

These are intended to be “Action Minutes”, which primarily record the actions voted on by the Planning Board on November 29, 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  
Lee Wexler,  
Ingemar Sjunneemark  
Stewart Sterk  
Susan Favate, BFJ Planning  
Frank Fish, FAICP, BFJ Planning  
Keith Furey, Village Consulting Engineer  
John Winter, Building Inspector  
Susan Oakley, Village Landscaping Consultant  
Steve Silverberg, Village Counsel

**AGENDA:**

The meeting was called to order at 7:10 p.m.

**MINUTES**

A motion was made By Mr. Sjunneemark, seconded by Mr. Wexler to approve the minutes of the regular Meeting of the Planning Board held on October 28, 2010 as revised.

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

A motion was made by Mr. Wexler, seconded by Mr. Sjunneemark to approve the minutes of the Special Meeting of the Planning Board held on November 18, 2010.

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

**NEW BUSINESS:**

1. 1357 Flagler Drive - Alexis & Valerie deBretteville (R-20 District) Wetland Permit

Mr. Dan Natchez of Daniel S. Natchez Associates, 916 East Boston Post Road, representing the applicant addressed the Board. Mr. Natchez stated that they were before the Board for a Wetland Permit for a simple application, consisting of a small addition to the house. He further stated that there is no

practical alternative to the current proposal. The net increase is 209 sq feet. All paths have been calculated as impervious even though they are pavers and flagstone. The major impervious surface is the coping around the pool, which is being removed.

The Board discussed the application and Mr. Furey stated that the calculation were fine.

A motion was made by Mr. Sterk, seconded by Mr. Ianniello to open the public hearing reflecting the previous comments.

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

There were no questions or comments from the public.

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

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

A motion was made by Mr. Sterk, seconded by Mr. Ianniello to approve the Wetlands Activity Permit at 1357 Flagler Drive.

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

**2. 300 W. Boston Post Road - Steven Josephson (Toy Box) (C-1 District) - Placement of Shed – Site Plan Review.**

Mr. Galvin stated that the Planning Board has received a survey showing the location of the proposed shed, an application for site development, a short form EAF for the project. Mr. Galvin indicated that this is a Type II action, not subject to SEQRA.

Mr. Josephson, the applicant, addressed the Board requesting a permit to put up a 6X10 shed for storage.

Mr. Sterk asked if the shed could be placed closer to the dumpster at the rear of the property. Mr. Winter stated that it would not be zoning compliant.

Mr. Galvin stated that the Village is requiring that all dumpsters be enclosed and advised Mr. Josephson to call the Building Department for an application.

A motion was made by Mr. Sterk, seconded by Mr. Sjunneemark to approve the site plan for the shed at 300 W. Boston Pos Road exactly where it is on the site plan.

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

There was a 10 minutes break

## **OLD BUSINESS**

### **Mamaroneck Beach and Yacht Club (M-R District)**

Mr. Sterk is recused from this application and left the meeting.

Mr. Galvin stated the Planning Board has received the following emailed memos at 5:00pm this evening. They included a letter from Mr. Kass, dated 11/29, regarding site plan compliance, an email addressed to Mr. Winter and Mr. Galvin, a letter dated 11/28 from Mr. Kass regarding Wetlands permit, a letter from Dan Natchez, dated 11/19, regarding parcel ownership, and amended site plan and another email from Mr. Natchez with a resolution from SAPOA neighborhood association indicating that they did not support the possibility of an offsite traffic circle at Barry Avenue and The Parkway. Mr. Galvin stated that it appears that neither the applicant nor the neighborhood group is in favor of this concept. Mr. Galvin also indicated the following to be made part of the record: a memo from Mr. Hoeger, the environmental consultant for HCZM, which recapped his meeting with the applicant's design team on 11/17, Mr. Noto's letter, dated 11/29, re: public access, the preliminary lighting review by Sid Burke (BFJ Planning), the applicant's economic consultant's letter responding to the AECOM report, Mr. Noto's formal response, Keane and Beans letter responding to Ms. Liquori, Syrette Dym's comments, a letter from Mr. DeAngeles responding to comments by Mr. Helpern, and a SEQRA decision from the Nassau County Supreme Court.

Mr. Galvin further stated that all involved parties should have all the above mentioned documents.

Mr. Kass stated he sent a letter at 4:30 today and handed out copies, which responded to Mr. Sachs letter, a letter from Mr. Helpern responding to Mr. DeAngelis, an AECOM response, and a letter from Ms. Liquori.

The applicant will have an endorsement regarding title and a survey tomorrow.

Mr. Galvin referred to a letter sent from NYS Department of State to HCZM regarding NYS consistency review for this project, which had been referred to Mr. Silverberg and the Village Attorney.

Mr. Galvin stated that both he and Mr. Ianniello went out with Mr. Joe Russo, the harbor master, in order to view the site from the water. This visit had been mentioned in the previous meeting. Mr. Galvin stated that they have 12 photos taken by Mr. Fish with balloons showing the approximate height of the proposed buildings.

Mr. Galvin stated that the Planning Board is ready to review and deliberate on the findings. He asked Mr. Silverberg to opine on the ownership of the parcel that is in question.

Mr. Silverberg stated that the applicant provided a memo from the title insurance co. and provided proof of title insurance. Mr. Furey stated that the description covers the area of concern. Mr.

Silverberg indicated that the applicant claims they own the parcel and it is now a matter between the New York State and the applicant. The Planning Board need not inquire any further. A certified survey will be available on Tuesday, November 30<sup>th</sup>.

Mr. Galvin stated that the 5<sup>th</sup> draft of findings arrived at 5:00pm this afternoon.

Mr. Kass asked if he can address the findings.

Mr. Silverberg stated the Board will deliberate and there will be no public comments.

Mr. Galvin stated the Board will begin to deliberate the findings.

Mr. Kass stated it is illegal.

Mr. Galvin stated that the Board is proceeding on the advice of counsel. It is Mr. Silverberg's legal advice that the Planning Board can proceed to deliberate on findings.

Mr. Wexler stated he would be willing to hear time limited comments.

Mr. Galvin asked if any other Board members were so inclined. The response was no.

Mr. Galvin asked Mr. Fish to recap the draft that the Board received today.

Mr. Kass asked if the applicant had input. Mr. Fish answered no and under SEQRA 6 NYCRR Part 617, the findings are a Planning Board document.

The document was read aloud in sections and the Board discussed and revised as they saw fit.

Mr. Kass stated that he feels these findings are wrong.

Mr. Silverberg stated that the Planning Board findings are being read and discussed to determine if the Board agrees and wishes to adopt the findings.

Mr. Kass again complained.

Mr. Galvin stated that Mr. Kass's comments were noted for the record but the Planning Board is proceeding on advice of counsel.

Mr. Wexler suggested that the paragraph number 1 on page 6 be struck. Ms. Favate changed the wording to reflect that 2 Board members were taken out by the harbor master to view the club and the remaining members have previously had the opportunity to view from the water. Also the recreation building should be listed as a 3 story building.

Mr. Wexler further stated that the section on lighting and public access should be struck as it is dealt with later in the document. He also does not agree with page 9 regarding the comments on the judge's decision. He stated that he believed the judge nullified the economic not the environmental findings of the Board.

Mr. Galvin stated he was involved originally and disagreed with the judge's decision to overturn the findings.

Mr. Wexler stated the judge did not fault the decision only asked the Board to do SEQRA right. The Board could have considered smaller units or less square footage.

Mr. Galvin stated that with regard to the consideration of alternatives, the applicant is to come up with alternatives.

Mr. Kass interrupted once again.

Mr. Noto objected.

Mr. Galvin stated that this is the Board's time to deliberate.

Mr. Silverberg stated that if the Board allows comments it becomes a public hearing.

Mr. Kass continued to object.

Mr. Galvin stated that the Board is deliberating on the findings among themselves on advice of counsel.

Mr. Silverberg stated the Board closed public comment on findings in order to have an opportunity to deliberate.

Mr. Wexler continued and stated that he feels it is the responsibility of the Board to look at smaller scale alternatives.

Mr. Silverberg stated the Board can deliberate and either approve or not adopt the findings.

Mr. Sjunnemark stated that this is the application which the applicant submitted and this is what the Board is to consider.

Mr. Kass interrupted again, stating that the Board members are being misadvised by Mr. Silverberg.

Mr. Silverberg indicated that the current application has to be considered, or alternatives that are consistent with the goals of the applicant.

Mr. Galvin stated that they have looked at a number of alternatives. The economic numbers vary, are based on different assumptions and can all be in the range of each other if market conditions change. Additionally n economic analysis is typically based on current or recent market conditions. It is difficult to project these conditions going forward past 6 months in a stable market which the current environment is not. One must look at the reasonableness of the various analyses and balance them against other issues in the SEQRA process.

The seasonality of the residential units and enforcement were discussed. In response to a question from Mr. Fish, Mr. Winter stated that his office tries to give 24 hour notice when inspecting premises.

The possible walking path was discussed as well as the possibility that this would trigger the need for a DEC permit. Mr. Galvin stated that for the greater public interest and for club members meaningful public access would be beneficial to the project.

Mr. Wexler stated that public access is dear to him. Since the property is adjacent to the Nature Conservancy, it would be a huge amenity.

Mr. Galvin stated he understands the issues that make it difficult to happen, but the Board is willing to work with the Club to make it happen. Mr. Wexler read LWRP policy 20 into the record.

Mr. Kass interrupted and asked the Board to allow Mr. Helpert to speak. Mr. Galvin responded that the Board is in the process of deliberating

Mr. Sachs, the applicant's counsel, stated that this is Mr. Kass' 5<sup>th</sup> interruption and that enough is enough.

Mr. Galvin asked both Mr. Kass and Mr. Sachs to allow the Board to continue its deliberations.

Mr. Galvin asked for a 10 minute break

The Meeting was reconvened

Mr. Galvin stated issues were raised regarding colors to be used for the seasonal residences. Ms. Favate wrote an extra sentence regarding colors to page 14 to be inserted.

Mr. Wexler asked if the recreation building could be made lower, Mr. Furey explained the difference between the A & V zones, and suggested that perhaps the language could be stronger: "every effort will be made to lower the building permitted under the A zone designation.

The Board continued discussing storm water and drainage, traffic, parking land banking, noise, architectural resources and their impact, impact on the environment, construction cost and the economic study.

Mr. Wexler stated that Mr. Pauls' economic study is the least defensible. The critical job for the Board was to study economic findings. The applicant could have done a smaller project and still received a good return. Mr. Wexler found the AECOM report to be compelling. Mr. Galvin stated that all the consultant economic reports are within range but can change significantly with differing market conditions.

Mr. Kass Interrupted again. Mr. Sachs complained that he was interrupting the Board's deliberations.

Mr. Galvin stated that the Planning Board members can decide which economic consultant to rely on for their analysis.

Mr. Kass again interrupted stating that the Board has not read the latest AECOM report. Mr. Galvin indicated that he had and asked Mr. Kass to sit down and not to interrupt.

The Board discussed the cost for services stating the tax increase will offset the cost. The bridge was deemed safe for fire trucks, emergency medical impact is not significant, solid waste will not have an adverse impact.

The construction will be in three phases over a 6 year period. Hours, noise and enforcement of completion of all phases were discussed.

Mr. Galvin asked the members for general comments on the findings.

Mr. Sjunneemark stated that this has been in review for a couple of years and today's plan is better than the original, he thanked Mr. Wexler for his input.

Mr. Ianniello also complemented Mr. Wexler. He stated that there is always give and take on these types of applications. The applicant has responded to the comments made by the Board and public. People will still disagree. It is a sensitive site and the boat ride in the harbor provided him with a good view of what it will be like from the water. He also stated that he looked from the Golub property side and doesn't feel there will be an impact. He further stated that he is 90% happy with the application.

Mr. Wexler stated that the Board and applicant have worked hard to improve the application, but he thinks that the site sits at the front door of the Village and requires and warrants a careful and unbiased SEQRA review. He felt that the Board did not do SEQRA correctly and therefore cannot support the findings.

A motion was made by Mr. Ianniello, seconded by Mr. Sjunneemark to adopt the findings for Mamaroneck Beach and Yacht Club as amended on 11/29/2010.

Ayes: Galvin, Sjunneemark, Ianniello  
Nays: Wexler

Mr. Galvin stated that the matter will be continued to December 2, 2010 for Site Plan and Wetlands Permit at 7:30pm currently scheduled for the Emelin Theater.

A motion was made by Mr. Sjunneemark, seconded by Mr. Ianniello to continue the application of Mamaroneck Beach and Yacht Club for wetland permit and site plan to December 2, 2010.

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

Mr. Kass asked to speak to the issues and Mr. Galvin responded that he will need to wait until 12/2/2010.

Minutes Prepared by

Francine M. Brill