

**VILLAGE OF MAMARONECK
PLANNING BOARD MEETING MINUTES
WEDNESDAY, SEPTEMBER 11, 2013 – 7:00 PM
169 MOUNT PLEASANT AVENUE, COURT ROOM, MAMARONECK, NY**

These are intended to be “Action Minutes”, which primarily record the actions voted on by the Planning Board on September 11, 2013. The full public record of this Meeting is the audio/video recording made of this meeting and kept in the Planning Board’s records.

PLEASE BE ADVISED, that the next Regular Meeting of the Planning Board of the Village of Mamaroneck is scheduled for Wednesday, September 25, 2013 at 7:00 P.M. in the Courtroom in Village Hall, 169 Mt. Pleasant Ave., entrance located on Prospect Avenue, in the Village of Mamaroneck.

PRESENT: MIKE IANNIELLO, CHAIRMAN
 INGEMAR SJUNNEMARK
 LEE WEXLER
 STEWART STERK

EXCUSED: LOU MENDES

PRESENT: ANTHONY CARR, VILLAGE ENGINEER
 BOB GALVIN, AICP, VILLAGE PLANNER
 BILL GERETY, BUILDING INSPECTOR
 LESTER STEINMAN, PLANNING BOARD ATTORNEY

CALL TO ORDER

Chairman Ianniello called the meeting to order at 7:09 p.m.

Mr. Sjunneemark requested a ‘Moment of Silence’ for the victims of the September 11, 2001 terrorist attacks.

APPROVAL OF MINUTES

Approval of Minutes from July 31, 2013 Planning Board Meeting

On motion of Mr. Sjunneemark, seconded by Mr. Wexler, the minutes of the Regular Meeting of July 31, 2013 were approved.

VOTE: Ayes: Mendes, Sjunneemark, Ianniello
Nays: None
Abstain: Sterk
Absent: Mendes

Mr. Sjunneemark moved to go into recess at 7:15 p.m. to seek advice of counsel, seconded by Mr. Wexler. Motion carried.

Mr. Sjunneemark moved to go out of recess and return to the meeting at 7:40 p.m., seconded by Mr. Wexler. Motion carried.

WETLANDS PUBLIC HEARING

Site Plan, and Wetland Permit for Reconstruction of Shore Acres Point Clubhouse in R-20 Residential District.

Mr. Sterk recused himself.

Mr. Arthur Wexler, architect, appeared for the applicant. Mr. Pierre Valla, President of Shore Acres Point Club, also was present. Mr. Valla said there are approximately 200 families in the Club. The Club was built in 1952. Many walk or bike ride over to the Club. The parking lot has parking for about 50 vehicles and there are only a couple of times yearly where there is a need for additional parking such as on July 4th. The facility lends itself to swimming, kayaking, boating, and socializing in the multi-purpose room. It is a Club for local residents.

The proposal is to replace the existing building which was damaged by Super Storm Sandy, with a new building.

Mr. Arthur Wexler said that presently the building is a 1 ½ story structure of about 2,360 square feet. The new building will be one story and approximately 2,500 square feet and will be raised ten (10) feet above ground. The structure is entirely in the 100 foot wetland buffer. There is little property left to develop outside of the buffer. The existing house sits in the buffer. The Flood Plain is at elevation 15. The one-story enclosed porch will be removed and replaced with a deck. The property is completely developed with gravel, a parking lot, and swimming pool. The stairs to the entrance will have 14 risers. When entering the building, there is a 1,200 square foot multi-purpose room, bathrooms for women and men, 1 employee apartment, and a kitchen. The new elevation will be 18.6 feet with a grade of 9 as the building will be elevated up. Eighty-five square feet will be added on the first level.

Mr. Arthur Wexler said there will be a handicapped lift and stairs. The roof will be curved which brings the building down visually. The architect showed pictures of the proposed building to the Board. The existing building is 23 feet in height and the proposed building will be 29 feet in height and well below the maximum zoning requirement of 35 feet. There will be two handicapped parking spaces on asphalt surface in front of the building. There will be 23 drywells. The meeting/multi-purpose room will have an eleven-foot ceiling.

Mr. Sjunneemark inquired if there are boat slips being added. The architect said no.

Mr. Arthur Wexler stated there will be piles and pile caps added for support. Piers will support the building as well. The roof is an impervious surface.

Mr. Ianniello inquired if under the building there will be gravel allowing water to flow through. The architect said yes, and mentioned winter equipment will be stored under the house eliminating the need for a shed. There will be breakaway walls.

Mr. Lee Wexler raised the issue of whether the parking lot could be landscaped. Mr. Ianniello also inquired about landscaping. The architect said no landscaping is needed. Mr. Ianniello stated that ornamental grass may be a nice addition to the gravel area and asked that the applicant contact the Village landscape consultant, Ms. Susan Oakley. He said this is a stand-alone building; the surroundings are barren and the building would be enhanced by adding landscaping. The architect agreed to meet with Ms. Oakley. He said that the property is not suitable for trees or plants as the salt water could wash them away. The architect said the water rose 3 feet high with waves after the storm. He said he welcomes any landscaping suggestions.

Mr. Sjunneemark noted that there should be parking for 72 with 200 families having membership. Mr. Valla said that members are local residents who rarely need to park on the local streets except on major summer holidays.

Mr. Lee Wexler inquired if there is an area provided for bikes. Mr. Valla said there is an area already in place and utilized. Details for accommodating bikers and walkers should be part of the site plan.

Mr. Galvin stated this is a Type II Action under SEQRA. The proposed use is a non-residential structure and less than 4,000 square feet. The LWRP consistency can be addressed later. Mr. Galvin said the applicant will need to go to the Zoning Board for a Special Use Permit as they are an annual membership club in an R-20 zone.

Mr. Salvador Behar, architect, said he made a formal survey of the building and stated the building has major structural issues.

Mr. Galvin indicated that since this is a Type II action there is no requirement for the applicant to appear before the HCZMC. However, a request can be made for comments from their environmental consultant, Mr. Sven Hoeger. Mr. Galvin indicated that he would speak with Sven Hoeger, HCZM's environmental consultant, at the HCZM meeting on 9/18/13.

The public hearing was adjourned to October 9th.

Mr. Sterk rejoined the meeting.

NEW BUSINESS

Referral to Planning Board for PLL- N - 2013 regarding the ability to allow the use of a Parking Fee in Lieu of for the Zoning Board of Appeals.

Mr. Ianniello stated the Board of Trustees (BOT) asked the Planning Board for their input on a proposed local law providing for the Zoning Board of Appeals to impose a fee in lieu of parking as a condition of a parking variance. This legislation will be discussed at the BOT Work Session on Monday, September 16.

Mr. Sterk said that if it is approved that the fees should go into a fund used for parking purposes only. Mr. Galvin said that is the current law. Mr. Galvin indicated that this tool has not used frequently and the last payment in lieu was for the new building at 488 Mamaroneck Avenue. He said there is a current proposal to do a parking study in the downtown with additional plans to acquire multi-space, smart-metering downtown.

Mr. Ianniello commented that at what point do we state that everybody needs to pay the fee. Mr. Galvin said we will learn more after the parking study regarding the need and demand for parking and specific parking recommendations. Interviews are being set up for this week.

Mr. Sterk questioned why people will be let off the hook without paying for a full parking space.

Mr. Galvin said every use that cannot provide parking on-site would have to pay a full capital cost for off-site parking at anywhere from the average of \$17,000 - \$20,000 all at once. The price could be higher (\$25,000 - \$30,000) if the designed facility was smaller or there were other special conditions that applied. He said this is the theory behind the payment fee in lieu of used by many communities. The City of White Plains uses a total payment fee in lieu of \$18,000.

Mr. Galvin said the applicant would pay 60% of approximately \$28,700 or \$17,200. Fifty percent of the fee or \$8,600 is payable upon receipt of the CO with the remainder payable over a five year period. Mr. Galvin indicated that this is the current law in the zoning code.

Mr. Ianniello said that if no one is paying the fee and reducing it by 40 percent why isn't that the actual fee. Mr. Galvin indicated that construction costs used are the averages for the metropolitan area and are in line with what is being used in the City of White Plains. The law provides for a 50% payment once the project is completed and then a payout over the next five year period.

Mr. Wexler also said that fee is based on construction costs and calculated per the code being set by the Planning Board. The law is giving the ZBA the ability to just give variances but the Village should get something out of it. Mr. Wexler said he is in favor of having a tool like this available. The monies have to be collected.

Mr. Galvin said Westchester County generally agrees with this type of approach. Their referral letter indicated that this may not work if the Village's parking requirements are too high. Mr. Galvin indicated that his research has indicated that the Village's parking requirements are in line with other communities. Another point to consider is that it is difficult to dictate to a quasi-judicial board, such as the ZBA, what they can do. The Planning Board does have this tool and the legislation extends this to the ZBA.

Mr. Wexler said he is in favor and we should recommend to the Board of Trustees to consider using 'may' not 'shall' in the language. The Zoning Board provides the variances without going through the process and it is preferred that the applicant pay something rather than just getting a variance.

Mr. Sterk said this is a good concept.

Mr. Wexler also agreed and said it results in greater flexibility for the Zoning Board and developers and the money can be used to resolve some of the parking issues the Village has. Mr. Galvin said he will prepare a letter to the Board of Trustees on behalf of Mr. Ianniello.

BOT Referral for PLL-M-2013 (Definition of FAR) – Continuation of Discussion re: Subsection 4 (Parking as FAR) and Subsection 5 (Mechanical Space)

Mr. Ianniello stated the Board of Trustees asked the Planning Board for their input for PLL-M-2013 (Definition of FAR) – Continuation of Discussion re: Subsection 4 (Parking as FAR) and Subsection 5 (Mechanical Space)

Mr. Sterk addressed Subsection 4 and said he is concerned about having no limits on how parking would be included. In fact, this would allow someone to build 4 stories of parking with a house above it. Mr. Galvin said that the parking needs to be an accessory use. The proposed use mentioned by Mr. Sterk would not be cost effective for any developer who is seeking not to provide more parking than is required by the Code.

Mr. Galvin noted there is no off street parking garage allowed except in downtown, in which case as a practical measure would need to be a joint private/municipal use.

Mr. Sterk said he has concerns about having very high amounts of parking for other uses.

Mr. Galvin said parking is at \$17,200 per space. Before 2008, the parking exemption for accessory parking for non-single family uses was in the definition. After 2008, when the definition was redefined, this language was dropped out of the definition at the last moment by the then Village Attorney.

Mr. Galvin noticed this change and the next business day he addressed the omission. He spoke to Tom Murphy and other members. It was recognized as a mistake, but it has taken six years to get to this point. Before 2008, the accessory parking language was in the Code. After 2008, the language was left out. To get an idea of what a building would look like with the FAR exemption, one only needs to look at the residential building built previously to 2008. There has been no multi-family construction built in the Village since 2008. Any pre-2008 construction may, in all likelihood, be non-conforming today.

Mr. Sterk stated that everything should be included in FAR. Why should we allow bulk in the form of parking but not allow bulk in the form of something else.

Mr. Galvin said the basic theory is that FAR is used for habitable areas. Therefore, accessory parking to multi-family and commercial are not considered as FAR in any other communities in Westchester, NYC or the tri-state area.

Mr. Wexler said it would be simpler if we had a definition that included everything in FAR.

Mr. Galvin said what we have post 2008 was a technical mistake which is what the current legislation is attempting to correct. The exemption has always been in the code similar to other communities. FAR is one land use regulation which goes hand in hand with other bulk requirements. The other regulations were reviewed at the time of the redefinition of FAR and did work together well. We reduced the FAR in 2008 in the C-1 and multi-family zones by 20 to 30 percent. He said that the current legislation provides a disincentive to place parking under buildings. Instead it encourages developers to spread out the parking across the site and thus have less land for landscaping on the site.

Mr. Wexler said if it is not in the building, it is not in the FAR either and said he sees the point how we got here and how we got to the FAR.

Mr. Ianniello said that are other restrictions for setbacks such as height, side yards, front yards, etc. The FAR is not the only tool that is used.

Mr. Wexler inquired if there is a minimum height on parking structures. Mr. Gerety said he will confirm, but it is closer to eight or nine feet.

Mr. Galvin said the height definition of a building was also changed in 2008 and now it includes the average of the pre-existing grade which is used to measure the height to the mid-point (if it is a flat roof). Mr. Wexler said this allows for more construction than the existing ordinance.

Mr. Ianniello asked if the Village wants to increase the FAR which is on the books.

Mr. Galvin said there has not been multi-family development since 2008. More opportunity will be in the Washingtonville area, in the area of the TOD study. Underdeveloped areas will probably be re-developed at some point.

Mr. Wexler asked if by doing this, the parking requirements as they are with the FAR make certain sites not economically feasible, as it seems there are two ways to do this, one is to pull parking out of the FAR, and the other is to reduce parking and he commented “why have more parking than what is needed”.

Mr. Galvin said parking is being proposed to be reduced in the TOD study area as part of the zoning implementation. Generally, he would agree that parking should be reduced where appropriate. For example, parking requirements downtown are much different than they are on the Boston Post Road. From a planning perspective, there should be less parking around the train station and in the downtown.

Mr. Wexler said in 2008 parking was lumped in with FAR, and the FAR itself was reduced.

Mr. Daniel Natchez, Daniel S. Natchez and Associates, said that their office sent a letter to the Planning Board recently regarding the language of the law. He stressed not to focus on instances where something may or may not have worked. There *has been* a lot of development in the last five years. He said other communities lump everything into the FAR. When you do that, it is a much more significant approach to understand the cause and effect of the development. By taking out the FAR in the attics, it is opening up a Pandora’s box. Mr. Natchez said to look at the laws, and the question is if you change part of it back to 2008, are you going to change the FAR back? More problems could be created with higher densities.

Mr. Clark Neuringer stated he was a member of the ZBA for ten years. What is driving this? This needs to be learned. What does this mean on overall bulk? Why do parking garages have a different level of scrutiny than office buildings? Why create a separate category. A parking garage ought to have a parking requirement, and why exempt it. Rather than separating out, and making a category, studies should be done first. What is driving this and why? Anything can be proposed including parking over FAR considerations.

Mr. Neuringer said to consider what is driving this and why, not just correcting a mistake. Parking should be included in overall FAR considerations. Throw everything into FAR which is probably the correct thing to do.

Mr. Galvin indicated that the elimination of attics below 7 ½ feet being mentioned by Mr. Natchez has always been in the law. It is not new with this definition. It was in pre-2008 as well as post 2008 and remains the same. This is the same language used in the adjacent Town of Mamaroneck.

Mr. Ianniello asked the Board members to send him their opinions. Mr. Galvin stated this information is needed soon as there is a Board of Trustees Work Session on Monday. Mr. Sterk said the Planning Board should have a single voice on these issues.

Bill Gererty indicated that there is a burden in meeting the parking regulations. The language in the code is archaic and does not promote the use of off-street parking for single family or other uses.

Mr. Wexler said the Village has a large problem with houses that have garages for 2-3 cars. People that have space are overdoing it with garages. He said this is a worse situation than on-street parking. He said discussing these issues is very important to him.

Mr. Ianniello said to send their bullet points to Mr. Galvin and with that there may be a general consensus, and, if not, majority rules.

Mr. Galvin said be specific about Subsections 4 and 5 as well as addressing the proposed cap on mechanical and utility rooms.

Mr. Wexler suggested that if the Board is uncomfortable with the parking then the Board might be more uncomfortable with the mechanical space as there is less justification for it.

Mr. Sjunneemark stated that mechanical space is for multiple family homes or office space for the operation of the building, and give them a break for 15 percent of what they actually need as relates to square feet. Mr. Wexler said that he believes mechanical space is a bridge too far. He mentioned that mechanical space was not in the Code pre-2008.

Mr. Sterk said that mechanical space should not be treated any differently than ordinary space. It just adds to bulk. Mechanical space now has to be above ground that used to be below or at ground level due to flooding. He said if that concept is correct, then FAR can be increased by 10% to get the same result. Mechanical space should not be treated differently than anything else.

Mr. Gerety said that building in general is limited by setbacks and especially in the downtown area where no lots are available. If it includes mechanical space and there is no exclusion, you are double taxing on what can be built.

Mr. Ianniello indicated that it will be difficult at this time to get the FARs increased, impractical and may cause other serious issues in the zoning. He also said that now that buildings and mechanicals are being elevated, this is a concern.

Mr. Gerety said the Building Department is strict as relates to planning, and the department does not let things slide. They are able to manage administratively the review of FAR.

Mr. Wexler said these are mechanical rooms supporting the building and this is one more complexity to deal with in the floor plan.

Mr. Wexler suggested making a motion and coming to a conclusion on some of these items.

Subsection 5 (Mechanical Space)

Mr. Wexler recommended that Subsection 5 be removed.

Subsection 5 Vote

Mr. Wexler moved that Subsection 5 be removed relating to Mechanical Space, seconded by Mr. Sterk.

VOTE: 4-0

Mr. Wexler stated that the more appropriate way to do it is to raise the FAR to maintain what Subsection 5 is doing.

Subsection 4 (Parking as FAR)

Mr. Wexler recommended that Subsection 4 be approved, but that the Board of Trustees seriously consider doing the same through FAR to make it easier to allow parking. He suggested the Board consider increasing FAR rather than by exempting parking through

FAR. The Board supports this but we would recommend accomplishing the same goal by other means.

Subsection 4 Vote

On motion of Mr. Wexler, seconded by Mr. Sterk, the Planning Board supports the current language in subsection 4 but would recommend accomplishing the same goal by increasing FAR.

VOTE: 3-1

Ayes: Sterk, Sjunneemark, Wexler

Nays: Ianniello

Absent: Mendes

Mr. Ianniello supported the legislation to exempt accessory parking in subsection 4 from FAR but voted against the motion stating that increasing FAR would be impossible to implement, impractical and cause serious difficulties with the remaining zoning.

Subsection 3 (Garages-Single and two-family homes)

Mr. Wexler said that Subsection 3 should be addressed more formally.

Mr. Sjunneemark said he disagrees with Subsection 3 and does not think we will see any increase for building free standing garages.

Mr. Sterk added that he does not see any reason to add 400 square feet to the FAR for single family homes. FAR should be reduced in all single family districts in his opinion.

Mr. Sterk urged the Board not to adopt Subsection 3, with the exception of one qualification which is that it would be more appropriate to include this omission only for single and two-family homes.

Mr. Sterk said existing language should be fine if properly construed. Regarding single family homes, the first 400 square feet should be exempt. The only exemption for garages in single and two-family districts is to support free-standing garages of 400 square feet or less, and no exemption should apply for garages attached in any way to an existing home.

Village of Mamaroneck

Planning Board

September 11, 2013

Page 10 of 11

Mr. Wexler wanted confirmation that the Board is clear in their opinion and that the Board is not adding 400 square feet. Mr. Sterk noted that the existing FAR is already very liberal.

Subsection 3 Vote

On motion to Mr. Sterk, the Planning Board recommends that there be no exemption for garages attached to existing homes, and to allow an exemption for garages in single and two-family districts to support free standing garages of 400 square feet or less, seconded by Mr. Sjunneemark.

VOTE: 4-0

ADJOURNMENT

On motion of Mr. Sterk, seconded by Mr. Sjunneemark, the meeting was adjourned at 9:20 p.m.

VOTE: 4-0

Respectfully submitted,

Anne Hohlweck
Recording Secretary