

Village of Fishkill
Planning Board/Architectural Review Board Meeting
May 07, 2009 - 7:30 p.m.

Chairman Hans Klingzahn: Good evening ladies and gentleman my name is Hans Klingzahn I am the chairman of the Village of Fishkill Planning Board and I will call the Planning Board meeting of May 07, 2009 to order. Will the secretary please take a roll call to establish a quorum?

Those present: Hans Klingzahn, Cris Phillips, Theresa Guarino, Bea Lindsay, Jamie Machado and Mary Pearse. Also present is Sarah Brown, Village Planner, Larry Paggi, Village Engineer, Tom VanTine, Building Inspector and Don Van Nostrand, Secretary.

Hans Klingzahn: Okay, we have established that we have a quorum. I will entertain a motion to accept the minutes of the meeting held on April 02, 2009.

Cris Phillips: So moved. Motion seconded by Bea Lindsay. I have a motion and a second to approve the minutes of the meeting held April 02, 2009. All in favor? Aye. Opposed? None. Motion carried.

Hans Klingzahn: I am going to change the agenda because we have a rather lengthy public hearing tonight so we will handle some of the smaller projects first. Are there any objections?

There were no objections to changing the agenda raised.

Hans Klingzahn: The first item on the review agenda is Eleven-11 Restaurant located at 1107 Main Street for a certificate of appropriateness. Would you please identify yourself for the record?

Representing Eleven-11 Restaurant is the owner Dennis DiMattia.

Dennis DiMattia: We are using the same frame that exists and are changing the color of the fabric. A sample of the fabric we are using is being passed around. We are also going to paint the door the same color and add a black trim to it.

Hans Klingzahn: If there are no comments or questions from the Board I will entertain a motion.

Bea Lindsay: So moved. Motion seconded by Cris Phillips. I have a motion and a second to approve a certificate of appropriateness for 1107 Main Street. All in favor? Aye. Opposed? None. Motion carried.

Hans Klingzahn: The next item on the agenda is Eleven-11 Restaurant at 1107 Main Street for a sign permit application.

Dennis DiMattia: We are going to use the same existing hanging sign that was there and it will look like the design which is attached to the application.

Cris Phillips: I have a question about the color. The color in your application appears to be yellow and not camel. Is it going to be a similar color as the awning? We usually ask to see a true sample of the color.

Tom VanTine: The sign as you can see is .92 inches too long however the applicant has the sign from Coppers which is the same size as the sign here. That sign is the same size as the North Street Grill sign so there was a variance granted for the sign 15 or twenty years ago.

A lengthy discussion followed on the color, lighting and size of the sign. It was determined the applicant had 15 square feet of signage left over and that there would be no signage on the awning. It was agreed that the board would give approval of the sign pending the applicant bringing in a color chip for the building inspector to review. It was also decided that if the building inspector had any questions on it than it would revert back to the board at the next meeting.

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Hans Klingzahn: Okay, with the stipulation that the applicant brings in a color sample for the building inspector and it meets with his approval I will entertain a motion to approve a sign permit.

Bea Lindsay: I make a motion to approve the hanging sign for Eleven – 11 Grill and Spirits, the two window signs and for the record that the wattage to the spot lights be changed to 75 watts. The receipt of the real color of the vinyl must be presented to the building inspector for his review and approval. Motion seconded by Cris Phillips. All in favor? Aye. Opposed? None. Motion carried.

Hans Klingzahn: Next on the agenda is Babalu Bob's. Would the applicant please come forward and identify yourself for the record?

There was no representative present for Babalu Bob's and the application was removed from the agenda.

Hans Klingzahn: Next on the agenda is Spin-It Laundromat at 48 Elm Street for a sign permit application. Would the applicant please come forward and identify yourself for the record?

Chris Palazzo from Superior Signs and Reid Scott owner of Spin-It Laundromat were present.

Chris Palazzo presented a color photograph of the new sign and building.

Tom VanTine: The applicant has 22 square feet of signage and is using 16 square feet so he has an additional six feet to go.

Hans Klingzahn: According to the Building Inspector the sign meets requirements. Are there any comments or questions from the Board? If not, I will entertain a motion.

Bea Lindsay: I make a motion to approve a sign permit application for Spin-It Laundromat at 48 Elm Street as per the specs on file. Motion seconded by Cris Phillips. All those in favor? Aye. Opposed? None. Motion carried.

Hans Klingzahn: Next on the agenda is Vanikiotis Reality Group, Route 9 for a subdivision, site plan and public hearing. The legal notice was published in the Poughkeepsie Journal on April 29, 2009 and an affidavit has been received by the Village of Fishkill from the applicant verifying that the neighboring properties have been notified of the public hearing. At this time I will entertain a motion to open the public hearing.

Cris Phillips: So moved. Motion seconded by Theresa Guarino. All in favor? Aye.

Hans Klingzahn: The public hearing is now open for comments. Is there anyone in the audience who would like to speak?

There were no comments from the audience.

Jennifer VanTuyt: As the notice said this is a combined public hearing on the lot line re-alignment and the site plan. What we are going to do as far as the presentation we will first have Tom Depuy discuss the plan for the lot line re-alignment and the site plan dealing with engineering issues. I will then show the Board the elevations and signage plan. For the record to inform the Board the Zoning Board of Appeals have granted variances for the lot coverage at the April meeting to allow 74.9% lot coverage and they did approve variances for the signage which I will cover later.

Tom Depuy: Basically, what we are doing is taking the two lots which are known as 3A and 3B and we are moving the line 15 feet. What we are doing is making the two lots approximately at equal size. One lot will be 1.543 acres and the other lot will be 1.549 acres. There are number easements on the property. (Mr Depuy pointed out the locations

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of several easements on the site plan drawing and covered the storm water management plan for the site).

Jennifer VanTuyl: One of the issues the Zoning Board asked us to address was the lighting plan and the illumination on the site. One of the concerns was on the neon lighting that surrounds the diner.

Tom Depuy: We have taken a look at the ground level and how the lighting is being installed, it will not have an effect on the ground illumination. It does not really affect the overall light on the sight itself. The only other issue that came up at the ZBA meeting was the landscaping around the free standing sign which has been revised and submitted to the Board.

Jennifer VanTuyl: Tom, would you please also cover the revisions this board had requested relating to the storm water pond in the back of the site and the landscaping and fencing.

Tom Depuy: Yes, we are proposing a fence which will be black coated vinyl and we have moved the landscaping behind the fence line. We originally had forsythia in the plan and now are going with evergreens located behind the fence line which will give a better shielding of the pond from the road.

Jennifer VanTuyl: The other thing the Board had asked for was a sign be posted near the pond and we will be happy to install the sign identifying it as storm water treatment with no trespassing.

Hans Klingzahn: Engineering, would you please go over your comments on the project?

Larry Paggi: Sure, most of my comments are really housekeeping. Tom Depuy has really addressed the majority of them. The only thing I would like to expand upon is so the Planning Board is aware of and it is a minor point. When Tom VanTine and I went out to the site we noticed there was some existing curbing along the road on the second lot and we thought it would be best to leave it as is at this point in time. We are bringing it up so everyone knows we looked at it and it was not oversight that it was left there intentionally until the lot is developed.

Hans Klingzahn: Are there any comments or questions from the audience?

No questions or comments were made from the audience.

Hans Klingzahn: Okay, Sarah (Village Planner) will you please cover your comments?

Sarah Brown: We have covered most of the items that are in my memo to the Board, the variances on lot coverage/ signage, landscaping and lighting plan. (Memo on file)

A lengthy discussion followed on the lighting plan and the applicants agreed to do more research on the site lighting and come back to the Board with a revised lighting plan.

Hans Klingzahn: Jennifer, can you fill us in on the signage plan?

Jennifer VanTuyl handed out copies of the signage plan to all Board members and pointed out on the elevation drawings where the signage would be located. Todd Lanthier from GNS Group presented to the Board a model of the neon lightning that would used on the diner and explained the illumination of the lighting.

A discussion was held on the roof line design and the owner Peter Vanikiotis explained how the front was designed by the diner manufacturer.

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Hans Klingzahn: Are there any other comments or questions?

Jennifer VanTuyl: Yes, I will mention one other thing and that is a comment from the County Planning Board. Would the applicant put an east/west oriented sidewalk into the site from the north/south sidewalk that already exists along Route 9?

After a discussion on the frontage of the property it was agreed a sidewalk would be added to the plan.

Jennifer VanTuyl: The only other thing I should mention is that in the last meeting it was discussed that the easements for the property and the storm water agreements had to be reviewed by the Village Engineer and Village Attorney. I had a meeting last week with Larry Paggi and Greg Supple and today Frank Cross delivered to Greg Supple's office the easements and storm water agreements. Frank Cross is Peter Vankiotis's attorney and prepared the transactional documents.

Hans Klingzahn: If there are no further comments or questions from the audience I will entertain a motion to close the public hearing.

Theresa Guarino: So moved. Motion seconded by Cris Phillips. All in favor? Aye. Opposed? None. Motion carried.

Hans Klingzahn: I will need a motion for the board to declare a negative declaration to SEQR.

Cris Phillips: So moved. Motion seconded by Theresa Guarino. All in favor? Aye. Opposed? None. Motion carried.

Sarah Brown: I have drafted up a draft copy of the resolution and have distributed a copy to all the board members and I will cover it in detail. (Copy on file).

Hans Klingzahn: Are there any further comments or questions before I make a statement?

No comments made or questions were asked.

Hans Klingzahn: Dutchess County Planning's referral recommended that the Board not grant site plan approval until the following conditions have been met. The applicant should remove the proposed access point from Route 9 northbound and enters the site. If the Board determines to act contrary to our recommendation the law requires that it do so by a majority plus one or by super vote for reason for this decision. I talked to our attorney today and he pointed out that the County does not have any jurisdiction over Route 9 and it is not their road. Our attorney also pointed out that we did require a traffic study to be done and the traffic study was done. It was our traffic study and not anyone else's traffic study. Our traffic study showed that it would be a minimum impact, if any on this. So, we have to keep that in mind. If this would go to a court of law, our attorney said that we would lose. We would have no merit to deny the application based on just the curb cut because it is not county thing and it is not a Village of Fishkill jurisdiction. It is a New York State jurisdiction. I just wanted to let the Board know that is what our attorney is making that statement. I think in Jennifer VanTuyl's letter to the Board explains the whole situation legal wise which our attorney basically says yes she is right. I wanted the Board to know where we stand legally on the situation. Does anyone have any comments or questions?

Bea Lindsay: Yes, if the State has control of what can be done or not done on Route 9 how can they give us this? Don't they know?

Hans Klingzahn: From what I understand and what I gathered from our attorney is that the County is legally obligated to point things out but not legally obligated to take the

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matters to court to enforce their opinion. Our attorney's opinion is that the County's should not have an opinion if it is not under their jurisdiction.

The Board had a follow on discussion on the referral process to the County and General Municipal Law 239N and the right of the County to review any site plan, special permits, variances, etc. The County reviews referrals on the basis of inter municipal concerns. It was discussed that if a local planning board acts contrary to the County recommendation than it would have to be a majority vote plus one.

Hans Klingzahn: Does everyone on the Board understand what has to happen on this project before we go to a vote? There would have to be a super majority vote on this project to approve it.

All members of the Board understood.

Hans Klingzahn: For approval of the project I will ask for a roll call vote. This is for the lot line realignment, site plan and the signage. The ingress is out of the control of the Planning Board.

Sarah Brown: There should be two votes. One vote for the project and one vote to adopt the resolution.

Hans Klingzahn: The first roll call vote will be for the subdivision, site plan and signage.

Hans Klingzahn - Yes
Cris Phillips - Yes
Theresa Guarino - Yes
Bea Lindsay - Yes
Jaime Machado - Yes

Hans Klingzahn: Okay, the project has been approved by this Board. Next, I will entertain a motion to adopt the resolution as amended.

Theresa Guarino: So moved. Motion Seconded by Cris Phillips.

Hans Klingzahn - Yes
Cris Phillips - Yes
Theresa Guarino - Yes
Bea Lindsay - Yes
Jaime Machado - Yes

Hans Klingzahn: Vote has been taken and the resolution is approved. I will direct Sarah to get together with the Village attorney to draft a letter to the County to say why the super majority vote went through. The next meeting we schedule for June 4th to review the lighting plan and other open items there are.

Hans Klingzahn: That is all the agenda items there are tonight. If there are no further items to discuss I will entertain a motion to close the meeting.

Bea Lindsay: So moved. Motion seconded by Cris Phillips. All in favor? Aye. Opposed? None. Motion carried.

Respectfully Submitted,
Donald Van Nostrand
Planning Board Secretary