

**VILLAGE OF MONROE PLANNING BOARD
WORKSHOP MEETING
JULY 8, 2015
MINUTES**

PRESENT: Chairman Parise, Members Cocks, DeAngelis, Karlich, Graziano, Building Inspector Cocks, Attorney Levinson, Planner Dotson, Engineer O'Rourke

ABSENT: Member Convers

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. Copy Center – Site Plan – (202-1-3)
Present: David Niemotko, Architect**

Chairman Parise noted two issues that need to be addressed. It was agreed that the project is actually a new site plan, not an amended site plan, and the application needs to be amended to reflect this. In addition, Orange County has not responded to the 239 referral sent on June 16th. Architect Niemotko will amend the application and will reach out to Orange County for their response. Engineer O'Rourke has approved the bond amount of \$223,715. Architect Niemotko agrees to comply with the comments listed in Engineer O'Rourke's 7/8/15 review, specifically: provide certification on the plans that the proposed handicap access meets all ADA requirements; the overflow pipe in the catch basin in the handicap ramp area should be 8" in diameter; the proposed sign is to be eliminated from the site plan; and additional silt fence should be provided around the rear of the property.

**2. Verizon Wireless/Monroe Dental – Site Plan – (217-3-13.1)
Present: Hyde Clarke, Esq.; Chris Borncamp, Verizon**

Attorney Clarke described the project as a small cell antennae, which is to be situated on the roof of the existing building located at 400 State Route 17M, which is the Federal Plaza shopping center. The antenna is approximately 5 feet tall and provides coverage for hot spot areas with a 1000 ft. radius. These antennas supplement existing towers. The height of the existing building is 13.5 feet tall, and with the antenna the total height will be 20.5 feet tall. The equipment cabinet will be located at the rear of the building and will be secured by a fence. Engineer O'Rourke noted that the site plan should document existing conditions, bulk table and parking calculations. The board should discuss visual impacts to neighbors. Details of the roof top unit should have dimensions for height and width of the device along with coordinating photos. The project is a conditional use permit in the Zoning Code; therefore a public hearing is required. Due to the proximity to Route 17M, 239 referral is required. Member Cocks asked where the power would be coming from, and would there be a new meter. Mr. Borncamp replied

that they will be tying into power on an existing separate bank. Chairman Parise asked why Monroe Dental is included in the application name. Mr. Borncamp responded that Verizon identifies weaknesses in their coverage and then approach nearby property owners, landlords and tenants to obtain lease agreements. Monroe Dental is part of the lease. Chairman Parise noted that there is an existing site plan on the property and the board felt the name of this application needs to reflect the site plan name.

3. Monroe Plaza Free Standing Sign – Field Change - (203-2-5)

Present: Mike Patenaude, Poyant Signs

Mr. Poyant described the project as a new free standing sign using the same setback as the existing sign, but being relocated the center of the island in the entrance. In addition the electrical will be moved to the opposite side of the driveway, toward the Sunoco side of the entrance drive. The intent is to provide new signage in a better location, and bring the electric up to code. Engineer O'Rourke commented that Village Code requires any sign over 10 feet needs to be certified to withstand winds of 100 mph., but the certification provided is only for 90 mph. Attorney Levinson commented that the new sign will be a great addition but is concerned that it will be hit by a truck as trucks constantly use the main entrance for their deliveries despite "no truck" signs being posted. Building Inspector Cocks suggested installing bollards to protect the sign, and added that if a tractor trailer saw the bollard they wouldn't attempt to make the turn because they'd know they wouldn't be able to make it without hitting the bollard. Chairman Parise agreed that bollards would be helpful not only to protect the sign, but possibly to have trucks arrive via Gilbert Street, which is the way they are supposed to go. Chairman Parise added that the sign is a great improvement and advertising is very important to the merchants. Mr. Poyant agrees with the need for the bollards and will add those to the plan as well as "no trucks" signs. Member Cocks voiced concern that not all tenants in the shopping center will be able to be on the sign due to the size. Mr. Poyant stated that whichever store is on the sign is a matter of leasing rights with Brixmor, and the sign cannot be any larger due to restrictions from Village Zoning. Engineer O'Rourke asked if there would be any additional curbing or change to the island, and would the existing exit and entrance signs be removed. Mr. Poyant stated no change to the island is being made and yes, the exit/entrance signs are leaving. Chairman Parise noted that this matter is strictly for the new sign and has nothing to do with the conditional use permit on the property. The conditional use permit expires in October and any issues with the property will be addressed in October.

4. 104 Elm St. – Residential to Commercial Conversion - (207-2-8)

Present: John Cappello, Esq., Jacobowitz & Gubits;
Michael Sandor, MJS Engineering; Joel Markowitz

Chairman Parise noted that the public hearing was held last month and was closed, and comments were received from the public which included concern over truck deliveries. Engineer Sandor stated the project is on the agenda to answer any remaining questions or concerns the Board may have. Engineer Sandor noted that the property has a house and a detached garage on it. The detached garage has been continuously operated as

a commercial use for many years, and has been and still is permitted as a commercial use. The application the Board has before it now is for the conversion of the house located on the property from a two family residential house to an office and showroom. The application has nothing to do with the detached garage. Handicap parking and access has been added to the site plan for the proposed use of the house as office and showroom. Chairman Parise drafted a list of suggested requirements for the conditional use permit which were discussed at the public hearing:

- Property is for commercial use only, no residential use of the building is allowed.
- Hours of operation for deliveries and open to the public are Monday through Friday from 7:00 a.m. to 6:00 p.m., closed Saturday and Sunday
- Tractor trailers are prohibited from backing into the driveway. All tractor trailers must park in the street with the rear of the trailer staged at the driveway apron. All cargo is to be unloaded onto the driveway and stored in the garage.
- Deliveries are to occur (number of days) a week (Specify the day of the week)
- No religious services (assembly) is permitted on the property
- No materials are to be stored outside on the property
- Pallets are to be organized in one location and not scattered on the property
- Property must be maintained and kept in perpetuity.

These are suggestions to be discussed with the applicant. Attorney Cappello stated that the property will only be used for commercial use. Tractor trailer deliveries will be quantified for the site plan. Attorney Cappello pointed out that this application is for conversion of a two family house to office/showroom only. There will not be any additional truck traffic due to the conversion of the house. The use of the garage warrants truck traffic, as it always has. The garage is being used today as a commercial use because it is a permitted use. Attorney Cappello added that if the house were to be demolished today, a new residential house could not be built, as residential use is not permitted in the GB district. Therefore converting the house to commercial is actually making the property more conforming than it is today. Attorney Cappello reiterated that the application before the Board is for conversion of an existing two family house to commercial use, and this commercial use will not generate any additional truck traffic. Discussion was held regarding tractor trailer deliveries. Member DeAngelis stated she didn't want tractor trailers to deliver to the site, and that the applicant can use a different type of truck. Chairman Parise informed the Board that the Planning Board does not have the ability or the right to restrict deliveries to a commercial business, not to this business or to any of the numerous businesses located on Elm Street. Chairman Parise added that the property is located in a General Business zone and this particular property has had continuous commercial use since 1947. Attorney Levinson stated that the statement he made at the last meeting regarding tractor trailer trucks was based on representations of the applicant as to what type of trucks would be used for delivery. There was discussion as to exactly what type of trucks would be delivering to the site and the frequency of those deliveries and prior conversations seem to be conflicting. Attorney Levinson stated that the Board cannot restrict deliveries; however the Board can grant approval based on representations made by the applicant. Attorney Cappello will meet with his client and detail and

quantify truck deliveries to the commercial garage building. Engineer Sandor will provide engineering specs regarding accommodations for truck deliveries.

5. Monroe Movie Theater Zoning/Use Discussion – (212-7-1)

Present: Peter Tilem, Esq.; Dan Burke, Monroe Town Supervisor;
Rick Golden, Esq. special counsel on behalf of the Village of
Monroe

Attorney Tilem discussed the details of the May 22, 2015 letter he sent to the Planning Board indicating the use of the building as a full service arts center and civic center. Attorney Tilem stated the building was originally a 6 theater movie theater. Today, only 3 theaters are operable. A film festival is currently scheduled for August. Additional uses anticipated include a program called Zylofone which is a program providing performing arts and music programs to individuals with physical and/or cognitive challenges; there also may be speakers, book signings, book lectures, presentations, musical performances, live theater performances, charitable events, and meetings, including Town Board, Town Planning Board and Town Zoning Board meetings. Attorney Tilem stated none of these activities will have any greater impact on the area than the movie theater did when it was open and operating. Attorney Tilem feels these uses will bring large numbers of people to the downtown area that will be dining at the restaurants and patronizing the businesses downtown. Chairman Parise that what the Planning Board is looking for is to make the use of the building legal. The building was built as, and approved as a movie theater. In order to obtain this approval, variances were required, and the variances currently on the property and building are specifically conditioned that if any owner changes the use of the building from a movie theater, then that owner needs to appear before the Planning Board to allow for the future use of the property. Chairman Parise stated that with the additional uses by the Town, the variances are now null and void and the building is illegal. The Town needs to make the building legal by coming to the Planning Board for review. Attorney Tilem alluded to the concept that the Town may not be subject to the variances, and does not believe that the purpose of this appearance before the Planning Board was to discuss compliance with zoning, but was to present the anticipated uses of the building to the Planning Board for the Planning Board's input to the Village Board regarding potential impacts from the uses. Chairman Parise understood Attorney Tilem's position and stated that the purpose today is to advise the Village Board as to what needs to be done legally to make this conversion right, no different than any other property owner in the Village seeking to alter the use of their property. Member DeAngelis asked Attorney Levinson if the property could only be used for a movie theater. Attorney Levinson stated that variances were granted with regard to height, lot coverage and number of stories, and the ZBA specifically conditioned the granting of the variances to be valid provided the use remains a movie theater. By changing the use, the variances become null and void, and the new owner needs to apply to the Planning Board for the proper reviews. Attorney Levinson commented that the uses are fine, but the Town needs to follow proper procedure and return to the Planning Board to address the potential impacts, and comply with the variance. Chairman Parise added that the Board has no issue with the Town owning the property or using the property but it has to be done right, it has to

be done legally. It is the position of the Planning Board that the Town is no different than any other property or business owner and is subject to the same laws and same reviews and same process as anyone else in the Village. Attorney Levinson noted that the front steps, electrical service and dumpster are on Village property and leases between the Village and the prior owner have expired and need to be readdressed. Attorney Tilem stated that to avoid going to Court he was asked to appear before the Board to advise of the uses and get the Board's opinion on the uses only, and added that there has been a very nice renovation to the building. Chairman Parise understands Attorney Tilem's position, however the Board cannot review the potential impacts of the numerous uses without a site plan and formal site plan review. Simply telling us what the uses may be does not give the Planning Board any information or allow the Board to go through the process to properly determine what impacts these uses will actually have. The process is not a difficult one, but the Town needs to follow the laws and the processes. Attorney Golden, special attorney for the Village, explained that the Village brought an enforcement action against the Town based on its illegal use of the building, but that it has since been agreed upon between the Town and the Village that the action would be temporarily withdrawn without prejudice to try to see if the Town and the Village Board of Trustees could agree upon what uses would be acceptable to go forward. What was asked of the Town was to come before the Village Planning Board, not for approval, but for the Planning Board's input as to what the impacts would be for the various additional uses proposed by the Town. Will these uses pose traffic issues, parking issues, noise issues, lighting, safety and other typical, things Planning Boards review. The Village Board wants a report from a Planning perspective as to how these uses would affect the Village so that when the Village Board is negotiating with the Town they can take into consideration the Planning Board's input in order to negotiate the best deal. In addition, based on the Planning Board's input the Village Board will determine if they will continue with the enforcement action or not. Attorney Golden continued that municipalities are different from private entities when it comes to zoning therefore they are treated differently. In order to work through this the Village Board wanted the Planning Board to review the potential uses and identify any potential problems and impacts with these uses. Chairman Parise understands, and there are no problems so to say with the uses separately, however there is a problem with the variance on the property, and there is a problem with the Town not following our laws, and furthermore the Planning Board cannot properly conduct a review or give an opinion as to potential problems, issues or impacts on these uses without the matter going through a full site plan and planning review. Chairman Parise continued that when looking at these uses he sees some that are permitted, some that are classified as accessory to things other than a movie theater, and some that require conditional use permits. The current site plan on the property is for a movie theater only. The variances that are on the property are for a movie theater only. The C.O. for the property is for a movie theater only. Adding all the different uses now makes all the documents in the Village invalid. Attorney Levinson added that if the Town wants to go to the ZBA and obtain or modify the exiting variance to include the new additional uses, and update the site plan, and update the C.O. then they would be in conformance. He added that this Board is bound by the condition of the variances granted by the ZBA. Attorney Golden asked if the Planning Board was acceptable to

the uses with respect to Planning Board issues such as lighting, parking, noise, traffic, etc. and could he report this back to the Village Board. Chairman Parise noted that no different than Attorney Golden implied that there are many issues on his end, there are many issues on the Planning Board's end as well. While the Board is open to entertaining the numerous proposed uses, the Board cannot comment on impacts to the Village without having any supporting documentation to review. Attorney Levinson commented that some of the uses proposed are more building code issues than planning issues and would be handled through the Building Department. Building Inspector Cocks stated that it is the Town's position that the Village Building Department has no jurisdiction in a Town owned building and will not apply for building permits or permit Village Building Inspectors to enforce the Building Code. Chairman Parise voiced his concern and confusion as to how the Village Building Inspectors can be barred from inspecting a property located within the Village. Both Attorney Levinson and Attorney Golden never heard of any sort of immunity with Building code or Building Inspectors. Attorney Golden stated that the County Building Inspector can trump a Town or Village Building Inspector, but not between Town and Village. Attorney Levinson stated its time the Town and the Village stopped spending money on attorneys and come to a resolution. Chairman Parise added that nobody is asking anything more of the Town that wouldn't be asked of anyone using property within the Village. Attorney Golden stated that there is a separate balancing test for municipalities and it could be, as a result of that test that for some of the uses the Town would be fully subject to Village Zoning Laws, and for some of the uses they would not. The Village Board needs to know if the Town would be required to go through the Planning Process

Tilem
stated again that determination of impacts with regard to traffic, lighting, noise, etc. cannot be obtained without a proper planning board review. Chairman Parise added that he doesn't understand why the Town is hesitant to go through the Planning process and make this legal. The Library came before the Planning Board a few times for renovations and additions. They are funded and monitored by the Town. Why was that different from this property? Chairman Parise summarized that the uses on their own are not a problem, however when they are combined together in one building, a determination for impacts and the intensity of the uses cannot be done without going through the Planning process. The Planning Board will give its report to the Village Board.

6. Smith Farm – Site Plan – (203-1-1.1, 1.2)

Present: Vince Pietrzak, Pietrzak and Pfau

Chairman Parise discussed the issue of the traffic light and wanted to clarify some specifics. Chairman Parise stated that, in discussion with Planner Dotson, the traffic signal may not happen if it doesn't meet warrants and if DOT doesn't okay it. Planner Dotson confirmed that even though money is put aside, if the 3 warrants that are necessary, are not met, then the DOT can still say no. The Board was concerned that the light would never be put in. Engineer O'Rourke added that because this is a State road, it doesn't matter who pays for it or who wants it, if the State DOT doesn't approve it, it can't go in. Planner Dotson stated a warrant is a legal justification that would allow

a light, such as a specific number of cars during a specific time, or a specific number of accidents within a time period. It won't be known until after building has begun as to whether or not these warrants will be met. Engineer O'Rourke stated that a traffic study should be conducted every few years to evaluate if any of the warrants have been met and that this information should be included in the Resolution. Member Cocks commented that he didn't like the wording in Attorney Sweeney's letter to the Village Board, specifically "fair share". Engineer O'Rourke added the amount of money is incorrect as well. Attorney Levinson stated that a letter needs to be sent from Chairman Parise to Attorney Sweeney informing him that the calculations for contribution to the traffic lights are incorrect. Building Inspector Cocks noted that no time limits were included either. Planner Dotson would add the proper wording to the Resolution. Engineer O'Rourke added that the methodology of who would be involved in the review should be added as well. Chairman Parise added that the Town Board approved street names for their streets, however did not designate which street would have which name. Engineer Pietrzak stated he would resolve that with the Town. Town Planning Board Chair Tutini advised the Board that she will not have enough members of her Board present for the Monday meeting and asked if the next joint meeting could be held in the first two weeks of August. Chairman Parise stated the August meetings are August 5th and 10th therefore the next joint meetings can be held then.

ADJOURNMENT

On a motion made by Member Cocks and seconded by Member Graziano it was unanimously **Resolved that there being no further business, the Meeting be adjourned.** The meeting was adjourned at 8:40 p.m.