

VILLAGE OF MONROE  
PLANNING BOARD  
MEETING MINTUES

TUESDAY April 25, 2023  
7:00 P.M.

# DRAFT

**Present:** Chairman Boucher, Members Allen, Hafenecker, Karlich, Kelly, and Iannucci. Attorney Cassidy.

**Absent:** Member Umberto, Building Inspector Cocks and Board Engineer O'Rourke.

Pledge of Allegiance.

**La Vida Restaurant – 30 Millpond Pkwy - Special Permit (201-3-12)**

Chairman Boucher stated the applicant is before the Board as they are going from non-wait staff to wait staff. Both uses are Special Permit uses. Board Attorney Cassidy stated we are here to declare lead agency, schedule a public hearing and authorize the County 239 to be submitted.

There is a contingency that the applicant must submit an updated site plan by May 1, 2023 or the public hearing will not be scheduled. This is a Type 2 SEQRA action as there is no construction involved. There is no further environmental review needed for this application. At last month's meeting it was discussed if a public hearing was needed. State Law dictates that public hearing is needed for this matter.

On a motion by Member Kelly and seconded by Member Allen it was resolved: **to vote on the following resolution:**

VILLAGE OF MONROE  
PLANNING BOARD  
RESOLUTION TO DECLARE LEAD AGENCY, SCHEDULE PUBLIC HEARING AND  
REFER PURSUANT TO GENERAL MUNICIPAL LAW § 239

30 Millpond Parkway, Amended Site Plan and Special Use Permit Application (SBL 212-4-7)

WHEREAS, the Village of Monroe Planning Board is in receipt of an application by David T. Espinal on behalf of La Vida Restaurant & Lounge Inc. for amended site plan approval and special use permit to convert the existing food service/sales – no wait staff to a restaurant with wait staff. The property is located in the Central Business (CB) zoning district.

WHEREAS, a Short Environmental Assessment Form (EAF) dated March 29, 2023 was submitted for review; and

WHEREAS, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type II action (see 6 NYCRR 617.5(c)(18) and no further review pursuant to the State Environmental Quality Review Act (SEQR) is required; and

NOW THEREFORE BE IT RESOLVED, that the Planning hereby declares itself to be lead agency for purposes of SEQR review and further declares that this is a Type II action.

BE IT FURTHER RESOLVED, that the Planning Board shall hold a public hearing on May 23, 2023 at 7:00 P.M. or as soon thereafter as the application may be heard at Village Hall, 7 Stage Road, Monroe, NY 10950 contingent upon receipt of updated application materials by May 1, 2023 and receipt of outstanding fees and escrows if any;

BE IT FURTHER RESOLVED that a copy of the application shall be transmitted to the Orange County Department of Planning pursuant to General Municipal Law § 239 et seq.

Aye – 6

Nay – 0

**Monroe-Woodbury Islamic Center (MWIC) – 1431 Orange Turnpike - Informal (231-3.42-1)**

Ryan Nasher, Engineer for the applicant spoke about the project. Mr. Nasher stated last month's meeting did not go as they had planned and he apologizes for that. Mr. Nasher wanted to address a couple of questions from the previous meeting. The question was during the construction how and where are we going to pray. The Mosque Board has been looking for a near by alternate location. They have found some location but they are still looking into this.

Attorney Cassidy stated just to be clear this Board does not really have an interest in where the alternate location is during the construction. That is a business decision for MWIC but the Board is looking at how that would impact the project if, as their Attorney stated at the last meeting that they were planning on staying on the site during construction. But, it looks like the plan is to go off-site, if it is off-site the Board does not need to know where that is because it does not impact phasing of the project.

Mr. Nasher stated at the last meeting he was not prepared to answer that question as he was there to get a recommendation in regards to the waiver. Mr. Nasher has looked into it and there isn't a way to have services on the site during construction. The MWIC Board is looking to Mr. Nasher for advice and his advice is to have services off-site during construction.

Mr. Nasher asked if he could present a letter to the Board from Lance and Tully. Chairman Boucher stated the letter was distributed to the Board. Mr. Nasher stated there is a need to expand the Mosque which is why they need to build a bigger building. They were looking for a waiver from the moratorium so they could move forward. They wanted to have this informal, to see what questions the Board would have.

Chairman Boucher stated the Board did get a look at the project at the last meeting. Chairman Boucher asked the members of the Board if they had any questions. Chairman Boucher stated the application has not been accepted yet because of the moratorium. Attorney Cassidy stated the moratorium became Local Law on June 22, 2022. The application came to the Board in August 30, 2022, after the moratorium started. At that time the Board could not accept the

application. We referred the applicant to the Village Trustees if the applicant wanted to seek relief. There was a written request to the Village Trustless for relief from the wavier dated February 2023. The applicant appeared before the Village Trustees on February 21, 2023. The Village Trustees referred the matter to the Planning board for its recommendation in regards to the wavier. The Planning Board heard the request at the March 2023 meeting. Board Attorney Cassidy did speak with Mr. Nasher that the Board has every expectation that the moratorium will expire in June 2023. A draft of the new Comprehensive Plan was introduced by the Village Trustees last month.

Mr. Nasher asked if the moratorium ends in June would they be able to be on the agenda for June or would they have to wait till the following month. Board Attorney Cassidy stated at this time she is not sure what the exact date is for the moratorium to expire but if they got their application in by the submission date for the July meeting they would be on the July agenda.

Board Attorney Cassidy stated the next Village Trustees meeting on May 2, 2023, the Village Trustees will decide on the wavier. At best they would be on the June agenda but if not, they could be on the July agenda so there maybe be a one-month delay.

Board Attorney Cassidy stated she has had several phone conversations with Mr. Nasher in regards to procedural practices. Board Attorney Cassidy gave a timeline of the documents she received. Board Attorney Cassidy read the moratorium Local Law. Board Attorney Cassidy stated the applicant's Attorney Mr. Lynch stated that the moratorium violated state law and they did not need to provide dollar and cents justification for a waiver from the moratorium. She will be writing a letter to the Village Trustees in regards to the timeline and the Boards decision.

In the letter to the Village Trustees, it will state that the difference in timing for this project if granted vs. not granting relief will have a minimum impact of this project as the moratorium will be lifted in June 2023.

If relief from the moratorium is granted the earliest this could be heard before the Board is June 27, 2023. If no relief is granted the applicant could submit for the July 25, 2023 meeting.

Based on the comments from the Board professionals this project is in the planning stages. It is not in the "shovel ready" stage at this point. There are sewer issues and a set-back zoning issue that need to be resolved. The recommendation of this Board is to await the completion of the moratorium. This would avoid changing plans based on potential zoning changes. Due to the fact that we are near then end of the moratorium whether the wavier is granted or not the applicant is almost in the same exact position. If the wavier is granted the applicant is proceeding at their own risk that the zoning could change. The letter will state if the wavier is granted or the moratorium is over, the Board will proceed as they do normally proceed.

Chairman Boucher asked Mr. Nasher for his thoughts. Mr. Nasher stated that in talking to the applicant, it was decided that they are fine with a month difference. Mr. Miah, the President of MWIC, stated we started with the idea for this project in 2010, it is coming along. Mr. Miah, the of MWIC, stated they did some fund raising and this new construction is what they came up with. Mr. Miah stated they understand and respect the law. It looks like it's months but this has been a ten year plus. They submitted the application in August 2022 so this process has been about one year. If the wavier is granted we can at least tell our congregation we got the wavier and we can begin the Planning Board process. This will allow us to start fund raising.

Chairman Boucher stated while he understands that work that has been put into this project, from a practical stand point, the Board has not been updated on the new Comprehensive Plan and this Board has not been part of that process except when the Village Trustees are asked to grant waivers.

Chairman Boucher stated when the Village Trustees adopt the new comprehensive plan, those changes will apply to everyone. Board Attorney Cassidy stated that fund raising is hard for a non-profit organization. There is a cost to have the Board review the plans under the current zoning and then the Board may have to re-review under the new Comprehensive Plan if there is a change. If the Board needs to re-review it is another cost to the applicant. The Board would like to make this as streamlined and cost efficient as they can. From a legal perspective we are not going to recommend one way or the other. A letter has already been composed so that it can be given to the Village Trustees for their May agenda.

Chairman Boucher stated this Board makes a recommendation but the Village Trustees have sole authority on the decision to grant the waiver.

Member Hafenecker asked for clarification and gave an example. For example, if the new Comprehensive Plan stated you can only have twenty parking spaces and they planned for forty. That would have to be changed. Board Attorney Cassidy stated yes, that is correct. Chairman Boucher stated if something like that is changed and they still wanted forty spaces they would then have to go before the Zoning Board of Appeals (ZBA).

Member Iannucci stated that what we are saying is if the waiver is granted and new Comprehensive Plans is changed, the application has to be reviewed a second time under the new Comprehensive Plan. Board Attorney Cassidy stated yes, that is correct. The waiver does not grandfather the application under the current zoning.

Mr. Nasher stated he wanted to talk about the changes, the timing of those changes is only one month. Mr. Nasher stated I think we have to have a discussion as you are really taking a risk. If there is a change, you would have to change it anyway. The applicant's issue is the fund raising, and it is the applicant's decision.

Board Attorney Cassidy stated she understands the plight of fundraising as people want to see the building going up. They do not understand how much goes into the planning of a building. Mr. Nasher stated as this project is for the maximum build out there are going to be changes. The bulk table will need to be based on the new plans which we do not have yet. Mr. Nasher thinks what they are looking for is to show the congregation that there is a plan going on. Mr. Nasher will leave it for the applicant to decide.

Chairman Bouche stated it is up to the Village Trustees to grant the waiver and they may look at it and say we have one month here so we will not grant the waiver when it will have no bearing on the project, because of where they are at in their process.

Chairman Boucher stated he has done a lot of fundraising over the years and he believes if the people believe in the project they go along with it. It could also backfire if they start the project and then a change has to be made people may not like to as it is not what you said, so I don't know. I would encourage you to wait one month as it looks like the moratorium will be lifted. If the moratorium is extended, which none of us see happening, you can just come right back to this Board.

Board Attorney Cassidy stated as an alternate solution, the Board can make a recommendation to the Village Trustee which gives the applicant an opportunity to go back to their congregation to decide what they want to do, you can always contact the Village Clerk and to have the item removed from the agenda. Board Attorney Cassidy stated we are here and we can vote, as it is a regular meeting, so my suggestion is while we are here let's be finished with this part of the process and in the unlikely event that the Village Trustees extend the moratorium, you have your referral. Mr. Nasher stated he thinks it makes sense.

Board Attorney Cassidy stated she is asking this Board for a recommendation to grant the waiver request and submit that to the Village Trustees.

Member Kelly asked if we would be voting on waiting or not waiting. Chairman Boucher stated no, because we have no power to grant a waiver. This is for recommending, not recommending or staying neutral to the Village Trustees. One of the difficulties is we have not seen the application yet, normally we would have the whole application and there would be a lot to consider. Our decision has nothing to do with the project. From looking at what you have been presented, Mr. Boucher can see you have put in a lot of time and money into this project and you have done more than most applicants have done at this point.

Mr. Nasher stated they have done a similar project like this in Rockland County. The applicant wants this project to go faster so we did a lot of the work upfront. The hold up for this project was the sewer. We worked with the Mayor's office and Mike Sanders to come up with a plan. Behind Woodrow Estates there is a gravity connection and there is an easement so there is a way to make this work. We will need to go over the plans with the Board. Mr. Nasher put everything together, to the best of his knowledge, to get this to move forward. And, then we were faced with the moratorium. We knew the moratorium was coming in but it takes time to come up with a plan. We came up with a plan and now comes the fundraising. Fundraising is not an easy task. Board Attorney Cassidy stated unfortunately they got caught by the moratorium.

Chairman Boucher stated that it is a challenge for the Board without seeing the plans, it is hard to make a decision. Because so much work has been already done your process through this Board should be shorter.

Mr. Mohmad stated the plumbing issues took two years to figure out. Mr. Mohmad stated much time and money was spent on this project.

Chairman Boucher stated some projects take longer. They go through each issue as it comes up during the Board process. You did all that work up front, so it is really a risk management issue.

Chairman Boucher asked if anyone on the Board had any question about what was talked about tonight. Chairman Boucher stated at this point we have not heard but we believe the Village Trustee have set the public meeting for May 2 for the new Comprehensive Plan. The moratorium would be set to expire in June. The applicant is seeking a recommendation to the Village Trustees in regards to the waiver. The issue is that the Board has not seen a plan. Either way we are still going to see the plan either in June or July.

Member Hafenecker stated it is hard to make the decision without the plans. Mr. Nasher stated he has all the plans ready to go. Mr. Nasher stated he has the lighting plan, the landscape plan,

etc. Board Attorney Cassidy stated we do have the plans and paperwork but we have not been able to look at the plans as we could not accept the application due to the moratorium. These plans and paperwork will be distributed as soon as they can be.

The Board was polled about what it will submit to the Village Trustees. Member Iannucci and Member Hafenecker stated they are neutral in regards to the recommendation as they have not seen the plans but if the moratorium is extended they would favor a positive recommendation. Member Kelly stated he would like to see the updated Comprehensive Plan before moving forward. Member Karlich and Member Allen stated they are in favor of a positive recommendation to the Village Trustees at this time.

Member Allen asked what happens if someone legally challenges the updated Comprehensive Plan. Board Attorney Cassidy stated the Comprehensive Plan is the base plan for all the Board decisions. From the Comprehensive Plan will flow Local Laws which should complement the Comprehensive Plan. The Comprehensive Plan is a series of recommendation which are implemented through local laws. If the Comprehensive Plan is not adopted the moratorium law expiration date still exists. The old Comprehensive Plan would be in effect until the Local Laws are updated.

Chairman Boucher asked for clarification on what was the reason this application was not accepted. Board Attorney Cassidy stated this application was submitted during a time of the moratorium and could not be accepted. For an application to be move forward during the moratorium the application had to be past the SEQRA review.

Member Karlich asked doesn't it take time to pass Local Laws and how will that impact the Board. Board Attorney Cassidy stated there have been two new Local Laws already which are being processed at the same time the Comprehensive Plan is being developed.

Member Karlich stated she felt the problem is not the comprehensive plan but this is about the RALOPA law. She does not feel the plan is what is holding this application as at this point they do not have to show us the plan, so the question is why did the Village Trustees send this to us. Chairman Boucher stated they always do. Member Karlich stated this is her opinion and only her opinion.

Chairman Boucher stated he feels differently from Member Karlich, he is excited to hear about the project. But he is on the neutral side because he feels he would have to see the plans to go forward because he thinks this is based on the plans and not RALOPA. Chairman Boucher feels it is more of a problem if the do get the waiver and changes are made that affect the project, that is more of a problem to him. Member Karlich stated that would be moving forward at their own risk. Chairman Boucher agreed but he asked why have the risk for thirty days? Member Karlich stated that is the Applicant's decision.

Board Attorney Cassidy stated in order to move this forward, as we have three different thoughts on this matter, she would update the letter to the Village Trustees, to state the three different thoughts of this Board and will defer to the Village Trustees. She will outline the "before June" and the "after June" scenario so they can decide what course of action they want to take. Chairman Boucher stated he would like to leave a way for a decision if one is needed, in the future. The letter should state here is our opinion but that changes if the moratorium is extended for any reason.

On a motion by Member Iannucci and seconded by Member Hafenecker it was resolved: **Attorney Cassidy will write a letter to the Village Trustees outlining all the thoughts and view-points of the Board members.**

Aye – 6

Nay – 0

Mr. Nasher asked how will the Village Trustees take this vote, as there are three naturals, one no, one yes, and different scenarios “for June” or “after June”. Chairman Boucher stated he believes the Village Trustees are looking for the thought process that led the Board to this decision. He believes they will appreciate the letter coming this way as they want to know what the discussion was. Board Attorney Cassidy stated she did this for the other applicant that wanted a waiver as well. Mr. Nasher said thank you this has been very helpful.

Board Attorney Cassidy stated she does not have the minutes from March but the Board Secretary did ask for some clarification on those minutes but that has not been done yet.

The Board Secretary posted information on the draft Comprehensive Plan on the Board OneDrive. This will be a discussion at the next meeting. Board Attorney Cassidy would like the Board to make notes and highlight what needs to be updated and where it can be found in the document. Chairman Boucher stated it is important for the Board to review the draft Comprehensive Plan as the Village Trustees and this Board do not look at things from the same view point. Therefore, we want to make sure we are looking and reviewing this plan.

On a motion by Member Hafenecker and seconded by Member Iannucci: it was resolved: **to go into executive session.**

Aye – 6

Nay – 0

On a motion by Member Iannucci and seconded by Member Allen it was resolved: **To adjourn the meeting.**

Aye – 6

Nay – 0