

**VILLAGE OF MONROE PLANNING BOARD
WORKSHOP MEETING
MAY 14, 2014
MINUTES**

PRESENT: Chairman Parise, Members DeAngelis, Cocks, Convers, Graziano, Karlich, Engineer Queenan, Attorney Levinson, Building Inspector Cocks

Member Syrianos arrived at 7:10 p.m.

Chairman Parise opened the meeting at 7:00 p.m. with the Pledge of Allegiance to the flag. An announcement was made regarding the location of fire exits.

1. 577 Route 17M – Amended Site Plan – (220-5-16.1)

Present: John Loch, AFR Engineering and Land Surveying; Shulem Brach

Chairman Parise noted that Building Inspector Cocks visited the site and took photos of the site in its current condition. Engineer Loch received the photos and sent the photos to his client as well. Engineer Loch reported that he also visited the site. Chairman Parise stated that the site was a mess, the applicant was not in compliance with the Conditional Use Permit and that as of yesterday when our Building Inspector revisited the site, nothing had been done. Chairman Parise addressed Shulem Brach concerning the condition of the site. The Conditional Use approval required that the potholes be repaired, the pavement be maintained in good condition, garbage and litter must be picked up, and no goods or merchandise can be stored outside. Chairman Parise visited the site himself and the photos also show that the site is in terrible condition. Mr. Brach stated he received the photos and understands the property needs to be cleaned up and will take care of it. Chairman Parise stated that we went through this last year. Attorney Levinson stated that the Building Inspector shouldn't have to send you pictures, you should know to take care of your property, keep it in a clean condition, repair the potholes, etc. This is part of your Conditional Use Permit. Mr. Brach stated that the potholes discussed last year were repaired and that these new potholes occurred this year, after this winter. Mr. Brach further stated that the garbage has been picked up and that he spoke with the tenant and the tenant has been told to remove the concrete forms and other construction equipment from the site. Chairman Parise stated there is no excuse to have excessive garbage all over the site. Chairman Parise informed Mr. Brach that we are proud of our community and want to keep the community clean and advised Mr. Brach to be a good neighbor and perform routine property maintenance. Mr. Brach apologized and stated he would continue to take care of the site from now on.

Engineer Queenan discussed Lanc & Tully's review of the latest submitted plans. NYS DOT has approved the plans since there are no changes proposed to the entrance configuration; Orange County Planning in their 239 referral indicated local

determination; the Building Department has accepted Note 13 relating to the proposed fuel tank on the premises as well as the note on the plan concerning the fire rated wall. All outstanding engineering issues have been addressed. Engineer Queenan recommended that due to the proposed dumpster facilities and parking lot improvements, that a time frame be set for completion, as well as a cost estimate be submitted for bonding purposes to ensure that the work is completed in a timely fashion. Member Cocks questioned who owns the fence between this property and the property in front of it. Building Inspector Cocks stated the other property owns the fence and that violations have been sent out to that property owner regarding the poor condition of the fence and area surrounding it. Chairman Parise confirmed that the conditional use permit expired November 2013, during the review process of this application, therefore the amended site plan not only needs to be approved, the conditional use permit needs to be renewed as well. Due to the track record of the applicant not maintaining the property, Chairman Parise recommends that the conditional use permit be renewed for 6 months to keep track of this property and ensure that the property is properly maintained. Attorney Levinson stated that if the site is not maintained and the conditions of the use permit are not met, the applicant runs the risk of losing the conditional use permit.

2. Mavis Tire – Field Change – (220-4-6.1)

Present: Zack Peters, Mercurio, Norton, Tarolli & Marshall Engineering
And Land Surveying

Chairman Parise acknowledged receipt of a letter dated May 9, 2014 from John O'Rourke stating that discussions were held between John O'Rourke, Brian Smith Village DPW and Jim Cocks, Building Department and the applicant regarding changing of the downspouts from the west side to the east side of the building, as well as modification to the existing drainage system and proposed drywell installation, and rearranging of the water service all to accommodate the house at the rear of the property and relating to modification of an easement line to ensure that the water system services both the house behind the property as well as the Mavis property. The Board complimented the applicant on the look of the building and felt it looked great and was a huge improvement to the site.

3. Vespa – Two Family Conversion – (211-2-8)

Present: Lisa Vespa, Bill Owen, P.E., Barry Terach, Architect

Engineer Owen explained he is present on behalf of Engineer Torro. Engineer Owen explained that Ms. Vespa purchased the house in 1985 and at the time it was a 2 family home, however it was never made legal. Ms. Vespa is now bringing the house up to code and legalizing the 2 family. Engineer Queenan stated that 2 family is permitted as a conditional use in the SR-10 district. Since this is a conditional use a public hearing is required. The property is within 500 feet of Route 17M therefore referral to Orange County Planning is required under Section 239 of NYS General Municipal Law. Engineer Queenan commented that there appears to be two front doors, both of which enter into the same apartment, and recommended that one of the doors be removed so

as to keep within the Village Code and retain the look of a single family home. Ms. Vespa stated she is not opposed to removing one of the doors, however she is concerned that it will be difficult to finish off the front of the house once the door is removed as the brick will be very difficult to match and feels it will be more of an eyesore if the door is closed off then if the two doors remained. Ms. Vespa believed the other door was used as a side entrance for the prior owner who she believed was a Doctor, and there is a definite front door on the house. The Board will drive by the site and discuss the door at the next meeting. Chairman Parise stated at the next meeting the Board can declare Lead Agency, send the plans out to the County for review and set a public hearing.

**4. Crystal Run Medical Building – Free Standing Sign – (203-2-2.2)
Present: Chris Lewis, Lewis Sign Co.**

Engineer Queenan recused himself from this application due to a conflict. Building Inspector Cocks will handle the review.

Chairman Parise noted that the applicant appeared before the ZBA and was granted a variance for a setback of at least 17' from the front property line and that the Planning Board, in its review of the plans and its discretion can require the sign to be located 17' or more from the front property line. Mr. Lewis submitted a rendering of the proposed free standing sign showing how it will look as well as the size. The sign will be internally lit. Building Inspector Cocks stated that since this was an amended site plan with minor changes that a 239 referral was not required but deferred to Attorney Levinson. Attorney Levinson concurred with Building Inspector Cocks. Building Inspector Cocks stated there were no issues or impact with site distances where the sign is proposed to be located. Building Inspector Cocks stated that upon review of the original site plan there are 3 whitehouse pear trees which were lost during Hurricane Sandy and have not yet been replaced. The site plan states the landscaping must be maintained in perpetuity therefore these trees need to be replaced. There are 2 more trees that were required per the site plan to be placed in the strip islands but the islands are not wide enough to maintain a tree, and the ground cover currently in the islands are adequate. Otherwise the site has been maintained very well.

**5. Chase Bank – Zuckerman Office Building – Amended Site Plan- (201-1-2.1)
Present: Jim Sweeney, Esq.; Mark Siemers, Pietrzak & Pfau**

Attorney Sweeney stated he was present on behalf of the Smith Farm project and is present with consent of the Zuckerman family with regard to the bank building. Attorney Sweeney felt that an historical explanation was necessary in order to simplify things for this project. Attorney Sweeney stated that the building was built in 1982 and at that time the 1965 Village Zoning Law was in effect. When the building was built it was located in a B3 Zoning district and at that time site plan approval was not required for something in the B3 Zoning district; all that was required was a building permit and a certificate of occupancy, both of which were issued. Attorney Sweeney felt that the plan submitted to the Board now is not an amended site plan, as there was never a site plan

to begin with that could be amended. Attorney Sweeney feels what the applicant wants to do now is the building of an accessory use of parking, which, in his opinion, under the current zoning, does not require any Planning Board approvals at all. Attorney Sweeney feels that the Planning Board has no jurisdiction or review powers over the parking stalls and retaining walls to be added and feels the addition of the parking stalls and retaining walls can be obtained simply through a building permit. Attorney Sweeney stated that the Building Inspector is free to use all the outside consultants and experts he would need but it is Attorney Sweeney's opinion that the project does not require any Planning Board review at all. Attorney Levinson stated he has been taken by surprise by Attorney Sweeney's new evaluation of this project and will need time to research this matter, but reminded Attorney Sweeney that there are other issues going on with this property, such as some of the parking spaces encroaching onto the neighboring property, as well as tree and landscaping removal, and the installation of retaining walls. Attorney Sweeney agrees that there are a few parking spaces that encroach onto the neighboring property and feels the encroachment issue is a private issue between the two property owners as well as NYS DOT, as there are also a few parking spaces encroaching into their ROW. Attorney Sweeney feels that when an application is made for a building permit that Building Inspector Cocks will require professional help by way of Engineering consultants with regard to retaining walls, parking, grading, etc. Building Inspector Cocks stated that the applicant was before the Planning Board now, and the Planning Board had an Engineer and Attorney therefore all the outside professionals required were present and available, and he didn't see any need for the applicant to not continue with the Planning Board review process. Chairman Parise commented that the Planning Board's role is to ensure the health, safety and welfare of the public and that the proposal of the 4 additional spaces presents a danger to pedestrians as well as vehicles visiting the site. Walking, driving through the site and pulling in and backing out of those proposed spaces present a huge danger and feels it should be subject to extensive reviews. Attorney Levinson stated there is language in the code providing that any modification of land within the Village after adoption of the current zoning requires site plan approval. Member Cocks asked how many parking spots were lost with the Smith Farm issue. Attorney Sweeney stated no parking spaces were lost at all. The Board questioned why the need to add 7 more parking spaces. Attorney Sweeney stated this is tied into the Smith Farm project and the enhancements of Gilbert Street and it was an agreement with the Zuckerman family in exchange for part of their land on the Gilbert Street side and corner, the Smith Farm project would provide these extra parking spaces. Chairman Parise commented that they only need 64 parking spaces and now they are going up to 72. Engineer Queenan stated that per Village code they really only need 39 spaces. Chairman Parise stated that 72 spaces was overkill. Engineer Siemers stated that Village code doesn't really take into consideration number of employees and the second floor offices of this building has a lot of employees. Chairman Parise stated he has no issue with additional parking, but does have an issue if the parking creates a dangerous condition. Engineer Siemers has proposed signage and stop bars to assist in navigating around the parking lot to help prevent any dangerous conditions. Discussion was held regarding where the best place would be to place a cross walk to ensure safety for pedestrians. Chairman Parise commented on the large trees proposed to be removed. Engineer Siemers stated he proposed to

replace the same number of trees that will be taken down. Attorney Sweeney stated he is not adverse to having Building Inspector Cocks perform the kind of review that was being conducted right now, and to consult with the Engineers and the Planning Board Chairman but he does not feel it's a Planning Board matter and should be handled in the Building Department. Building Inspector Cocks stated that this review would in fact require Engineering and Planning Board consultation and review and what better way to perform that than at a Planning Board meeting with everyone present. Chairman Parise stated that the proposed free standing sign would need a variance. Attorney Sweeney acknowledged that fact. Attorney Levinson reminded the applicant that they cannot perform any work on the site without a valid building permit. In addition, Attorney Levinson will require time to review Attorney Sweeney's position as it was just presented this evening, however it is Attorney Levinson's position that once you seek to modify what is existing on a lot you are opening the doors to what's existing on the site. You cannot do things piece meal and if the parking is to be changed regardless of the reasoning for wanting the parking changed, the entire site needs to be reviewed. Attorney Sweeney stated this is a survey not a site plan. Chairman Parise stated the plan before the Board now is a site plan. Member Graziano commented that the plan submitted both last month and this month is clearly labeled Site Plan. Attorney Sweeney stated he could withdraw the site plan and simply apply to the building department and the Planning Board has no jurisdiction. The only reason they need the Planning Board is for the lot line change from Chase Bank Building to the Village for the Smith Farm improvements. Chairman Parise stated that a lot line change would require a site plan. Attorney Sweeney disagreed and stated a plan for a lot line change only needed to show the property line. Chairman Parise questioned how the board could approve a lot line change if they don't know exactly what on the site would be affected by the new lot line. A lot line change will require a site plan. Building Inspector Cocks added that the lot line change is eliminating trees and landscaping which will have to be addressed and comes very close to parking spaces and would have to be reviewed on a site plan. Attorney Sweeney stated the plan submitted should not say site plan. It should say survey. Attorney Levinson commented that to do a lot line change correctly the board would have to determine how the boundary line would affect structures and other things on the site, thus site plan will be necessary. Attorney Sweeney disagreed and threatened to withdraw this application and apply for a building permit. Attorney Levinson stated it was the applicant's prerogative as to how they wanted to proceed. If they chose to apply for a building permit and the Building Inspector denies the permit then the applicant can reapply to the Planning Board or apply to the ZBA or whatever road they chose to take. Attorney Sweeney stated the project is within building code and shouldn't be denied. Attorney Levinson stated that building code does not apply to altering the site and does not understand why the applicant and Attorney Sweeney are looking to complicate this application. Chairman Parise stated that if the applicant goes to the ZBA for the sign variance they will have to present a site plan. Attorney Sweeney said they would only have to present a survey. Attorney Sweeney stated they can withdraw this application, apply to the ZBA for a variance for the sign and then go directly to the Village Board for the dedication, bypassing the Planning Board entirely and then apply to the Building Department for a permit. Building Inspector Cocks informed Attorney Sweeney that if that is the way he wants to proceed that is his

prerogative, however, he informed Attorney Sweeney that he would deny the building permit application and refer him back to the Planning Board because he feels this warrants site plan review. Engineer Siemers stated that in discussion with the property owner who was present in the audience, he offered to eliminate one of the spaces that were of concern, in exchange for moving forward with the site plan approval. Member DeAngelis commented that now it's back to being a site plan? Chairman Parise responded that the Planning Board is not in the practice of bargaining and that their review is to ensure the health, safety and welfare as well as ensuring everything is done legally and within the Village code. The applicant's counsel has appeared tonight with his own interpretation and has declared the site plan submitted to not be a site plan at all. Chairman Parise stated the applicant needs to decide what they want to do and present it properly for review, and in addition, in light of the new situations presented tonight by Attorney Sweeney, Attorney Levinson needs time to research this situation and there can be further discussion on Monday night.

6. Shop Rite – Conditional Use Renewal – (203-2-5)
Present: Ronald Kossar, Esq.

Chairman Parise stated that the outstanding issues included landscaping and employee parking. In addition there are two conditional use permits on the site and it's the Planning Board's intention to combine into one for the entire site. Chairman Parise and Member DeAngelis visited the site in April with the landscaper and noticed that the landscaping approved on the site plan has not been maintained in perpetuity. Anything that has died or been removed has to be replaced. The landscaper commented that landscaping in the islands is difficult to maintain as the snow piles on them and kills them each year. Chairman Parise suggested filling the islands in with interlocking decorative brick. The landscaper added the suggesting of potted plants for the islands which could be removed in the winter. Attorney Kossar likes the idea of decorative pavers in the islands as well as potted plants and will relay that idea to Brixmor for their consideration. Chairman Parise stated that Brixmor needs to present a landscape plan that not only follows the prior approved landscape plan but also offer modifications. This plan will be reviewed by the Planning Board and the details will be outlined in the final conditional use permit.

ADJOURNMENT

On a motion made by Member DeAngelis and seconded by Member Syrianos it was unanimously **Resolved that there being no further business, the Meeting be adjourned.** The meeting was adjourned at 8:10 p.m.