

**VILLAGE OF MONROE
PLANNING BOARD
MEETING MINTUES**

**TUESDAY March 28, 2023
7:00 P.M.**

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

Pledge of Allegiance.

Monroe Woodbury Islamic Center (MWIC):

Present for the applicant: Dennis Lynch, Attorney for the applicant, Ryan Nasher, Engineer, for the applicant and Mohammad Miah, Applicant and President of the MWIC.

Board Chairman Boucher stated this application was submitted in August of 2022 and the application was not accepted due to the moratorium. The applicant is seeking a waiver from the moratorium. The Village Trustees have asked for this Board's recommendation on the wavier.

Mr. Lynch, Attorney for the applicant, stated he was here tonight because this is an important and unusual issue. One, this is a wavier issue and two, this is a religious issue. The applicant filed the application after doing informal work with the Board Engineer. The applicant is required, by law, to exhaust all administrative resources before going to Federal Court. Which means we have to go before this Board to see if you would recommend to the Village Trustees for a waiver from the moratorium. The wavier allows us to move forward during the moratorium. We understand the moratorium was extended till June 2023, with raising interest rates and raising cost of construction the applicant is severely impacted by the moratorium.

Mr. Lynch proceeded. The Village moratorium law has a wavier provision that the Village Attorney and I do not agree if it is constitutional or not. It applies when you are doing a commercial project. Where you have to show that no reasonable return can be made on your investment and things like that. It was not thought about from a religious context. Mr. Lynch stated he is here to exhaust all remedies before they can go to Federal Court. Mr. Lynch stated the applicant does not want to go to Federal Court. The applicant wants to go forward with the application. The applicant asks that this Board favorably recommend the wavier be granted. This Board does not grant the wavier but we are hoping it will recommend for the wavier. If the wavier is granted the applicant will be before you with the plans and the usual Planning Board functions.

Mr. Lynch stated the applicant was before the Village Trustees a few months ago and he thinks the Village Trustees were impressed with the project and this unique issue and I guarantee that no one else will come before you with a religious issue like this. Mr. Lynch stated if the Board has any question in regards to the building plans, the engineer for this project is here to answer any question. Mr. Lynch stated again, we are not here to discuss the plans at this time and we do hope to discuss them with you soon. Mr. Lynch stated we are trying to zero in on the question of religious freedom, which was never contemplated in this wavier provision so it does not apply to the applicant. Mr. Lynch stated we are here because we need to exhaust our administrative remedies before we go to Federal Court. Mr. Lynch stated he is here to say we

want you to favorably recommend the wavier. If you recommend the wavier I am very sure the Trustees will favorably consider the wavier and allow us to go forward. Then we will be back before this Board with the same normal process you have. I know you are looking inquisitives so let me answer your questions.

Chairman Boucher asked if the applicant's Engineer could give an overview of the project.

Mr. Nasher, Engineer for the applicant, stated the property is located on 1431 Orange Turnpike and is about 400 feet from the intersection of Reynolds Road. The property is about two and a half acres and is in an SR20 Zoning District. This zoning district allows religious assembly. Currently there is an existing mosque. It is very small currently about 2,300 Sq. Ft. Chairman Boucher stated the mosque is currently in the house that is on the property.

Mr. Nasher explained that over the years the congregation has grown. One of the problem's facing this project was the sewers, as there is no sewer connection on Orange Turnpike. Mr. Nasher meet with the Board Engineer and they looked at what can be done for the sewer. They came up with a plan which has a minimum disturbance. A gravity connect will be used for the sewer. The parking that is being purposed is within code and has no drainage impact on Orange Turnpike.

Chairman Boucher asked if a SWIFT report was done. Mr. Nasher stated yes, the report is over 300 pages. They did traffic analysis as well. The applicant has done all this so we can help the mosque move forward. If the plan works out we would like to get in to the Board to go through the review process.

Chairman Boucher asked how big the new building would be. Mr. Nasher stated it was 19,000 Sq. Ft for the footprint of the building. Chairman Boucher asked how much usable space that gave them. Mr. Nasher stated it will be two floors. Mr. Nasher showed the Board the plan. The second floor is going to be facing the main entrance and looks down to a ground level courtyard. The building will be built on a slab.

Mr. Lynch stated that when this is presented to this Board they will give us a complete presentation on the project. Chairman Boucher stated that would be helpful.

Chairman Boucher asked for clarification when Mr. Lynch stated religious reasons differ from non-religious wavier and why Mr. Lynch felt there wasn't religious consideration in the moratorium language. Please tell the Board what that means.

Mr. Lynch stated the Village Moratorium Law has a wavier provision and the wavier provision says there are ways to go forward with the plan despite the moratorium if you meet a condition. Mr. Lynch stated that condition is you cannot get a reasonable return on your investment. Board Attorney Cassidy can tell you what that law is in detail. What does that mean? That means you have to show a financial hardship that the money you invested is not going to come back to you quickly because of the moratorium.

Mr. Lynch stated he won an eight-million-dollar case years ago called "Orangetown vs. McGee" where the whole issue was the taking of some property. The moratorium law has a provision where that Village is essentially taking your property during a moratorium. We are not arguing you are taking our property rights, you are taking our religious rights, we have people who cannot come and pray because of your moratorium. So, it is not a question of taking property rights, but all your moratorium wavier allows is for financial hardship. Mr. Lynch stated the law

arguable does not block us at all from moving forward, we are saying your taking our religious rights away. The longer this is delayed the more people will agree with me. The law treats religious rights totally different then commercial rights and property rights. Religious rights are preferred rights and they have a law called RLUIPA, it says if you have a religious use it is almost incumbents on the municipality to show that it meets health and safety requirements. Which is the reverse use as we usually have to show to you the health and safety requirements are not being met.

Member Kelly asked if there are any other mosques to go to. Member Kelly stated if my church closed there are many other churches for me to go to. Mr. Lynch stated he imagines so. Member Kelly asked if the MWIC Center is currently open. Mr. Lynch stated yes, it is currently open and has been for the last ten years. Mr. Lynch stated there is no one else they can go to.

Member Kelly asked if there is a mosque in Middletown, NY. Mr. Lynch stated yes, but it is not nearby. Member Kelly stated Middletown is twenty minutes away. Mr. Lynch stated the law says we have the right to pray and we don't have to go twenty minutes away to do so. Member Kelly asked if we were shutting down the mosque by not granting the wavier? Mr. Lynch stated you are effectively shutting it down because economically if people turn away from it and they go to some other place, if they move out of here, they never come back.

Board Attorney Cassidy asked Mr. Lynch to say that one more time. Mr. Lynch stated when you go to the mosque it is very crowded and a lot of people know that so they don't come. They don't travel from New Jersey to come here they go somewhere else, where that is he doesn't know, so you lose people. Member Kelly stated there is a distinction between not growing and denying a right to pray, is that not correct? Mr. Lynch stated the distinction is this if you want to practice your religion and you want to go to a place that is nearby you and you can't go somewhere else, you have to go somewhere local. Mr. Lynch stated If I want to go to service in a certain church and it's full to the brim, I can't go there, and I can't go twenty minutes away to somewhere else, then I am being denied the right to pray.

Member Iannucci asked what about multiple services in a day? Is that a possibility? This would help meet the needs of the congregation. Mr. Lynch stated so we should hire two more Imams, is that what you are saying? Member Iannucci stated she is not stating anything about that she is asking if it is possible. Member Iannucci continued, if you are concerned about your congregation, and maybe something can be figured out, multiple service maybe an option. Other religious groups do that. Mr. Lynch stated what you are saying is we have to hire more personal to have more services. Several Board Member stated no, that is not what we are saying. Member Kelly stated what you are saying is to hold a second service later on in the day. Member Iannucci stated yes, a second service is what she is talking about. Board Attorney Cassidy stated she wanted to make it clear that Member Iannucci is asking questions to see what is possible. Member Iannucci stated yes, that is what she is asking. Mr. Miah, the applicant, and President MWIC, stated there is a time limit to pray which is about two hours. If we start after 7:30 they would end at 9:30 and another session would be much later, so having two or three sessions is not possible.

Mr. Miah continued, there is a Mosque in Middletown NY and a Mosque in Suffern NY, every Mosque has an organization fit, we are already overloaded here. If we add to that it is impossible to pray all together.

Mr. Lynch stated every Mosque has a different orientation. Some Mosques have the same ritual and the same rights as other Mosque they have the same base but different ways of doing

them. It is not as simple as saying go to Middletown, there are differences. Mr. Lynch stated he can see people here are hostile to the idea, I can see it I am not stupid. I see Mr. Kelly's attitude.

Member Kelly objected to the statement. Chairman Boucher stated nobody here is being hostile to the idea, we are all about religious freedom, as most Americans would be. Mr. Boucher stated I think what we look at is for every problem is a resolution, we are exhausting every means. There are going to be multiple hardships along the way and the moratorium is not going to be forever, what the Board is asking is to help with potential solutions that may or may not have been thought of. Even if the moratorium wasn't there and you raze the building, where are you meeting?

Mr. Lynch stated they have not thought about that so he can't answer that question. Chairman Boucher asked if Mr. Miah could answer that. Mr. Boucher stated the question is when you think of the future, as you obviously have, as you have as you put a whole plan together. The Board is looking at something, a lot of thinking and effort went into. What is your plan? You may have thought of it, it may not be a permanent plan and you may not be quite sure yet, but the building is going to come down in order for the new building to go up. Where will you meet during that time?

Mr. Miah stated they have to look for a substitute that can accommodate all the people, that we have not found yet. If we raze the building now the people would be very mad because we are giving them a commitment we are doing this to give you room to pray. Once we get the permissions to move forward, and when we can raze the building then we can raise this question to the congregation to find a place to pray.

Mr. Lynch stated he has been asked to look into that, and according to Village code there can be a temporary structure such as a tent structure. A temporary tent structure is allowed there. They could pray in the tent.

Member Kelly stated if they wanted to build a bigger structure and they could not get sewer or something, is that denying your religious freedom? Mr. Lynch stated if we cannot do something because your laws do not allow it, you're planning laws, your sewer, water, do not allow it then that's our problem. But, if can't do something because of a law you passed, called the moratorium, that stops us from going forward, then it's your problem.

Member Kelly wanted to know the distinction between the two. He wanted to know how the regulations we passed, in the first category are "your" problem and the regulation in the second category the Board's problem. We also passed the moratorium law.

Mr. Lynch stated that the zoning laws that allow the application to be made, they knew about them in advance. And, we knew coming in we had to follow those laws and those laws are natural laws that deal with basic planning issues. We accept those laws.

Member Kelly asked if he was contesting that they did not know about the moratorium law? Mr. Lynch stated what he is contesting is when the Village Trustees passed a moratorium law that you can only get a wavier if you show economic hardship, and you don't include religious freedoms, it violates our civil rights.

Member Kelly asked if Mr. Lynch has any evidence he wanted to put before the Board that the moratorium is anti-religious? Mr. Lynch stated he could not do that right now because I am not

going to give away what my strategy is going to be. Mr. Lynch stated but, I will tell you that when you ask questions about the plan they are arguably correct but when you question someone's practice or religion you cross the line.

Member Kelly asked if Mr. Lynch inquired if the moratorium is natural. Mr. Lynch asked if Member Kelly wanted the answer to that or not. Member Kelly stated, no, he would ask another question. Member Kelly stated a scenario where you cannot use peyote here in Monroe because it's illegal and its part of your religion to use peyote, that wasn't thought about before the law was made, we just said we know of bad problems if you smoke peyote and we decided to make it illegal. Are we violating your religious freedoms?

Mr. Lynch stated the answer is we don't use peyote so I don't know how to address that in our case, and there is a case, which I do not know the name of, where the issue of peyote was being acted on by the Supreme Court. We are not asking to use peyote, we are asking to use a building that we want to expand upon under your existing laws that were in effect before the moratorium laws were passed.

Board Attorney Cassidy stated she had a couple of questions from the letter Mr. Lynch submitted. She wanted to confirm that no part of the original structure would remain and the building will be razed prior to construction. Mr. Nasher stated yes, that is correct. Mr. Lynch stated they may keep some remnants of the old building to maintain their vested rights but basically the whole building was coming down. Board Attorney Cassidy stated on the plans she saw a variance would be needed for parking on a side set back. Mr. Nasher stated yes, that is correct. Board Attorney Cassidy asked if the project included any residential components. Mr. Lynch stated no.

Board Attorney Cassidy stated the reason she asked as there were several pages on the Fair Housing Act. Mr. Lynch stated if the Imam stayed there due to additional services needed maybe but not right now. Board Attorney Cassidy asked if you are so far into the planning efforts have you done anything in regards to SHIPO. The reason she asked if because the house/building currently on the property is very old, it was built in 1814. Mr. Nasher stated no, they have not gone through the SHIPO process yet. Board Attorney Cassidy stated she is asking because we are dealing with a house that is over two hundred years old.

Mr. Lynch stated the zoning code has nothing about it being historic and he would welcome that case in Federal Court any day. If the Village wants to make this place that is being used historic we will have a civil rights case. Board Attorney Cassidy stated she was just asking. Mr. Lynch stated he was just telling her.

Mr. Lynch stated he knows they are not going to get a big recommendation from the Board, and he understands that. Member Iannucci stated that statement was not fair because we are doing our due diligence and we are getting the information. Mr. Lynch stated Ramadan is just March and April, so you have a whole year before the next Ramadan. She asked if Ramadan was just once a year of if it was several times a year as she is not familiar with it. Mr. Miah stated there were other items, like Friday prayers which are timely. They take place between 1:00 pm and 2:30 pm. They cannot do two services because of the time issues. Member Iannucci thanked Mr. Miah for this information.

Mr. Lynch stated none of the questions the Board has asked have anything to do with the wavier provisions. The whole issue is there a basis for a waiver. Mr. Lynch thinks what the Board is getting into, in particular Member Kelly, is getting into the intricacies of when and how

we pray. Mr. Lynch asked if there was a recording of this meeting. Board Chairman Boucher stated yes, there was.

Chairman Boucher addressed Mr. Lynch by saying, what people are taking exception to, a little bit, is what you are calling "poor attitudes" or whatever. Mr. Lynch interrupted and stated he said "hostile" not poor attitude and the only person he stated was hostile was Member Kelly. Chairman Boucher stated he would not agree with that and if Member Kelly was, so was Mr. Lynch.

Mr. Lynch stated he only took a position when he saw Member Kelly "glaring" at him. Mr. Lynch stated that is when he took the position that he wasn't being received in a natural fashion. No one on this Board had that. Chairman Boucher stated he does not know what the "glaring" is, is it someone gazing while thinking of a question, it's hard to qualify that. Mr. Lynch stated he has been before Boards for forty years and he knows how to read them. And, he knows how people think by what they say.

Member Kelly addressed Mr. Lynch and asked if Mr. Lynch has ever been before me before? Mr. Lynch stated he did not know who Member Kelly was. Mr. Lynch asked what was meant by "before" you? What does that mean? Member Kelly asked if Mr. Lynch has ever presented before a Board that Member Kelly was part of. Mr. Lynch stated no, he has not. Member Kelly stated no, he has not but he stated he was making inferences about his facial expressions. Mr. Lynch stated he was not making inferences he was making a statement. Member Kelly stated if anyone is hostile here it is you, with your not so subtle references to your big court cases and you're not so subtle threats.

Member Allen stated Mr. Lynch was being very threatening. Mr. Lynch stated he respects their position but he is just telling them facts. It is a fact that Mr. Lynch won a Federal Case and it is a fact that I won eight-million-dollars from the case and it is a fact that it was based on hostility from the Board.

Chairman Boucher stated Mr. Lynch was correct when he stated the Board is a bunch of volunteers who are here because we love their community. Mr. Lynch stated yes, he agrees and he is an excellent representative as a Chairman and he would like to thank him as he has been very fair and very natural and he appreciates that. Chairman Boucher stated he believes everyone on the Board is like that and we do want the best for our community and the old saying is you catch more bees with honey or something like that. Mr. Lynch stated he felt that way for the first three minutes but when he started to get push back about the intricacies of religion he felt it was too much.

Chairman Boucher stated that this Board would ask these questions of any applicant. Mr. Lynch asked if this Board has ever had religious use before them under this moratorium. Chairman Boucher stated no, not under the moratorium. Chairman Boucher stated we have had plenty of items that were religious use. Mr. Lynch stated this was an unusual case, we are not asking you to approve a plan, we are asking you to look at the moratorium and look at the wavier provision, take the advice of your Attorney and do what is right.

Board Attorney Cassidy stated in light of that suggestion, what she would suggest is to be given an opportunity to research this further. Attorney Cassidy stated she would like to go back to her office so she can give the Board the information they need to make a recommendation because this is an unusual circumstance. Attorney Cassidy stated we normally get the dollar and cents

information for the wavier. Mr. Lynch stated they were not going to present that at all. This is a different type of case. Chairman Boucher stated this is unusual for us as a Board.

Board Attorney Cassidy stated that what she would request she be given the opportunity to research this further. Chairman Boucher stated once we get that information, our practice is to go back and look at all the codes, and try to make... Mr. Lynch stated he has complete faith that you as the Chair will do what is appropriate. Mr. Lynch also want to extend an apology to Member Kelly on his behalf, he took my position as being personally hostile, it wasn't.

Member Umberto asked Mr. Nasher about the building schedule. How long would it take to build the Mosque. Mr. Nasher stated he could only state a range and that range would be about 12 months, in the best-case scenario. Member Umberto stated that during those 12 months the congregation will need a place to pray, right now you are looking at a tent on a piece of that property. Mr. Lynch stated there would be four modular units. Member Umberto stated space would be needed for the area of construction, the lay-down, the buffer, parking for workers, etc. where would the tent go? Mr. Nasher stated that due to the size of the lot and the space needed for construction there would not be room for tents. Member Umberto stated that would mean the congregation would need to go to where ever they set up to pray. Member Umberto stated this was a question asked earlier. Mr. Lynch asked why Member Umberto was leaving out the modular units. Mr. Lynch stated we can put modular units on the site even if we can't get a tent there.

Chairman Boucher stated the question was about space not modular units. Mr. Nasher stated that most of the congregation is close by, they would like to get an approved plan so they can fund-raise for the new building. They can rent someplace close by on a temporary basis.

Mr. Nasher stated the first thing they did was look at the zoning code for the set-backs needed. Then they came up with a building envelope then fit in the building. We did this and we planned for the maximum build out. I sat down with the Board Engineer and we came up with a plan. What is being planned for is the maximum build out.

Chairman Boucher stated for our purposes tonight it is a very narrow focus as they are not really an applicant at this point. Chairman Boucher stated you went further for the Board then you had to and we appreciate that. Where we would like to go now is to have our Board Attorney go back and research these items and render an opinion which will be distributed to the Board and the Board can make its decision. Chairman Boucher continued, we will look at the opinion and the moratorium law that was enacted by the Village Trustees. Board Attorney Cassidy stated we can go into an executive session at the next meeting to discuss. Mr. Lynch stated he would like to apologize to the Board and he hopes his behavior will not be held against his client.

Member Kelly stated apology accepted but he never took any of it personally, but he does wonder if is it strategic in other respects. Member Kelly believes Mr. Lynch is trying to lay the ground work for a law suit which he referenced a bunch of times here, including within the first three minutes. Member Kelly stated there is no hostility, and part of our job here is to examine things critically from all different sides, and I will note here that you sir are grimacing and I do not take that as hostility. Mr. Lynch stated he was not grimacing, he was straining to hear. Mr. Lynch stated he takes Member Kelly at his word.

Mr. Nasher stated he lives in Rockland County with his wife and they attend the Mosque. He extended an invitation to all to go to the Mosque. Chairman Boucher stated he appreciates that they took the time to share with the Board and thanked them for coming.

Member Umberto stated the next time they come back he would like to discuss demolition and schedule. Member Iannucci stated she is looking forward to seeing them again.

Local Law 90:

Board Attorney Cassidy explained that the Village Board has adopted a slightly different moratorium in conjunction with the current moratorium. It puts a temporary halt on destruction of historic buildings.

On a motion by Member Kelly and seconded by Member Iannucci it was resolved: **The Board go into executive session at 7:55 pm.**

Aye – 7

Nay – 0

The Board returned from executive session at 8:18 pm.

Meeting Minutes:

On a motion by Member Allen and seconded by Member Kelly it was resolved to: **Approved the meeting minutes from January 24, 2023 as amended.**

Aye – 6

Nay – 0

Abstain: Member Umberto

On a motion by Member Kelly and seconded by Member Umberto it was resolved to: **Approved the meeting minutes from February 28, 2023 as amended.**

Aye – 7

Nay – 0

On a motion by Member Kelly and seconded by Member Umberto it was resolved to: **Approved the meeting minutes from September 12, 2022.**

Aye – 5

Nay – 0

Abstain: Chairman Boucher and Member Allen

On a motion by Member Allen and seconded by Member Hafenecker it was resolved to: **Approved the meeting minutes from November 22, 2022.**

Aye – 6

Nay – 0

Abstained: Member Kelly

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

Aye – 7

Nay – 0