

**VILLAGE OF NEW PALTZ PLANNING BOARD  
WORKSHOP MEETING APRIL 10, 2007**

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

**Members Present:** George Danskin, Chair; Ray Curran, Marion DuBois, Ms. Elwell.

**Also present:** Dino Toscani, George Sifre, Barry Medenbach, Dorothy Jessup, David Clouser, Michael Zierler; Village Trustee and Planning Board Liaison, and other members of the public.

**Announcements from the Chair:**

The Chair said the Woodland Pond site plan would be discussed next week to allow adequate time for review by the Board and their consultants.

**Approval of Minutes:**

Ms. Elwell requested that approval of the minutes for the March 6, 2007 workshop and March 13, 2007 regular meeting be postponed until next week.

**New Applications with Public Hearings:**

PB07-08: 115 Main Street. Dino Toscani/119 Main Street LLC. [SBL: 86.34-6-13 (B-2)]

Site Plan: Enclose the existing outdoor patio.

Applicant Present: Dino Toscani

The application is to expand the store front by fully enclosing the outdoor patio area, parallel to the sidewalk and one story high. The applicant said he would be making mozzarella in the window and would extend the counter to allow for more product space

Ms. Elwell said the current building has never looked better and was concerned that the proposed change would make the storefront less aesthetically appealing.

Mr. Curran said he was uncomfortable with the design. He felt that the wall, which was built 8" higher than anticipated in the approved patio application, compounded the problem of a one-story shed-like protrusion into Main Street corridor. He strongly felt that this would diminish the character of Main Street which is defined by two and three story building fronts that are consistent with each other. He agreed with Ms. Elwell that another quality of Main Street were the windows and views into the shops, noting that the addition would obscure the view dramatically and become a facade of the store. He had opposed the original patio application and was opposed to this further height and width addition.

Mr. Tosani said the width of the extension would be in line with Murphy's and have the same single shed roof but with a nicer roof line. Ms. DuBois noted that Murphy's is only half enclosed and this design was very heavy. The applicant said the columns would only be 10" and he would change it to brick red. He said the existing front wall and windows would remain the same height; only the glass would be moved forward. Board members agreed to take another look at the site before the next meeting.

In response to Ms. DuBois question regarding the permissibility of this addition, the Chair read the building inspector's comments which indicated that this was a change to the special use permit. The Chair felt this was really a change to the site plan since the special use of outdoor dining would be eliminated and there will be changes to the exterior building. County review is also required due to the proximity to a state road.

A public hearing will be held next Tuesday at which time written comments from the Ulster County Planning Board will be received.

**Pending Applications**

PB04-16: Victorian Square, LLC. Seakill Custom Home Builders. S. Manheim Blvd. (NYS Rte 32)  
[SBL: 86.42-7-1-13 & 17 (R-2)]

Site Plan: Preliminary Review

Applicant Present: George Sifre; Barry Medenbach, Medenbach & Eggers.

Planning Board Consultant: David Clouser, Clouser & Associates.

The applicant brought in a revised site plan and discussed the changes with the Board including but not limited to the unit count, building design and parking ratio. The unit count was reduced to 76 to break up the two long buildings and all the three story units are now located in the center building. They also noted that the Army Corp. of Engineers is schedule for a site visit on April 27, 2007 to review the site plan and off-site mitigation in New Paltz and Gardiner.

There was a discussion about the feasibility of creating an on-site wetland based on the existing sloped topography and re-vegetation of the area. The applicant said there was flexibility for additional off-site mitigation if required. Mr. Medenbach said they were currently working with Mr. Wegener on a landscaping plan and noted a gathering area near the center of the traffic circle. A discussion ensued about the proposed outdoor recreational areas and the Board recommended alternatives based on senior citizen housing code requirements. The Chair suggested the applicant prepare a narrative showing how the site plan complies with each of those requirements and to refine the idea presented about public pathways through the "wetlands."

The Board asked the applicant to start researching a holder for the conservation easement noted in the Findings. (Talk with ACOE to agree to level of development)

Mr. Clouser said the drawings were very conceptual and presented a long list of issues and comments for inclusion on and with the site plan including but not limited to the conservation easement, property easements, open space/wetlands area; architectural elevations, adequate outdoor recreational space for seniors (per code), signage, dumpster enclosure, bicycle racks, driveways and turnaround space for the bus, pedestrian and bicycle access from Cicero Court (which is to be deeded); final storm water management system; mitigation, restoration and maintenance plans; details of signage, exterior materials and colors. In addition, the applicant is to provide written comments from DOT regarding the use of textured asphalt in the crosswalk area by Route 32. Mr. Clouser pointed out that two bonds will probably be required for the roadway improvements, one for DOT and one for the Village itself. The Chair added further requests including but not limited to the presentation of elevations of all four sides.

The Board noted they liked the darker muted colors and the refuse containers used at Mulberry Square and would like more information on the proposed walkways and gazebo in the on-site wetlands area (which is walkable almost year round).

After confirming that the Board found this site design acceptable (with the circle drive and the new building layout), the applicant said they will begin to make the required changes on the site plan. They plan to return with the landscaping plan as soon as it's completed.

### **Review of Proposed Legislation**

#### **Business Protection Law**

Note from Trustee Zierler: The revisions to the proposed law were discussed at the last week's Ulster County Planning Board's meeting, but the Village Board has not received their comments to date.

There was a discussion about the criteria proposed to determine a formula business and the effective use of performance zoning and design regulations rather than ownership in keeping local business competitive and on a smaller scale. Members also noted the difference between economic scale and physical scale (the proposed law focuses only on economic scale), the benefits of larger businesses (e.g. employment, staying power) over small enterprises (several incomplete projects along Main Street were cited) and healthy competition as an impetus for local businesses to adapt/modernize. The Board acknowledged Starbucks as a formula business that adapted itself to the Village without

negatively affecting local competition. The potential liability of a Village-wide limitation was also referenced in terms of restraint of trade.

The Chair summarized the Board's findings. The Board does not recommend adopting the present law. Members felt that the scale of a business was more important than any other issue (e.g. ownership, uniformity). They believed it's important to maintain economically viable businesses available to build, rebuild, remodel New Paltz, and that financial stability presents a good opportunity for their success. From a planning perspective, they recommended the use of performance zoning techniques such as those adopted in the B-1 zone as the preferable option to maintain community character and create an environment that offers a reasonable opportunity for locally owned businesses to be viable and remain competitive. The Board strongly urged that these standards/techniques be included in any proposed re-zoning of the B-3 district and suggested the Village Board also consider applying some of the performance standards for the B-1 and the Gateway zones to the B-2 district.

#### Wetlands & Watercourse Protection Overlay District Law

The Chair distributed an outline of his comments regarding the two wetlands laws. He noted several small isolated areas he felt should be deleted and included the Pit, the Toscani parcel, the portion south of Henry W. DuBois and Mulberry Square, the latter is a completely built out housing development with some storm water retention).

Comments included but were not limited to the following: specific corrections/clarifications related to the oversight role/responsibilities of the Planning Board and the ZBA; the tenuous situation created if "any ordinances, local law etc. inconsistent with this local law would be repealed" unless all the potential unintended consequences have been carefully determined, the creation of an additional (extraneous) special use permit – when there are many local approvals that could be applied coincidentally with the local wetlands laws (site plan, subdivision special use, historic preservation).

In principal, the Board agreed to the mapping and the identification of parcels and suggested that the Village Board specifically note that parcels not included in the special use district are exempt from jurisdiction. Mr. Zierler said that if a final map is generated, a distinction will be made between the village wide map generated by Hudsonia and what ultimately falls under the jurisdiction of this law.

#### Revised Wetlands & Watercourse Protection Law

The Chair said he had found two issues directly related to the Planning Board which he forwarded to Ms. Grant, the Board's attorney, for review.

1. The proposed law empowers the Planning Board to review any determination of a village employee wetlands inspector or officer of the Building Department. The Chair believed that such a provision should refer to the ZBA (not the Planning Board). Ms. Grant agreed noting that although there is no firm rule, it is less confusing for all parties if the roles of the Planning Board and ZBA remain more or less within their traditional spheres. Since the ZBA is currently empowered to review any determination by the building inspector, or another board, the Chair recommended this responsibility belongs with the ZBA.
2. The proposed law states that it is the duty of the Planning Board to determine whether denial of a permit is a regulatory taking of the parcel. Ms. Grant felt the responsibility to determine whether there was financial hardship should not be with the Planning Board; the function was more closely aligned with ZBA determinations for use variances. Ms. Elwell noted that the responsibility may also be inappropriate for the ZBA since a regulatory taking is a judicial issue. The Chair said they would suggest this function be assigned to the ZBA or the court.

The Board supported the protection of the wetlands and watercourses. Ms. Elwell felt that the SEQRA process was sufficient for this purpose and that the proposed law created an additional burdensome and cumbersome layer to the standard Planning Board review process. Ms. DuBois felt that additional protection was needed where the Army Corp of Engineers' jurisdiction was weak.

Ms. Grant's memo said that the NYS Bar Association adopted the position of urging the state to assume the Army Corp of Engineers program/jurisdiction over isolated wetlands so that local governments do not have to stand-in and replicate those functions (where the Corp is weak or not involved).

In general the members critiqued the document as awkwardly written (very long run-on sentences, inconsistent use of terminology) and difficult to understand. As in their review of previous iterations, they recommended a professional editor to strengthen the law while reducing the size of the document by half. The Chair was concerned about the long and complex review cycle, especially when a permit was denied and mitigation plans are required. He felt this was not consistent with the SEQRA process and again put the Planning Board in the role to determine if a denial of a permit is a taking. He recommended abandoning this multi-step process (which is inconsistent with other regulatory functions that integrate review, impact assessment/avoidance and mitigation in a single process) and incorporating mitigation into every application. The Board discussed practical issues and changes, made numerous corrections, and editorial comments (including but not limited to application procedures, determination of "completeness," public hearing timelines and exemptions, referral process, issuance and duration of permits, appeal process, default conditions). Members will send additional individual comments to the Chair who will incorporate all the Board's issues, comments and concerns in a memo to the Village Board.

**Other Business**

Application Review: Citing several code related omissions, the Chair voiced his concern about the building department's review of new applications. The Chair has asked Mr. Clouser to submit a proposal to assist in code compliance reviews in parallel with the building department as a learning experience for that staff.

**Adjournment:**

A motion to adjourn was made by Ms. DuBois, seconded by Ms. Elwell and passed unanimously by the Board at 9:55 pm.

Respectfully submitted,

Alison Shestakofsky  
Secretary to Village Planning Board  
Copies to Trustee Michael Zierler  
Drayton Grant, Attorney  
David Clouser, Engineer  
Bob Chamberlin, Traffic Engineer

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