

These are intended to be "Action Minutes", which primarily record the actions voted on by the Planning Board on September 23, 2010. 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
Michael Ianniello (arrived late)
Lee Wexler
Stewart Sterk
Ingemar Sjunneemark
Susan Favate, BFJ Planning
Frank Fish, BFJ Planning (arrived late)
Keith Furey, Village Consulting Engineer
John Winter, Building Inspector
Christie Derrico, Village Attorney (arrived late)
Steve Silverberg, Village Attorney

AGENDA:

The meeting was called to order at 7:03 p.m.

MINUTES

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to approve the minutes of the Regular Meeting of the Planning Board held on July 22, 2010.

Ayes: Galvin, Sjunneemark, Sterk, Wexler
Nays: None
Absent: Ianniello

A motion was made by Mr. Wexler, seconded by Mr. Sjunneemark to approve the minutes of the Meeting of the Planning Board held on September 2, 2010.

Ayes: Galvin, Sjunneemark, Wexler
Nays: None
Abstain: Sterk (not present at 9/2/2010 meeting)
Absent: Ianniello

NEW BUSINESS

NEW BUSINESS

- 1. 900 Rushmore Avenue Beach Point Club (MR District) Modification to existing Site Plan.**
- 2. 708 East Boston Post Road - Shell Gas Station (C-1 District) Dumpster Enclosure Permit**
- 3. 1380 Flagler Drive - (R-20 District) Flood Plain Variance for Pool House**
- 4. 437 Melbourne Avenue (R-5 District) - Jack Pisco - Subdivide existing lot into two lots.**
- 5. 640 Shore Acres Drive - (R-10 District) Rosa & Paul Ferrante- Wetlands Permit**
- 6. 504 The Parkway- Shore Acres Point Corp. (R-20 District) Wetlands Permit**
- 7. 1367 Flagler Drive (R-20 District) Wetlands Permit**

OLD BUSINESS

- 1. 208 W. Boston Post Road- John Lese (C-1 District) Proposed 5-unit condominium project.**
- 2. Mamaroneck Beach and Yacht Club (MR-District) Presentation of Application**

NEW BUSINESS

- 1. 900 Rushmore Avenue Beach Point Club (MR District) Modification to existing site plan.**

Mr. Galvin stated that the Board has the Zoning Board of Appeals Resolution approving the applicant's variance.

Randy Ruitter, the club manager, addressed the Board. He stated that the "as built" survey showed that the courts were inadvertently built in the wrong place and required a variance. They received the variance from the ZBA and, therefore, they now require an approval from the Planning Board for an amended site plan.

There were no questions or comments from the Board.

There were no questions or comments from the public.

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to approve the amended Site Plan for 900 Rushmore Avenue, Beach Point Club plan dated 8/6/09.

Ayes: Galvin, Sjunneemark, Wexler, Sterk
Nays: None
Abstain: None
Absent: Ianniello

Mr. Ianniello arrived for the Board meeting after the vote.

- 2. 708 East Boston Post Road - Shell Gas Station (C-1 District) Dumpster Enclosure Permit**

Marc Pilota, JZN Engineering, P.C., addressed the Board, explaining the location of the dumpster. The colors and material of the enclosure were discussed. It was agreed that the dumpster enclosure will be chain link with white slats.

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to legalize the existing conditions as shown on Site Plan for 708 East Boston Post Road (Shell Gas Station) dated 2/20/2010.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

A motion was made by Mr. Sterk, seconded by Mr. Wexler to approve the dumpster enclosure permit for 708 East Boston Post Road (Shell Gas Station) subject to enclosure being chain link with white slats.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

3. 1380 Flagler Drive - (R-20 District) Flood Plain Variance for Pool House

Paul Noto, 650 Halstead Avenue, the applicant's attorney addressed the Board, referring to section 186-6 of the village code which refers to the requirements for the reconstruction of a non-conforming use such as the applicant's pool house. Mr. Noto stated that they have received a NYS DOS variance on 7/2/2010. The applicant will apply for any Village required variances after Planning Board approval.

Mr. Furey, the Village Consulting Engineer, stated that the Department of State granted the variance with the condition that the approved flood vents and GFI outlets be installed.

Mr. Furey recommended the inclusion of 5 conditions as stated in his memo dated 9/22/2010.

There were no questions or comments from the Board.

There were no questions or comments from the Public.

A motion was made by Mr. Wexler, seconded by Mr. Sterk to approve the flood plain variance for the pool house subject to Mr. Furey's conditions dated 9/22/2010.

1. The R-15 insulation indicated on the Drawings will be eliminated in the space below the 100-yr flood elevation;
2. All framing below the base flood elevation will be pressure treated lumber;
3. The interior wall covering below the 100-yr flood elevation will be changed from Gypsum Wall Board to either Dura Rock with Tile Wainscoting or other flood proof materials such as Ezek Trim boards;
4. The required flood vents will be located such that the bottom of the vents is flush with the finished floor grades within the Cabana and storage area; and
5. All GIF electrical wiring, outlets, switches, etc, will be located above the 100-yr flood elevation.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

4. 437 Melbourne Avenue (R-5 District) - Jack Pisco - Subdivide existing lot into two lots.

Mr. Galvin stated that the Planning Board has received a completed subdivision application with the EAF and the owner's consent allowing the Applicant (the "contract vendee") to apply for the subdivision. The Board also received a memo from M r. AJ. McNiff, the next door neighbor, stating concerns related to the EAF, and a memo from Susan Oakley regarding landscaping.

Mr. Galvin stated that the Board did not receive yesterday's submission from the applicant and therefore would not discuss it this evening.

Tonight the Board will only declare lead agency status and give guidance to the applicant.

Jack Pisco, of 1 Bixby Court, Rye, explained the plan to demo the existing structure and subdivide the parcel into 2 lots: one to live in and one for investment purposes.

The Board discussed alternatives to plan dividing the property into two lots (each 75 x 100) vertically. This would change the orientation of the lots with one being accessed from Orchard Street and the other oriented to Melbourne Avenue. This change would require a variance but it would save many of the trees and be a better alternative. The second lot on Orchard Street could be improved with a wider apron and entrance to the residence. This lot can also be heavily landscaped to provide additional buffering to the residences on Orchard Street. The resulting subdivision would have only one driveway on Melbourne as opposed to the proposed two driveways. This would have a minimal impact on both the Melbourne and Orchard neighborhoods as compared to the original proposal.

Mr. Galvin asked the applicant to return with plans reflecting the concerns discussed.

WETLANDS PERMITS

5. 640 Shore Acres Drive – (R-10 District) Rosa & Paul Ferrante- Wetlands Permit

A motion was made by Mr. Wexler, seconded by Mr. Sjunneemark to open the public hearing.

Ayes:	Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays:	None
Abstain:	None

Dan Natchez, 916 Boston Post Road, of Daniel S. Natchez Associates addressed the Board stating that HCZMC approved the 2 outer key piles, repair of the rip rap and the removal of the phragmites. The child safety fence will be black aluminum, on the inside of sea wall.

Mr. Furey stated that the conditions set by Mr. Sven Hoege, the HCZM environmental consultant, reflect the property owner’s wish to remove the phragmites, but it will have to be worked out during construction as to the rip rap wall. Work is in the buffer not in the Wetland, an erosion control plan showing the location of the silt fence is required. Mr. Furey recommended the approval of the Wetlands activity permit.

Mr. Furey stated that the existing seawall runs across the property to the rip rap embankment. The applicant is trying to stem erosion into the wetlands. Any work on the dock and floats are immaterial to the application.

There were no questions or comments from the Board.

There were no questions or comments from the Public.

Mr. Galvin indicated that the action is a Type II action and not subject to SEQRA.

A motion was made by Mr. Sjunneemark, seconded by Mr. Sterk to close the public hearing.

Ayes:	Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays:	None
Abstain	None

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to approve the Wetlands activity permit subject to the configuration of the rip rap embankment and installation of the child safety fence specified as black aluminum.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

6. 504 The Parkway- Shore Acres Point Corp. (R-20 District) Wetlands Permit

Mr. Sterk recused himself from the hearing since he is a Shore Acres resident and member of the club.

A motion was made by Mr. Sjunneemark, seconded by Mr. Ianniello to open the public hearing.

Ayes: Galvin, Sjunneemark, Wexler, Ianniello
Nays: None
Abstain: Sterk

Dan Natchez, 916 Boston Post Road, of Daniel S. Natchez Associates addressed the Board stating that the Building Department cannot find any records for this establishment, and he is attempting to:

1. replenish and regrade the beach sand up to 15 cubic yards.
2. recognizing sea wall maintenance although no work is planned at present
3. continue the existing docking facilities with the exception of the kayak dock
4. replace outer row of moorings with 6 floating docks 6X40 and one 6X50 which would allow more boat docking
5. obtain a perimeter permit from HCZM

Mr. Furey stated the Board can approve subject to HCZMC approval. The replenishment of beach sand below the mean high water tide line would require a DEC permit, which has been applied for.

Conditions can be placed as part of the application that would require that the applicant to obtain a Tidal Wetlands permit from New York State and HCZMC approval if sand replenishment is below the mean high water line.

The Board discussed the application.

Leon Calousdian, 522 The Parkway, the property owner located directly behind the proposed floats stated he feels his property would be landlocked.

Mr. Galvin stated that the only part of the application that the Planning Board is reviewing is sand replenishment for the beach. This action is a Type II action and not subject to SEQRA.

Christie Derrico, Village Attorney, and Frank Fish, Village Planning Consultant, arrived at 8:14PM.

A motion was made by Mr. Ianniello, seconded by Mr. Sjunneemark to close the public hearing.

Ayes: Galvin, Sjunneemark, Wexler, Ianniello
Nays: None
Abstain: Sterk (recused)

A motion was made by Mr. Sjunneemark, seconded by Mr. Ianniello to approve the Wetlands Activity Permit at 504 The Parkway Shore Acres Point Corp. for sand replenishment up to 15 cubic yards a

year for 5 years, plus regrading of beach sand subject to Tidal Wetlands permit from New York State and docking configuration subject to HCZM approval.

Ayes: Galvin, Sjunneemark, Wexler, Ianniello
Nays: None
Abstain: Sterk

Mr. Sterk returned to the Board

7. 1367 Flagler Drive (R-20 District) Wetlands Permit

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to open the public hearing.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

Greg Wilson of Dan Natchez Associates stated that HCZMC approved the request.

Mr. Wilson stated that the applicant is planning a 4 inch layer of shock crete to repair the existing seawall, replacement of the French drain, and the overfill to be connected to the municipal storm water system.

The Board and Mr. Furey discussed the application and conditions

There were no questions or comments from the public.

Mr. Galvin indicated that the action is a Type II action and not subject to SEQRA.

A motion was made by Mr. Sterk, Seconded by Mr. Sjunneemark to close the public hearing.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to approve the Wetlands Activity Permit for 1367 Flagler Drive subject to the addition of weep hole relief pipes at regular intervals along the length of the wall to insure proper control of hydrostatic pressures behind the wall.

Ayes: Galvin, Sjunneemark, Wexler, Sterk, Ianniello
Nays: None
Abstain: None

OLD BUSINESS

1. 208 W. Boston Post Road- John Lese (C-1 District) Proposed 5-unit condominium project.

John Lese, the applicant, addressed the Board stating that at the Board's recommendation he has moved the proposed building further back from Boston Post Road and reconfigured the parking area. These changes have resulted in a revised site plan for the Board's consideration.

Mr. Lese stated that Petrucelli Engineering had completed a drainage plan and sent it to Mr. Furey for review.

Mr. Furey stated that he received the package yesterday and made the following comments:

1. DEP NYC regulations do not apply
2. perc test needs to be performed for calculations
3. water quality (1.3 inches of rain fall) section 6-3 and detention requirements (volume needs to be addition of water quality.)
4. pre-treatment plan sizing needs to be outlined in detail.
5. erosion control plan not detailed enough i.e.: silt fence placement, stockpiling
6. no issues exist with water & sewer.

Mr. Lese stated he will get calculations back as quickly as possible.

The landscaping plan was discussed, and Ms. Oakley recommended narrow tall holly bushes with pachysandra on Boston Post Road and a clump birch tree in the parking area.

Mr. Lese stated that the colors of the façade have been chosen to match the colors of the nearby St. Thomas Church.

Mr. Galvin indicated that the Planning Board can assume lead agency for this application. The Board has received a letter from Ed Burroughs, the Acting Commissioner for County Planning which is a favorable review of the project..

There are five (5) units planned: one (1) to be affordable, three (3) work force units and one (1) at market rate.

Mr. Galvin stated that the Board needs a sample deed for the affordable and work force units.

The Board discussed various configurations of the building and possible pathways and requested the applicant to look into them.

The use of permeable pavers in the parking area was discussed. Mr. Fish provided photographs of sample treatment at project in Bronxville.

Mr. Ianniello asked if the old stone wall on the property can be saved to maintain Village history, Ms. Oakley concurred.

Mr. Galvin adjourned the matter to October 14, 2010.

9:10 BREAK

9:20 Meeting resumed

Mr. Sterk recused himself and left the building.

2. **Mamaroneck Beach and Yacht Club (MR-District) Presentation of Application**

Mr. Galvin stated that SEQRA had been completed previously and the Board is tasked by the court with revising findings and conducting site plan review. He indicated that Mr. Silverberg, the Village Special Counsel, will summarize the matter.

Application being presented by applicant's representatives, Gregg DeAngelis architect, Paul Noto, Counsel, Benedict Salinitro, Engineer and Syrette Dym of Saccardi & Schiff, Inc., Planning and Development Consultants.

Steve Silverberg Village of Mamaroneck, Counsel summarized the application. On June 18, 2010 Judge Nicoli's judgment remanded back to the planning board for review of the SEQRA findings. Subsequently negotiations were entered into and a settlement with stipulations was approved by the Board of Trustees tentatively settling the matter based on good faith of the involved parties.

Mr. Silverberg stated that for the record the decision from 2004 and 2006 by Judge Lippman rules that the application site review must be based on the laws and code that were in place at the time of the initial application in 2004. Specifically, limitations in the new MR legislation could not be applied to the application.

Mr. Galvin stated for the record that the updated MR code had not been referred to by the Board in relation to the previous application.

Mr. Silverberg stated the only thing required is for the Planning Board to hear the application and take any action the board deems appropriate. Paragraph 4 under E page 11 of the Settlement was read into the record.

Motion: To adopt a resolution to authorize the chair to sign a general release as part of the settlement.

Action: Approved

Moved by Ingmar Sjunneemark, **Seconded by** Lee Wexler.

Vote: Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

Yes: Ingemar Sjunneemark, Lee Wexler, Michael Ianniello, Robert Galvin.

Abstain: Stewart Sterk.

Mr. Silverberg stated that there is no personal liability by any members of the Board. If the Board denies the application and the court approves it, there are no repercussions for the Planning Board members or the Village the case just goes back to its status before the settlement was signed..

Frank Fish of BFJ Planning stated that the MBYC application from 2006 developed the EIS (Environmental Impact Statement), which was accepted by the Board in 2007. A public hearing was held on the FEIS and concluded with Findings in late 2007. The club thereupon sued and Judge Nicoli issued a decision overturning the Findings statement and requiring the Planning Board to revise Findings and conduct site plan review for the seasonal units.

Although SEQRA was done, Mr. Fish recommends the Board amend or create new SEQRA findings based on the court's order.

The original application called for 32 units, the Board approved 12 units in club house.

The new application requests 23 units, 4 in club house 19 free standing. Mr. Fish made copies of court decisions and stipulation available for the public.

Mr. Fish further stated the Board should listen to applicant and then proceed to review the site plan. A hearing on Wetlands and Site Permit approvals are required.

Mr. Galvin stated that the building is opened till 10:30 and the Board will hear from as many interested parties as time allows. The Board will take a hard look at SEQRA and on October 14th set a public hearing for a Wetlands Permit and Site Plan Permit, for October 28th and continuing to November 11, 2010.

Mr. Galvin further stated that the Board previously issued a positive declaration, held a public hearing on March of 2007 and accepted the FEIS in Oct. 2007.

Mr. Noto, the applicant's attorney, stated that this amended plan is smaller, less dense with less impact. Documents have been provided that show a comparative review of the original and new plan. He further stated that the finding statement supported seasonal units and other improvements. The club needs a complete upgrade, of its physical plant, and require seasonal units to bring in new members. The club has been in existence since 1955 and wants to remain as a club and improve the waterfront.

Gregg DeAngelis, of 1215 Stoneybrook Avenue, Mamaroneck, the applicant's architect, explained the site plan. Mr. DeAngelis provided an overview of the existing facilities; The property is just under 13 acres and was originally a private estate. On an aerial view he explained the existing layout and the planned construction.

Ms. Derrico stated the Stipulation states in paragraph 4(b)(v) that all seasonal units must be 120 feet from tidal wetlands. Mr. DeAngelis stated they are over 150 feet from Otter Creek..

Mr. DeAngelis stated the Club house was damaged by fire and they want to reconstruct it as a focal point of the club. There will be no building over the kitchen wing and the seasonal residences planned on the second floor are being removed for club facilities. The kidney shaped pool will be replaced with a lap pool. The recreation building will have lockers and expanded showers on the lower floor, a fitness, sauna room and multi purpose room on the second floor. The great lawn will be maintained, to provide openness. Towards Otter creek, the impact and density will be reduced. The new plan is to leave the existing cabanas and add a 1 over 2 floor plan and keeps the footprint more compact. The lowest height of the first floor is 16 feet, allowing parking under the building.

The other seasonal units (beach side) include 16 units at 950 sq. ft. Four of these units can have an extra 300 sq. ft loft. Parking is under the building and by reworking roof lines they have lowered the height somewhat. The height of the building on the beach side is 40 feet.

Syrette Dym, the Planning Consultant from Saccardi & Schiff, stated that this plan is less intense than the previous plan. The number of units has been reduced, and the recreation building is slightly larger. The plan removes 3 of the existing encroachments and adds 2 leaving the 19 from the preexisting 20. The plan is LWRP consistent, and all elements of the plan meet the zoning requirements. Open space is 43% vs. 47% previously. The elevations at Otter Creek are 6 feet less. The beach side building has elevations that are 1 foot less than the modified proposal. The applicant was requested to use pervious materials in certain areas. The new plan reduces water and sewage slightly with less traffic and property taxes including school taxes.

Mr. Noto stated that the presentation was concluded.

Public Comments.

Ben Golub, of 710 The Parkway, the adjacent property owner, stated he was concerned about certain aspects of plan and will try to make these concerns crystal clear. Mr. Golub stated over the course of this proceeding he has made concerns known to club owner, and felt that it was either their way or the highway, inferring that more units would be piled on to his side of the property and buffer trees would be removed. He further stated that he does not want financial benefits, it is his home that he wants to protect. He stated he is sympathetic to the club, and has had a amicable relationship with them, he has no objections to club making improvements, they have a right, but he must protect his home, there should be a compromise.

Mr. Galvin stated that the previous DEIS provided visual photographs of a number of views. It would be helpful for the Planning Board to have new visual views evaluating impact of the new plan.

Mr. Sjunneemark stated would it be helpful to do a site visit from Mr. Golub's property.

Mr. Golub invited Board to visit his property.

Steven Kass, of Carter, Ledyard & Milburn LLP, the Golub's, and Shore Acres Property Association's attorney, addressed the Board.

Mr. Kass stated that he wanted to mention a couple of procedural things. He has a serious problem with the environmental narrative stating that there is no such thing as an environmental narrative mentioned in the law, also there is nothing in the stipulation that binds the Planning Board to take action by a specific date.

Mr. Silverberg responded that the Board can exercise its discretion as it sees fit.

Mr. Kass stated the Planning Board shouldn't be rushed.

Mr. Galvin responded that the Board is not rushing they are having extra meetings to hear the public's comments.

Mr. Kass stated that he appreciates the Board's efforts, but under SEQRA the findings that were made, denied the modified plan. He further stated that the DEIS and FEIS should be done again. He stated that a revised application and a supplemental EIS should be done.

Mr. Kass stated what is needed is a revised application, as well as supplemental EIS as the regulations have changed.

Mr. Kass stated that the meeting fell on a holiday and the next meeting gives relatively short period of time to prepare. He further stated that the Board should be looking at other alternatives and maybe some units should go back into the club house.

Dan Natchez President of Shore Acres Property Association asked if the deadline for written comments could be extended.

Mr. Silverberg stated the public is invited to submit any comment on the SEQRA issue for the Board to be able make a determination, that there will be an additional public meeting on the issue and additional time for written comments. The applicant's environmental document was not available to FOIL request until Monday. The Board can, if it wants, provide additional time for written comment.

Mr. Galvin extended the written comment deadline to October 8th.

Christie Derrico, the Village Attorney, mentioned that the Village offices were being inundated with FOIL requests and the Village employees are working very hard and as fast as possible to accommodate everyone.

Mr. Kass thanked the Board.

Motion: To adjourn the matter to September 30, 2010 to accept additional public comment on SEQRA

Action: Approved

Moved by Ingemer Sjunneemark, **Seconded by** Lee Wexler.

Vote: Motion passed (**summary:** Yes = 4, No = 0, Abstain = 1).

Yes: Ingemer Sjunneemark, Lee Wexler, Michael Ianniello, Robert Galvin.

Abstain: Stewart Sterk (recused)

The meeting was adjourned at 11:05 P.M.

Minutes prepared by
Francine M. Brill