

**VILLAGE OF NEW PALTZ PLANNING BOARD  
REGULAR MEETING OCTOBER 18, 2005**

**Call to order:** The meeting was called to order at 7:03p.m.

**Members present:** George Danskin, Chair; Ray Curran, Ruth Elwell, Joan Segall  
**Members absent:** Laura Heady

**Also present:** Jonathan Hillman, Richard Gottlieb, George Sifre, Nick Sadler, David Clouser, Michael Zierler; Village Trustee and Planning Board Liaison, and other members of the public.

**Public Hearings:**

**PB05-36: Virginia H. Maltby. 150 Route 32 North. [SBL:78.82-2-34 & 78.82--6-100 (R-2)]**  
Final Plat: Subdivision of a 6.3 acre parcel into two separate lots  
Representative Present: Jay Philip Zand, Attorney

The Public Hearing was opened at 7:04pm. There were no comments from the public. The public hearing was closed at 7:05pm

**PB05-37: Rocco Ciardiello. 41 S. Chestnut Street. [SBL: 86.41-2-4.100 (R-2)]**  
Special Use Permit: Converting a mixed use building into a multi-family dwelling (3 residences)  
Applicant: Present: Rocco Ciardiello

The Public Hearing was opened at 7:05pm. There were no comments from the public. The public hearing was closed at 7:06pm

**PB05-38: B. Kahn. 1 North Manheim Blvd./ Indian Restaurant [SBL: 86.144-2-12 (B-1)]**  
Site Plan: Remove existing roof and add a second floor for use as a single-family dwelling.  
Applicant Not Present

The Public Hearing was opened at 7:06pm. Fred Wurtz, the adjacent neighbor, expressed concern about the project. The Chair gave him a copy of the revised plan presented at last month's workshop and recessed the public hearing for 10 minutes to allow Mr. Wurtz to review the plan, while the Board continued with other business.

The Board voted to come out of recess at 7:12pm and resume discussion. Mr. Wurtz said he objected to the loss of light resulting from the addition and the problems it would create on his property. He noted this issue was brought before the ZBA when the application was previously reviewed for an area variance. In response to Dr. Segall's inquiry about a possible compromise solution, Mr. Wurtz said he could not think of one.

There were no other comments regarding this proposal and the public hearing was closed at 7:14pm.

**DISCUSSION**

**PB05-36: Virginia H. Maltby. 150 Route 32 North. [SBL:78.82-2-34 & 78.82--6-100 (R-2)]**  
Final Plat: Subdivision of a 6.3 acre parcel into two separate lots  
Representative Present: Jay Philip Zand, Attorney

The applicant completed all the necessary steps in the process and the Board received confirmation of the Town's Planning Board approval. The Board had no further questions or comments. A motion was made by Mr. Curran to approve the final plat. It was seconded by Ms. Elwell and carried unanimously.

The Chair noted the Board declined to require a recreational fee since the residences involved are not located in the Village. The applicant will receive an approval letter in a few days and will have 60 days from the approval date to file the approved plat with the County Clerk.

**PB05-37: Rocco Ciardiello. 41 S. Chestnut Street. [SBL: 86.41-2-4.100 (R-2)]**  
Special Use Permit: Converting a mixed use building into a multi-family dwelling (3 residences)  
Applicant Present: Rocco Ciardiello

The Board had received all the requested information at the September meeting. The Chair noted this application is an unlisted action under SEQR and that the results of last week's discussion and the Environmental Assessment Form both indicate that there would be no potential environmental impacts. A motion to adopt a negative declaration for the Special Use permit was made by Mr. Elwell, seconded by Dr. Segall and passed unanimously. A second motion was made by Dr. Segall to grant the Special Use permit. The motion was seconded by Ms. Elwell and carried by the Board.

PB05-38: B. Kahn. 1 North Manheim Blvd./ Indian Restaurant [SBL: 86.144-2-12 (B-1)]  
Site Plan: Remove existing roof and add a second floor for use as a single-family dwelling.  
Applicant/Representative Not Present

The Chair said the Board had the option to either make a decision on this application tonight or hold it over until next month. Ms. Elwell (a former member of the ZBA) pointed out that the issues surrounding this application (including that of reduced sunlight on the neighboring property) had been reviewed extensively during the months it was before the ZBA and further reviewed by the Planning Board at last month's workshop. The Chair asked Mr. Wurtz whether he could bring in additional information on the sunlight issue if the Board postponed its decision. Mr. Wurtz replied in the negative.

Ms. Elwell noted that the only condition of the ZBA's approval concerned the occupants' relation to the restaurant. She pointed out that the revised design lowered the roof line considerably. Mr. Curran said he understood and sympathized with Mr. Wurtz's concern but felt the issues had been discussed thoroughly, adding that Mr. Wurtz's house is adjacent to the commercial district and the proposal does conform to the B-1 zoning requirements. Dr. Segall noted that the Master Plan calls for more apartments to be developed in the area. Mr. Wurtz said his situation was becoming unlivable and he may have to convert his space to commercial use.

Dr. Segall made a motion to approve the site plan and related materials as presented in the multi-page document prepared by Richard Miller, Architect with no special conditions. The motion was seconded by Ms. Elwell and passed unanimously. The Chair noted for the record that the applicant would be required to return to the Board prior to implementing any significant changes to the approved site plan.

#### **New Applications**

PB05-41: Jonathan Cohen. Corner lot on Water and Main Streets. [SBL: 86.33-3-3 (G)]  
Special Use Permit: Farmers Market – Retail Sale  
Applicant: Not Present

At last week's workshop the applicant requested the Board not discuss this application. The Chair said this application was incomplete, and showed the list of outstanding information/materials requested by the Board approximately two years ago when this same project was initially submitted. Since that time, the applicant has not addressed any of those issues or provided additional information.

For the record, the Chair said this application was incomplete and as such could not be considered for a public hearing.

PB05-48: Jonathan Hillman. 65-69 Main Street/ 2 Church Street. [SBL: 86.127-1-17 (B-2)]  
Special Use Permit/Site Plan: Change existing retail space into restaurant/basement café with music.  
Applicant Present: Jonathan Hillman

As requested by the Board at last week's meeting, Mr. Hillman brought in a site plan. He also asked Mr. Gottlieb to attend tonight's meeting to better understand the Board's suggestion of getting easements from private lots for restaurant customer parking.

The applicant was under the impression the Board would make a decision tonight and that he would be able to proceed in opening the café. Ms. Elwell said the Board could not take any formal action tonight and Dr. Segall elaborated that all applications must follow a standard review process. The Chair explained that before the applicant could move forward with this project, the Board would have to review and approve the site plan – which they just received this evening – and also hold a public hearing for the Special Use permit.

Mr. Hillman said he didn't understand why the Board could not proceed with an approval this evening. He had completed the application, attended the workshop, followed the Board's requirements, submitted a site plan, and brought Mr. Gottlieb to hopefully resolve the parking issue. He also noted other public hearings had been held this evening.

The Chair said the Board would like to review and discuss the site plan at this session (since it was just submitted today) and that a public hearing cannot be scheduled until an application is considered complete and this application was not complete at the time of submission. He explained that the Board would use this session to review the new material, ask questions and perhaps request additional information. The Board would not vote on an approval tonight and procedurally could not vote on approval until after a public hearing was held; which would be in mid-November.

Mr. Hillman again stated he had provided all the information that was requested and didn't understand why the Board couldn't proceed. He said no one had explained the steps and the lengthy time table involved in this process and he had already spent a good deal of money on this plan. The discussion of completeness and procedure continued between the Board and the applicant without resolution.

The Chair asked that the record show Mr. Hillman has chosen not to discuss his application. Mr. Hillman interrupted that he wanted the record to show that he is here to discuss the application and is questioning the due process of the application. The Chair felt that the applicant's questions had been answered and the applicant said they hadn't been answered. Mr. Curran said the Chair had answered the questions as well as could be answered and that the Board should move on to the next item.

The Chair continued for the record that the applicant did not take the opportunity to discuss his project but chose to belabor administrative points to which he has gotten answers. To clarify any past or potential misunderstanding, the Chair said "If you want to discuss your project come to the workshop in November."

Mr. Hillman demanded to know why he wasn't informed of all the information he needed and the time-frame. The Chair summarized that at last week's meeting the Board had questions about and required additional information on: parking; size and seating; off premise catering (e.g. regulations); commissary; and music (amplification). The applicant said all of those issues were self-explanatory and redundant (addressed last week).

The Chair continued, stating that the Board was looking for a seating plan, which they just received tonight. The applicant said he had paid \$800 for the plan.

After another attempt to clarify the issues, the Chair again stated that Mr. Hillman could either use this time productively to review the project or not. Mr. Hillman picked up his papers and left the meeting.

**ZBA Recommendations (Workshop):**

ZB05-43: Jonathan Cohen. 11 North Chestnut Street [SBL: 86.34-2-10 (B-2)].

Area Variance: To construct a 1,888 s/f deck on the back and sides of existing non-conforming structure.

Applicant Not Present.

The Board noted the large size of the proposed 3-sided deck and read the comments from Bill Schnitzer, Chairman of the Historic Preservation Commission. The Chair suggested that the Board could either make a recommendation or let the HPC take the lead concerning this endorsement, based on the historic nature of the house and its proximity to a landmarked building.

Discussion and comments centered on: the HPC's recommendations about (1) reducing the size of the deck and impact on neighbors and passer-bys (2) construction materials and design elements and (3) softening the impact with well-planned landscaping.

Ms. Elwell was also concerned about the design of the deck and how it would be constructed/ attached to the house; she questioned how it could be removed without damaging the structural integrity of the house at a future date. She was also concerned about the size of the project, stating the back portion alone was too large, even without the side constructions. Mr. Curran concurred with the HPC and recommended a reduced version of the deck, which essentially eliminates the side portions of the deck. He also said that the design of the deck, as well as the construction material, should be compatible with the style of the house and the neighborhood (e.g. banisters) but felt that landscaping would be less of an issue.

The Chair clarified that simply being located within 100 feet of a landmarked properly did not create any new or added jurisdiction of the Planning Board or the Historic Preservation Commission over a project or activity. He did express his opinion that being in such proximity was reason to consider compatibility.

Following a suggestion by Ruth Elwell, Mr. Curran made a motion for a negative recommendation to the ZBA based on the size of the project and its negative effects on the character of the building and historic neighborhood. The motion also included recommended mitigation by a smaller project using materials and design that are compatible with the style and period of the house to be developed in consultation with the Historic Preservation Commission. The motion was seconded by Dr. Segall and passed unanimously.

The recommendation would also suggested the applicants work closely with the HPC in formulating any alternatives plans addressing the issues in order to ensure a design and execution consistent with the historic character of the structure and surrounding neighborhood.

The Board took a five minute recess.

**Pending Applications:**

PB04-16: Seakill Custom Home Builders. Victorian Square, LLC. South Manheim Boulevard (NYS Rte 32):

Site Plan/Special Use Permit. DEIS: Determination of Acceptance based on completeness.

Applicant Present: George Sifre, Nick Sadler (Medenbach & Eggers)

Village Consultant: David Clouser (Absent: Village Ted Fink)

The Board reviewed the reports from David Clouser, Ted Fink and Bob Chamberlin. All of them considered that the DEIS complete enough to be distributed to the involved agencies, interested parties and the public; but each presented a number of issues/concerns that the applicant either failed to address or did not address to their satisfaction.

There were a long discussion and debate among the board members concerning the completeness designation and whether it would be more advantageous to (1) have the applicant address specific issues identified/ prioritized by the Board prior to releasing a revised document with that new information or (2) distribute the current version and hold a public hearing so as not to delay the process, viewing the DEIS as the starting point of this working document knowing that the applicant must respond to all comments from concerned parties (and the public) before processing to a FEIS.

The Chair suggested that Board members give their reactions about proceeding with and without the outstanding issues identified by the consultants and directing specific questions to the applicant and village consultant and then give the applicant and consultant an opportunity to respond. It was emphasized that Board members should review and prioritize their own issues requiring clarification by the applicant.

On the first round, members were in agreement about moving forward with completeness and having the applicant address the outstanding issues as part of DEIS process.

A few members then expressed feeling uncomfortable that necessary information was available but not included in the DEIS, especially items that had been previously requested and are answerable, such as:

- A detailed expansion on the “no wetland” impact proposal including development on non-wetland areas previously discussed and discarded.
- Financial Implications addressing purchase price/carrying costs, incremental increases etc.
- Information related to the character of the tributary from Rte 32 on down incremental increases. (e.g. Does this matter; why or why not?)

Mr. Clouser stated that 50% of his comments regarded previous requests.

The Chair noted that a vast amount of analysis had been done but was not presented as well as he had expected. In general, he was comfortable with the quantifiable information of the flood elevation (the process was explained, the impact projected, and the info was quantified) while other statements were only conclusionary. He also noted some editorial omissions such as tables of wildlife habitat without any accompanying legend or key.

The Chair advised Board members to review, rather than just accept, comments from the consultants. One of his questions for Mr. Clouser included ground water contamination. The Chair noted the absence of information about the additional observation holes and the prediction of a connection with contamination; and even if this connection did exist, an analysis of whether this was significant.

Regarding Mr. Clouser’s comments on the Army Corps of Engineers, the Chair reiterated that the COE is an involved agency and can’t be a lead agency under state regulations. The Chair said the role of the COE should be one of environmental analysis and would prefer that their analysis be presented at this early stage of the DEIS.

The Chair expressed surprise at Mr. Clouser’s comments regarding water and sewer since Bleu Tilwilliger, DPW Superintendent and Richard Ruth (Brinnier & Larios, Village infrastructure consultants) independently had not indicated any problems from the design presented.

Since the purpose of an impact statement is to provide information to other involved agencies and to the public, the Chair said that if the DEIS goes out now, the Board would be depriving those parties of seeing information that the Board deems important and/or necessary for approval and available prior to the public hearing. Members discussed the separation of completeness and endorsement issues and whether sending out the document without significant and available information – that had been requested previously - might reflect negatively on the Board.

Ms. Elwell also pointed out that certain issues may have appeared resolved from the viewpoint of the applicant based on compromises made with community groups, but those compromises are not guaranteed and are only one alternative to be presented in the DEIS.

The applicant would like to keep the process going forward and had originally requested to continue working on resolving each item/issue as they arose rather than in the large context of the DEIS. He does recognize the restrictions of this process and will continue to respond to any questions/issues raised by the public. He reminded the Board that he is a local developer with a good reputation.

The following alternative actions for this application were presented: (1) accept the DEIS; (2) reject the DEIS based on the consultants' comments and request a revision with the inclusion of the requested available information or (3) take a month to consider whether the issues are sufficiently important to delay release of the DEIS.

If the DEIS is accepted for completeness, procedurally the applicant can start to address identified issues immediately. The Chair's concern was how that new information would go out to the public.

After further discussion, the Chair said he was not ready to endorse all the comments from the consultants as significant deficiencies and did not want to delay the review process while determining which comments are significant and which may not be. Board members agreed that deciding these issues could be a long process and that an actual determination of completeness could be endless.

Even if the document was accepted as completed this evening, the Board would still have additional opportunities to address important issues in the early stages of the DEIS. Once the document is considered complete, a public hearing will be scheduled within 30-60 days. Comments taken from that hearing would be compiled into a document. If the Board felt that some of those comments were significant enough, and public interest was significant enough, a second public hearing could be held to address those comments and/or used to issue a supplemental draft impact statement.

A motion was made by Ms. Elwell to accept the DEIS as complete; seconded by Dr. Segall and passed unanimously.

There was a brief discussion about the next steps for the project involving the Notice of Public Hearing, modifying the distribution list, creating a reimbursement agreement between the applicant and the village, and the possibility of putting the DEIS on the village website. The public hearing will be scheduled for November 29, 2005.

**Other Business:**

1. The Chair said he would present a final version of the Planning Board's policy regarding site plan approval at next month's meeting.
2. The Chair told Board members to be prepared for a discussion regarding the "completeness" of the Woodland Pond DEIS at the November 1, 2005 workshop.

**Adjournment:** A motion was made by Dr. Segall to adjourn the meeting at 9:38pm. It was seconded by Mr. Curran and carried unanimously.

Respectfully submitted,

Alison Shestakofsky  
Secretary to Village Planning Board

Copies to Trustee Michael Zierler  
Drayton Grant, Attorney  
David Clouser, Engineer  
Ted Fink, Planner