

A special meeting of the Planning Board of the Village of Cooperstown was held in the Village Office Building, 22 Main Street, Cooperstown, New York on September 11, 2015 at 9:00 AM. Members in attendance were Chair – Eugene Berman, Richard Blabey, Paul Kuhn, Joe Membrino, and Richard Sternberg. Village Attorney – Martin Tillapaugh, Zoning Enforcement Officer – Tavis Austin and Deputy Village Clerk – Jennifer Truax were also present. There was one member of the public present.

Mr. Berman called the meeting to order at 9:01 AM.

124 Main Street (Jon McManus for BTP) – proposed parking plan requiring site plan review

Mr. Berman reviewed the application explaining that although a public hearing was set for this project he has a few questions regarding the application and SEQRA determination. Mr. Berman asked Mr. Austin about that note on the application indicating that this project is a field change.

Mr. Austin stated that the parking lot was originally part of the complete application for a hotel and parking at 124 Main Street. He stated that the plans for the parking lot are unchanged from the original application and therefore, he determined this to be a field change.

Mr. Berman stated that he disagrees as the original application was denied a new application is required.

Mr. Austin stated that the only difference from the current application for a field change and a new application would be the \$25 application fee. He stated that he would have Mr. McManus submit the additional fee.

Mr. Tillapaugh asked Mr. Berman if he could share with the board the concerns Mr. Berman had brought to his attention.

Mr. Berman agreed.

Mr. Tillapaugh stated that Mr. Berman had brought forth concerns regarding the proposed parking lot at 124 Main Street. Mr. Tillapaugh reminded the board that he cannot make any decisions or influence the decision of the board. He stated that Mr. Berman's first concern is whether the project is a Type II action under SEQRA. Mr. Tillapaugh explained that based on SEQRA requirements he does not think anyone would argue that the project does not fall under a Type I action. He stated that it may be determined a Type II action if the board determines that the project does not require an EAF (Environmental Assessment Form). Mr. Tillapaugh continued to explain that Mr. Austin indicated that he feels that the project is a Type II action based on the structure being less than 4,000 square feet and the statements provided by the applicant from Army Corp of Engineers and Department of Environmental Conservation. Mr. Tillapaugh stated that Mr. Berman expressed concerns regarding the fact that the project crosses and therefore, may affect Willow Brook and that the Planning Board had not truly reviewed this impact but merely accepted the determination of the ZEO that it was a Type II action. Mr. Tillapaugh stated that the second concern was regarding the application and it being accepted as a field change. He explained that Mr. Berman pointed out that the law indicates that a field change may be made only to a previously approved application. Mr. Tillapaugh stated that since Mr. McManus has agreed to submit the required application fee and all documents are in place for the application he believes this issue has been resolved. Mr. Tillapaugh stated that the third concern is whether or not the site plan is adequate. Mr.

Tillapaugh stated that normally the board would make this determination prior to setting a public hearing. He explained that Mr. Berman has brought to his attention that he does not feel that the site plan addresses a change in the elevation of the lot near the property line closest to the Haney's property and that it does not show trees and brush to be retained and/or removed. Mr. Tillapaugh stated that should the Planning Board make a negative determination on any of these items they may want to adjourn the public hearing.

Mr. McManus stated that he is representing BPT and that he takes the blame for the status of the application. He explained that on a practical level the parking lot was incidental to the original hotel structure and that no changes in layout have been made. He continued to state that since they are no longer trying to meet any demand for use or required parking he did not feel the lot layout was pertinent. He further stated that he understands that it should have been a new and separate application and that he will pay the required \$25 application fee. Mr. McManus stated that he should not have piggybacked the previous application but in light of the fact that the parking lot site plan has not changed and it has received the approval of both the Army Corp of Engineers and the Department of Environmental Conservation his personal and professional opinion is that this is a Type II action.

Mr. Austin stated that the only trigger for SEQRA is the fact that the project crosses Willow Brook. He continued to state that the Board of Trustees completed SEQRA for the entire project, found it to be a Type I action and ultimately made a negative declaration.

Dr. Sternberg asked if there is a definition of structure.

Mr. Membrino read the definition of structure from SEQRA.

Dr. Sternberg stated that in his opinion the only portion of the project that would be considered a structure is the concrete "bridge". He explained that the paving of the property does not require any base or physical construction. He asked if there is any reason not to move forward with the application.

Mr. Tillapaugh stated that as long as the board is comfortable with moving forward and they make a logical decision there is no reason not to move forward. He reminded them that the only non-defendable action would be if the board made a decision which is arbitrary and capricious.

Mr. Blabey stated that unless there is a need to make decisions in a particular order he is willing to make a motion to determine this project to be a Type II action.

Mr. Berman asked that the board determine that the application is complete prior to a motion regarding SEQRA. He further stated that with the understanding that the applicant will pay the required fee he feels that the application could be determined to be complete.

Mr. Kuhn made a motion to declare the application for the parking lot at 124 Main Street to be complete upon payment of the required application fee. Mr. Blabey seconded the motion and a vote had the following results:

AYES: Berman, Blabey, Kuhn, Membrino, Sternberg

Motion carried.

Mr. Blabey made a motion that the proposed parking lot at 124 Main Street is a Type II under SEQRA. Dr. Sternberg seconded the motion and the following discussion was held.

Mr. McManus stated that the entire project is approximately 2700 square feet. He pointed out on the site plan the area already paved as well as the additional area to be paved as part of the project.

Mr. Berman asked if trees would be removed.

Mr. McManus stated that the trees which needed removal have already been removed.

Mr. Membrino asked if the remaining three trees on the property would be retained.

Mr. McManus stated that those trees are near or on the property line and every effort is being made to retain those trees.

Mr. Membrino cited paragraph ten of section two of SEQRA which exempts construction of minor accessory structures which does not change the use of density. He further cited paragraph eleven of section two which allows for the extension of utility distribution.

Mr. Berman stated the paragraph ten is specific for residential districts and property so it does not apply to this application. He stated that paragraph seven deals with non-residential properties.

Mr. Membrino stated that the board had discussed the use of this lot for existing apartments.

Mr. Berman stated that the apartments which might utilize the parking lot are not located on the same property therefore this would not apply to the lot.

Mr. Membrino stated that he feels there is some ambiguity in paragraph ten which might allow it to be a determining factor.

Mr. Blabey stated that he moved that that it is a Type II action because as he reviewed the requirements of SEQRA it is clear that it is not at Type I action. He continued to explain that under SEQRA there are two parts. Type I, the first, talks about environmental impacts and the second lists specific actions which would be considered Type II. He explained that the project does not need to "fit" the list, that the Planning Board can make a determination that the project does not have a substantial environmental impact. Mr. Blabey stated that the proposed concrete "bridge" is merely an extension of an existing covert for Willow Brook. He stated that the brook is contained in culverts from just prior to Doubleday Field, under the parking lot and Main Street and onto this property. He stated that this extension would add less than a 10% increase to an existing system.

Mr. Kuhn concurred stating that the stream is first covered when it runs under Chestnut Street and again becomes covered as it goes under the first base bleachers at Doubleday Field and remains underground through Main Street.

Mr. Blabey stated that there are storm drains throughout the Village, all of which flow underground to the lake. He stated that covering up streams and routing storm water to the lake happens throughout the village and is a normal occurrence. He concluded that this is not a big environmental impact.

Dr. Sternberg concurred and added that the Army Corp of Engineers has also agreed that this project does not have a big environmental impact.

Mr. Berman asked Mr. McManus if the board has permission to enter the property even though there are "No Trespassing" signs.

Mr. McManus stated that they do.

Mr. Berman stated that the law also requires that the removal of brush be shown of the site plan.

Mr. Membrino stated that having observed the site he has noticed stumps which have new growth. He asked if these stumps need to be record on the plan.

Mr. Berman asked Mr. McManus if the stumps from the previously cut trees are still alive.

Mr. McManus stated that this is not any area where he has any expertise and that he does not know.

Mr. Berman stated that the law requires that the physical state of the trees be determined.

The board reviewed the tree law and the required steps to remove trees from privately owned properties.

Mr. McManus agreed to determine the diameter of all trees and stumps on the property which are over one foot in height.

Mr. Tillapaugh stated that if the site plan is approved the board can determine the impact of the trees and use some degree of common sense to come up with an appropriate course of action for the tree removal.

Mr. Berman stated that it is his view that based on the law if the trees are alive the Planning Board could approve the Site Plan with the condition that the tree removal be recommended by the Tree Committee and a Variance issued by the ZBA.

The board discussed the involvement of the Tree Committee and the ZBA.

Mr. Tillapaugh stated that he would do some additional research regarding the removal of the trees and stumps prior to the regular Planning Board meeting.

Meeting adjourned at 9:55 AM

Respectfully submitted,

Jennifer Truax
Deputy Clerk