicant has invested 13 million dollars into the project. Mr. Noto said the applicant would like a site plan extension in order to get the necessary variances..

Mr. Sterk asked why the extension would buy the applicant time. Mr. Noto said because on December 18, 2008 the site plan approval will expire due to the lack of construction. The extension will allow the applicant the ability to preserve the approval of this project.

Chairman Galvin said the Planning Board can either approve the extension, approve it subject to getting the ZBA's interpretations/variances and either meeting the new State Fire Code or receiving a variance from the new Fire Code, or the Board can deny it since the current site plan does not conform to the new FAR requirements..

Mr. Ianniello said the Board would be voting on something that is not within the law.

Mr. Noto said the law was adopted after the project was approved and that the project is not consistent with the current Local Law.

Chairman Galvin said that there has been a change in circumstances since the Board approved the existing site plan, namely that the plan no longer conforms to the Village's FAR requirements.

Ms. Insardi, the Village Attorney, indicated that there have been changes that impact this project, including the FAR Law and the revised State Fire Code.

Ms. Insardi asked about the status of the DEC spill closure and mentioned that the DEC website indicates that the spill has not been closed.

Mr. Noto said the one spill is closed and the DEC website indicates this. Mr. Noto would anticipate the second spill being closed soon. Mr. Noto said the DEC has not closed the second spill because of the need to provide ongoing monitoring of on-site wells.

Mr. Furey, the Village's Consulting Engineer, said the Building Department does not have the details on where these monitoring wells will be established.

Mr. Noto referenced and discussed letters dated August 30<sup>th</sup> and June 26, 2007.

Mr. Noto and Ms. Insardi discussed the spill numbers and Ms. Insardi asked Mr. Noto if he had any comments on spill # 0700043.

Mr. Furey said he has two letters. He does not have a copy of the work plan from Tim Miller Associates and does not know what the results of the testing were.

Chairman Galvin said the main issues revolve around the FAR and Fire Code.

Mr. Sterk said the Board of Trustees could have made the Local Law retroactive and that the Planning Board should not override the Board of Trustees' legislative decision.

Mr. Alterman said originally he voted against the plan because he felt it was wrong to build a building of that magnitude before the flooding issues were resolved.

Chairman Galvin said the HCZMC did approve the project as being consistent with the Village's LWRP.

Chairman Galvin discussed the Stream Control Permit from Westchester County.

Mr. Furey discussed the relationship of the development to the 100 year flood plain.

Mr. Noto said the plan would reduce the impervious surface that currently exists on the property.

Mr. Alterman said there is also an issue of safety, regarding the revised Fire Code.

Mr. Wexler said that the project was conditionally approved in December of 2007. Mr. Wexler said there is also the FAR issue.

Chairman Galvin said that the new FAR regulations were put into place in response to seeking a more appropriate density for development in the Village. This site specifically would work better at a lower density in terms of open space and parking. Chairman Galvin said he is open to a lesser number of units on the site in two buildings (instead of three) and with a more market friendly unit mix. The development of the project using two buildings would decrease the footprint as well as the developer's costs.

The owner of the property said after five years of being before the Planning Board he does not understand why the Planning Board doesn't get why he is asking for an extension. The owner said he has submitted the plans in time and paid the fees.

The owner reviewed the history of the process he has been through and urged the Board to grant the extension.

Chairman Galvin said the Board of Trustees asked the applicant to do a cleanup of the site when the rezoning was granted.

The owner said there are two spills and the first spill is closed. The second spill cannot be closed. All the permits are done. The owner submitted a copy of a letter from Mr. John Winter to the Board. The owner discussed stream control and the amount of money he has spent on the project.

Chairman Galvin said the Board of Trustees passed the Local Law and the Building Department is indicating that the new Fire Code now applies to the site.

The owner said he is asking to be able to go to the ZBA. Chairman Galvin said he can go before the ZBA as well as to New York State regarding the Fire Code.

A motion was made by Mr. Sterk to deny the request for an extension of site plan approval for 270 Waverly Ave. – Sheldrake Estates Condominium, seconded by Mr. Ianniello.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

The Board has appraised the request in light of existing facts and circumstances. It has weighed the changed circumstances and it has assessed the changes in the relevant conditions surrounding the application. Noted changed circumstances impacting the subject property include conformity to the Village's new FAR legislation and the fact that it does not conform to the new NYS Fire Code based on input from the Building Inspector. For all of the reasons stated by the Board, the site plan site plan approval was not extended based on changed circumstances. The Chairman indicated that there are other options available to the applicant.

Mr. Noto said he will apprise his client of the options available to him.

**6. 233 HALSTEAD AVE. – METRO PCS NEW YORK, LLC – Installation of wireless telecommunications facility on roof of senior citizens building.**

Chairman Galvin has recused himself from this application. Mr. Sterk has assumed the role as Acting Chairman for this application.

Ms. Marlene Eichmeyer, Esq., Mr. Craig Sharpe and Mr. Mike Musso were present to represent the application.

Ms. Eichmeyer reviewed the following issues regarding the application:

- Recap of the last meeting
- Plans submitted on Monday were not submitted in time for the Planning Board to review and asked the Planning Board to respectfully consider the application this evening
- The P1's are flush mounted and painted to match the building
- Photo simulations depict flush mounted and they are not even noticeable
- Review of photos, revised plans and flush mount design

Mr. Ianniello asked if there were any health concerns with the antennas and Ms. Eichmeyer said the FCC report covers that.

Mr. Ianniello asked if the antennas were flush mounted with no concrete barrier in the way.

Mr. Musso said there is a section in the report that explains the maximum exposure limits. Four of six antennas are shown on the parapet. Mr. Musso discussed the swivel and up/down tilting of the antennas.

Mr. Sterk asked what the angle of the tilt is and Mr. Musso said 1° or 2°.

Mr. Sterk asked what the photo simulation represents and Mr. Musso said the point to get across is there would be some separation that is visible.

Mr. Wexler asked how thick the antennas are and Mr. Sharpe said they are almost 3" thick.

Mr. Sterk said the pictures look flush mounted but the applicant is saying they will stick out 1 ½'.

Mr. Musso described what will be seen regarding the gaps, etc.

Mr. Ianniello asked about health issues and Mr. Musso said with the existing antennas at full capacity there are no health issues.

Mr. Ianniello said the applicant originally said signs would be posted about the antennas but now that they are being mounted next to windows. Mr. Ianniello asked if there is a health risk if a person sticks their head out of their window and Mr. Musso said no, not in the front face of the antenna.

Mr. Ianniello said he thought the antennas would be positioned on the side where there are no windows.

Ms. Eichmeyer said their radio frequency expert is not here this evening, but there must be a reason why they have been positioned the way they are.

Mr. Wexler said he is a big fan of flush mounted antennas and it is a shame the pre-existing antennas were not mounted that way. Mr. Wexler said the antennas should be as far away from the windows as possible and asked if one could be put on the other side.

Mr. Musso discussed issues with the masonry.

Ms. Eichmeyer discussed the architecture on the façade and noted that there were notched and perhaps that is what impeded them from being placed on the other side.

The Planning Board and applicant looked at the pictures and discussed the location of the flush mounted antennas.

Mr. Sterk said there is a 17" protrusion from the building and that is not very flush.

Mr. Musso said keeping the color consistent with the building will help.

Ms. Eichmeyer asked if the Board liked the flush mounted antennas.

Mr. Wexler said he did.

Mr. Sterk would rather have sled mounted antennas than what is in the picture and said the plans are for a 17" protrusion. Mr. Sterk would like to see other pictures of the antennas.

Ms. Eichmeyer asked what would happen if their engineer said it would not be possible to mount the antennas any other way because it would impact their coverage area.

Mr. Sterk said if the applicant is asking the Board to approve a 17" protrusion the Board would like to see a picture of what that looks like.

Mr. Sterk said the applicant should come back to the Board with three comparative drawings, one with the antennas close to the building, one as in the original plans submitted and one flush mounted

Ms. Eichmeyer said she has a sense of where the Board stands but it technically does not work.

Mr. Sterk said he would like to see the three drawings.

The Board discussed antenna patterns.

Mr. Musso said the last section on the northeast portion was sled mounted and that flushing would not be a big deal on the sides where no windows exist.

Mr. Sterk said the application for 233 Halstead Ave. – METRO PCS New York, LLC will be continued at the next meeting of the Board on December 11, 2008.

Chairman Galvin has resumed the Chair.

**NEW BUSINESS:**

1. **859 MAMARONECK AVE, - JOE GERMANO** – Informal discussion, site plan amendment

Chairman Galvin said this is an informal discussion of the site plan.

Mr. Joe Germano was present to represent the application.

Mr. Melillo said the site has changed drastically, noting the following:

- The apartment building on the site was in a fire and was demolished.
- The stormwater drainage has not changed
- The Building Department cannot approve the plans
- There are missing plantings and a new curb cut has been placed on Mamaroneck Avenue.

Chairman Galvin asked what has been changed on the plans and Mr. Melillo pointed out the changes that have been made.

Chairman Galvin asked Mr. Germano if he owned the property in the back and suggested that the back portion (zoned R-2F) should be rezoned C-1 to conform with the front portion.

The Planning Board and applicant discussed the drawings before them.

Mr. Germano said he has been on the site for 60 years and that he has retired and wants the site to be his retirement.

Mr. Melillo said the back of the lot is crushed asphalt.

Mr. Germano wants the plans to match what is there now.

Chairman Galvin questioned the curb cut.

Mr. Germano said he wants to use the property for auto storage and Chairman Galvin said that auto storage is not an allowed use in a C-1 district. That would be a ZBA issue.

Ms. Insardi said the applicant wants to put auto storage in a C-1 zone and questioned whether that was a permitted use.



Mr. Melillo said Mr. Germano is asking for a certificate of occupancy for his tenant, Enterprise Car Rental.

Mr. Germano said he has permits for the curb cut and asked the Board to approve the site plan to reflect what actually exists on the site, including the curb cut.

Ms. Insardi said anytime the site is changed, the plans need to be amended.

Mr. Germano showed the Board the paperwork from the Village and County authorizing the curb cut.

Ms. Insardi said if the site circulation is being changed, then the applicant should have gone to the Planning Board.

Chairman Galvin told Mr. Germano he spent the money on the curb cut and now is asking for the Board to approve the curb cut.

Mr. Germano pleaded with the Board for their approval.

Mr. Melillo said he could issue a temporary certificate of occupancy.

Ms. Insardi read the Code on entrances and exits.

The Board discussed the following issues:

- Parking in C-1 zone
- The amended site plan required
- Motor vehicle storage is not a permitted use in a C-1 zone

Mr. Germano said he has the curb cut approvals.

Chairman Galvin asked if the lot can be legally accessed from Lester and Mr. Furey said yes, if the curb cuts are removed.

Mr. Sterk asked about the duration of the lease on the back portion of the lot. Mr. Germano said the lease duration is 30 days and the tenant is on a month to month lease.

Ms. Insardi said the access point is through another site.

Chairman Galvin said the Building Department can issue a temporary certificate of occupancy if the curb cut is removed or not used.

Ms. Insardi said the Village would still need new site plans.

Chairman Galvin said Mr. Germano has spent money on the curb cut and doesn't want to restore that because it will cost him more money and the Board does not want him using

the curb cut. Chairman Galvin said that the Board cannot issue an approval for an amended site plan (which it does not even have).

A motion was made by Mr. Sterk to issue a temporary certificate of occupancy for 859 Mamaroneck Ave. – Joe Germano, conditional upon the curb cut not being used and that the property remains fenced off in the front with no gate, the landscaping has to be completed as shown on the plan, and the applicant will have eight months to complete this, seconded by Mr. Ianniello.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

Ms. Insardi asked if a performance bond was posted and Chairman Galvin said he did not believe so.

**2. 1000 TAYLORS LANE – MARKE MUSTACATO - Pre-submission discussion for 3 lot subdivision.**

Chairman Galvin reviewed what the application is for.

Mr. Mark Mustacato, the architect, was present to represent the application.

Mr. Mustacato discussed the wetlands and the area adjacent to the property. The adjacent 5- acre Magid Pond is a tidal wetland and is listed as a Critical Environmental Area (CEA) on the Village’s official map as well as being listed as a tidal wetland by NYS DEC.

Mr. Furey discussed the following issues:

- 300’ buffer on the crest of the slope
- 10’ differential of elevation needed
- Anything above elevation 18 would be out of the buffer
- Building into the slope
- Needs coordination with the DEC

Ms. Insardi said this is a Type I action and that the applicant would need a long form EAF and under SEQRA the Planning Board should perform a coordinated review.

Mr. Furey said to get the DEC determination first and that will direct the Board where we should go with this.

Mr. Mustacato said part of the process would be to apply for a wetland permit.

Chairman Galvin said they need the DEC determination.

Mr. Wexler asked what the purpose of the retaining wall is on one of the lots. Mr. Mustacato said it is to give them a useable backyard.

Mr. Wexler said the majority of the encroachment is the retaining wall.

Chairman Galvin said the applicant needs to do the following things:

- Approach the DEC
- Depending on what the DEC says, the applicant may have to submit a wetland application to DEC
- Needs long form EAF
- Needs to submit paperwork to all involved agencies
- Public hearing would be set by the Planning Board 60 days after the wetlands permit complete application is submitted.

Chairman Galvin told the applicant to check with Ms. Insardi regarding the necessary wetland permit forms.

**3. 800 FENIMORE RD. – NOLLES RIDGE** – Pre-submission, proposed subdivision (6 residential lots, 1 conservation lot)

Chairman Galvin said this is a pre-submission for a proposed subdivision.

Mr. Jim Hahn, the Consulting Engineer, and Mr. Al Noletti, the property owner, were present to represent the application.

Mr. Hahn discussed the following issues:

- Review of the proposed plans
- Has no problem complying with the memorandum from BFJ Planning
- The entire road is approximately 800'
- Ms. Favate recommended including a pedestrian path from Highview
- Needs a wetland permit
- Has turned in the long form EAF
- Showed the conceptual water drainage

Chairman Galvin said the real emphasis is engineering and asked the applicant how he planned to build a road through the wetlands.

Mr. Hahn asked the Board for suggestions.

Chairman Galvin noted the following issues:

- FEMA didn't map the area near Fenimore Road, but noted that it does flood in that area off the applicant's property
- Houses should be sprinkled

- The Fire Department's comments on the cul-de-sac
- Applicant should check with Mr. John Winter, the Building Inspector, regarding how many fire hydrants are needed
- Would like to see landscaping in the middle of the cul-de-sac
- Need to see sewer and utilities
- Provide the height of the retaining walls to Mr. Winter
- Check with Mr. Winter on the last lot line to fit the side yard definition
- Buffering and landscaping required because of the thruway, visual and sound deadening
- Consider if any blasting or chipping needs to be done (check with Mr. Furey)
- Preserve old stone walls wherever possible
- Move stonewall that runs through the proposed residences on lots 6 and 7
- Determine if there is school busing.

Mr. Hahn asked if the retaining walls could be stepped. Mr. Furey indicated that they would have to be two times the height.

Mr. Wexler asked if there would be sidewalks.

Ms. Favate asked if there was any room for a sidewalk with the setbacks.

Mr. Hahn asked what the next step was once this meeting is over.

Ms. Favate summarized the memo as follows:

- Originally 18, only 6 residential lots now
- Much less impact
- Most concerns have been addressed
- Would like more detail
- How are wetlands going to be mitigated

Mr. Wexler asked about pedestrian access to Highview Street and Ms. Favate indicated that would be something to explore.

Ms. Insardi said the applicant could get an easement.

Two Village residents expressed their concerns about the project noting the following concerns:

- Regarding moving the wetland elsewhere: water coming down Fenimore that empties into the wetlands
- SEQRA concerns
- Any tributaries that run through the wetlands
- FEMA funding

Chairman Galvin said this is only a pre-submission and explained the process to the concerned residents.

Mr. Furey said FEMA is concerned about what is actually being constructed and that the buildings are unaffected by FEMA and therefore FEMA funding for the Village would not be impacted by the proposed subdivision.

Ms. Favate said we have a full EAF

Ms. Insardi said regarding the wetlands, the Village makes it a Type I action.

Chairman Galvin said the Planning Board will review the EAF, review its consultants' memoranda, review the comments by involved agencies and then will make that determination.

Chairman Galvin reviewed the following issues that the applicant must have done for the next meeting:

- Wetlands permit
- Application for subdivision and wetland permit distributed to the Town of Mamaroneck, HZCM, DEC and Westchester County Planning
- Establish an escrow account (\$10,000) with the Village Clerk
- Schedule a public hearing after application is complete
- Talk about alternative mitigation techniques

**ADJOURNMENT:**

A motion was made by Mr. Sterk to adjourn the meeting, seconded by Mr. Ianniello.

Ayes: Galvin, Alterman, Ianniello, Sterk, Wexler  
Nays: None  
Excused: None

PREPARED BY:

ELIZABETH A. DREAPER

RESPECTFULLY SUBMITTED BY:

AGOSTINO A. FUSCO  
CLERK-TREASURER