

VILLAGE OF BUCHANAN
PLANNING BOARD
MARCH 18, 2021

PRESENT: Sean Murray, Chairman
Tracey Armisto
Eileen Absenger
Jeffrey Faiella
Jennifer Bakker
Stephanie Porteus, Village Attorney
Marcus Serrano, Village Administrator
David Stolman, Planning Consultant
George Pommer, Village Engineer
Peter Cook, Building Inspector
Brian Cook, Building Inspector

OTHERS: David Wright
Tino Martin
Jorge Hernandez
Raul Sarmiento

CALL TO ORDER:

Chairman Sean Murray led the Board members in the Pledge of Allegiance. He called the meeting of the Planning Board to order at 7:30 PM on March 18, 2021.

There was no Planning Board meeting in February 2021.

This meeting was done via Zoom and Zoom audio and is being conducted in accordance with executive Order 202.1.

Please note that you may hear the meeting live by going to the Village Facebook page at the time of the meeting.

APPROVAL OF MINUTES:

Chairman Murray called for a motion to accept the minutes of January 21, 2021 as written. A motion was made by Jeff Faiella, seconded by Eileen Absenger, with all in favor. Motion carried.

CALENDAR NO. 1-21-PB: PRELIMINARY SUBMISSION OF APPLICATION FOR PROPOSED SITE DEVELOPMENT PLAN APPROVAL, PROPOSED GRADING AND DRAINAGE PLAN AND DEMOLITION SITE PLAN FOR PROPERTY AT 3176 ALBANY POST ROAD (RAUL SARMIENTO)

An application was submitted by Raul Sarmiento on February 12, 2021. Mr. Sarmiento was present on the zoom call along with David Wright, his attorney. Mr. Wright advised that Mr. Sarmiento purchased the property at 3176 Albany Post Road and proposes to renovate this building with a delicatessen on the first floor and a three bedroom apartment upstairs.

A review memo by Village Engineer Pommer was addressed. The applicant proposes additions, alterations, grading, and drainage upgrades in the C-1 zoning district. The applicant also proposes a gravel path along a steep slope. The steep slope was previously disturbed and must be stabilized prior to any proposed site work.

David Wright advised Mr. Sarmiento is proposing on the first level a small delicatessen, a three bedroom rental unit upstairs and storage in the back area. The property was the site of oil tanks that were not removed. Mr. Sarmiento completed the process of removing the oil tanks. Mr. Sarmiento has shown an investment of money.

J. B. Hernandez from ARHG Design is the architect. He walked the Board through what he proposed for the site. He shared the screen for the C1 district and the use of the property. The property had been used as a gas station and was abandoned. Mr. Hernandez noted they began an environmental cleanup removing abandoned materials on the property. They are proposing to remove the canopy, reconstruct the structure and remedy any deficiencies. There are open violations. Mr. Sarmiento invested heavily in this property. They are working to address Village Engineer Pommer's comments.

Chairman Murray pointed out extensive renovation was done just for a shed to store mulch. The plateau was clear-cut. The applicant advised trees were removed to access the automotive material. He did not want to bother the neighbor. Chairman Murray asked were the neighbors on Lindsay Avenue aware of this.

A next door neighbor complained when she saw video of the applicant using her driveway for a truck. They only moved wood chips. They were allowed to use the driveway when she was assured it would not be ongoing.

At present it is a one-story frame dwelling structure. They are proposing to move the ingress and egress. They are working with Village Engineer Pommer to accomplish this. Discussed was access to the gravel pad. They maintained it is not a driveway. It is just for an access pad for all terrain vehicles for maintenance of the property. They propose to remove the entrance on White Street.

Chairman Murray addressed his concerns. He noted a 200 square-foot shed on top of the hill for storage of mulch and gardening equipment was excessive. Mr. Hernandez advised there was extensive material in the shed that had to be removed and relocated. Chairman Murray stated the steep slopes were disturbed. He asked what environmental cleanup was done on top of the hill. Tino Martin stated there was an existing plateau and an existing shed. There was automotive equipment stored there.

Chairman Murray said they could have used the existing pathway. He asked if the neighbors on Lindsay Avenue were notified and gave permission to use the right of way. Building Inspector Cook has had no complaints. Mr. Martin said it will be used for utility vehicles.

Katherine Romero of 175 Lindsay Avenue gave them permission to access the property. They did not use it on a regular basis. They used it to dump wood chips.

Chairman Murray asked if they were familiar with the steep slopes ordinance. He read from the Village code and advised with respect to applications involving proposed disturbance or alteration of any steep slope with a grade of 30% or greater, the applicant shall have the additional burden of demonstrating, again by clear and convincing evidence, that the applicant's

circumstances are compelling and exceptional, including, at a minimum, demonstrating by clear and convincing evidence that no reasonable use of the site, lot or parcel is possible without disturbance to a steep slope area having a grade of 30% or greater. Chairman Murray stated he did not think they complied with the code. Mr. Martin said it was to do an environmental excavation cleanup.

Chairman Murray asked Building Inspector Cook if the Village has a copy of the original DEC permit. Remediation was discussed and Chairman Murray asked Mr. Wright did they obtain authorization from the Village for the environmental cleanup. Mr. Sarmiento stated the permit said excavation only. Chairman Murray stated the DEC permit also included the top of the hill but there is nothing written in the permit. Mr. Wright will look for the permit required by the DEC.

Chairman Murray questioned why do you need a gravel road to access the 13' x 20' storage shed. Village Consulting Engineer Pommer stated it has not been substantiated that it is an existing road. The applicant did not agree with the discussion.

Jeff Faiella was at the site when they were removing trees. He observed it was a muddy pathway. Building Inspector Cook advised that shown on the plan was a retaining wall but there is no designated path and there was no contaminated soil on top of the hill. Chairman Murray wanted them to supply documentation that that was done with authorization. He stated as part of the site plan it would have to be. Are there permits for the fuel tanks that they were required to remove. Chairman Murray requested before any disturbance takes place sampling should be undertaken. He asked to please supply that documentation to the Planning Board.

David Wright stated they reached out to the Village for guidance. The court issued a stop work order. They could not do any slope stabilization. David Wright talked to the Village prosecutor who advised they were not permitted to do any work. They were waiting for guidance from the Planning Board. Chairman Murray asked Village Engineer Pommer if he supplied them with a stabilization map. Village Engineer Pommer gave this to Joseph Ruyack, the Village prosecutor. He will provide a copy of the stabilization plan to Mr. Wright.

Chairman Murray recommended sampling and documentation that there is no contamination. Jeff Faiella asked what drainage will there be along the gravel path. Will there be a storm drain. Village Engineer Pommer said the plan was to stabilize the site with mulch. There was an issue with that and we will have to look into preventing erosion.

Village Engineer Pommer requested a steep slopes analysis. A plan with the existing topography could show the areas on a steep slopes analysis plan. Mr. Wright would like to see that. Chairman Murray said according to the drawing it is a 20% slope. Village Engineer Pommer said parts of it are steep. They should go back and get the original survey. Mr. Hernandez will supply this information.

Mr. Hernandez stated the idea was to keep it natural. Building Inspector Cook noted they said that the building department told them that they could not move forward until the Planning Board met. The building department did not tell them that they could not work on the site. Escrow was required to pay the consultants. The sum of \$7000 in escrow was submitted. Mr. Martin noted the miscommunication and asked why do we need an engineer on site. Village Engineer Pommer asked for a stabilization plan.

Chairman Murray noted because of the violations, Village Engineer Pommer requires a stabilization plan to review and supply to the court.

As defined on Village Engineer Pommer's report, only the things outlined were to take place on the site. No other work was permitted. Chairman Murray wanted to be clear that no other work is to take place outside of stabilization. He asked if they reviewed Village Engineer Pommer's memo.

Eileen Absenger asked about the ingress and egress on both White Street and Albany Post Road. She asked where the parking for the deli was. Mr. Hernandez showed the parking area on the plan that was posted..

Looking at the plan, Chairman Murray indicated the building does not fit the character of the neighborhood. Nothing on the drawing shows a commercial look. He asked that it be revised. Jennifer Bakker agreed the lower part does not look like a commercial space, rather it looks like a very large house. Tino Martin and Jorge Hernandez will revisit the drawing. They were advised to use the buildings at the circle as their guideline. Nothing on the drawings shows signs. Village Engineer Pommer noted the Planning Board is also the architectural review board.

Chairman Murray strongly recommended not allowing any access road/path. From what he has observed if that road is put there, there will be vehicles parked there from his other properties. There is a trust issue here. When Mr. Sarmiento purchased the other property he was told he could not put vehicles there and the vehicles are still parked there. Chairman Murray testified to the fact that having an access road will not be good. Chairman Murray was also concerned that allowing approval of a shed on top of the hill for storage of mulch only, would be difficult to believe especially with past experience. If he is afforded that opportunity it will be abused.

Chairman Murray stated we operate on trust and he would encourage the Board to decline approval. The applicant should not be afforded anything outside of the table of bulk regulations.

Eileen Absenger was not a Planning Board member, but she attended many meetings and remembered the problems. Chairman Murray counseled the Board to decline any special use permit and follow the table of bulk regulations in the code. Because Mr. Wright is hearing a lot of concerns, he will need time to address comments and issues.

Village Attorney Porteus was asked what do we have to do. She advised we have to take care of the stabilization. David Wright addressed Village guidelines and the appearance of the building. Chairman Murray does not want this applicant to stall. Mr. Hernandez said he could talk to Village Engineer Pommer to address the comments. We would like to continue a discussion. Chairman Murray would like to see the permit that allowed the remediation on top of the hill. There should be trip tickets. Mr. Martin stated they just moved surface stuff; only wood chips and shot rock.

Village Attorney Porteus will prepare a letter for the court notifying them that they are permitted to do no other work other than the stabilization plan. Chairman Murray asked the applicant to put the shed at a different grade. Mr. Hernandez said that could be done. He will discuss this with the client.

They will discuss Village Engineer Pommer's memo and continue the dialogue. Chairman Murray requested that they submit any pertinent documentation 10 days prior to the next meeting which is April 15., 2021. Chairman Murray advised Mr. Hernandez to remediate the site and relocate the shed. There should be a product to review so we can move forward.

Chairman Murray noting that there are many new members on the Planning Board, stressed that training is very important. The majority of the training is visual. He advised the Board members to be skeptical and do the research and prevent the ability for violations to occur.

Chairman Murray thanked everyone for their participation. He thanked the consultants. The Board members thanked Chairman Murray for all his hard work.

ADJOURNMENT:

On a motion by Tracey Armisto, seconded by Jennifer Bakker, with all in favor, the meeting was adjourned at 9:00 PM. The next board meeting will be on Thursday, April 15, 2021.

Respectfully submitted,

Rosemary Martin, Secretary