

VILLAGE OF BUCHANAN
PLANNING BOARD
NOVEMBER 19, 2009

PRESENT: Acting Chairman, Ben Martinelli
Carole Chapyak
Jennifer Fleming
Don Zern
Barbara Miller, Building Inspector
Stephanie Porteus, Village Attorney
Tim Cronin, Village Engineer
Rosemary Martin, Secretary

ABSENT: Wayne Moraitis, Chairman

OTHERS: James Vanoli
Ralph Robbins
Angelo Iacomini

CALL TO ORDER:

Acting Chairman Ben Martinelli, who informed all attending of the fire regulations and led them in the Pledge of Allegiance, called the regular meeting of the Planning Board to order at 7:30 p.m. on November 19, 2009. There was no regular meeting in October 2009.

APPROVAL OF MINUTES:

The minutes of September 17, 2009 were approved as written on a motion by Don Zern, seconded by Carole Chapyak, with Ben Martinelli in favor, Jennifer Fleming abstained and Wayne Moraitis absent. Motion carried.

NEW PLANNING BOARD MEMBER:

Acting Chairman Ben Martinelli welcomed new Planning Board member Jennifer Fleming. She replaced Jack Cito who resigned.

CAL NO. 07-06-PB: SITE PLAN DISCUSSION OF PROPERTY AT 12 WHITE STREET (I&P REALTY, PEDRO SILVA)

James Vanoli consulting engineer for I&P Realty was present to discuss the site plan for property at 12 White Street owned by Pedro Silva. The applicant is proposing a change of use to interior space of an existing commercial building located in the M-1 (light industrial) zoning district.

A meeting was held on December 2, 2008 on site with both I & P Realty and the WIC

prts in attendance, Pedro Silva, James Vanoli, Chuck Cartelemei, Building Inspector Miller, Village Engineer Cronin and Chairman Moraitis. I & P Realty needed to mitigate drainage problems to achieve site plan approval and WIC seemed to have filled an area without the proper permits. It was suggested that I&P and WIC work together to solve any existing drainage problems. The first step was videotaping the existing drainage lines in the area of conflict to proceed to the next step. The video that was done by Pedro Silva via Fred Cook was paid for by Pedro Silva. Village Engineer Cronin had a copy of the inspection that showed twin 24" diameter drainage pipes. These pipes run from the existing catch basin located on Mr. Silva's property and continue north onto the Westchester Industrial Complex (WIC) property. He had a memorandum dated November 19, 2009 that was distributed to the Board members and Mr. Vanoli. Village Engineer Cronin reviewed many documents and drawings in regard to this application for site plan approval.

Mr. Cook inspected other pipes on the site. Mr. Vanoli explained the results of the television inspection. They are asking for site plan approval based on the drawings and based on the fact that the flooding issue outlined in the Hahn Engineering memorandum was not caused by Mr. Silva. Mr. Vanoli requested that the funds held by the Village be returned.

Addressing Item 9 of the review memo Village Engineer Cronin stated he reviewed maps that date back to 1940. It was clear to him that since the 1940 map was drawn that area was filled in. Mr. Vanoli stated in letters dated October 2008 and October 2009 that there had been no increase in impervious area at the site since Mr. Silva purchased the property and those actions taken by a neighboring property owner, WIC, have rendered the site a detention basin. A contour map of the surrounding areas had been provided which indicates the area surrounding Mr. Silva's property is contributing stormwater runoff to his property. In addition, the Village stormwater system is piped through the site. Mr. Vanoli stated in his October 2009 letter that a previous outlet for stormwater at the northeastern corner of Mr. Silva's property was modified and closed off by others and that the flooding conditions at the site have occurred since the closure of the stormwater outlet. A 1974 survey of the property indicated a bridge existed on the adjoining property to the north where the outlet of stormwater previously occurred.

Mr. Vanoli advised since the owner of WIC constructed a dam, it has had a negative affect on his client's property. If the Board is inclined to continue with this application and have a hearing they need to be aware that there will be flooding. There is not much more that we can ask Mr. Silva to accomplish since it is not of his doing.

Mr. Vanoli stated he believes he has shown that the property can support parking and they have demonstrated that the islands can be there. Mr. Vanoli is taking the position that clearly the islands adjacent to the parking stalls to reduce pervious area and direct traffic would interfere with snow removal and truck turning.

Mr. Vanoli sent plans to Al Rousch, Buchanan Fire Department on November 5, 2008,

and he can provide a copy to the Board. There was no response. Acting Chairman Martinelli suggested that this be finalized and they should obtain a letter from the Fire Department confirming that they looked at the plans.

Acting Chairman Martinelli asked Village Attorney Porteus about the issue between property owners. Is there something the Village can do? Village Attorney Porteus stated that part of the problem is that WIC put a dam there and we are not certain where or how. This is an issue between the property owners. What steps can the Village take to address this issue? Building Inspector Miller stated this should be resolved between the two property owners.

When asked how many times flooding has occurred, Mr. Vanoli stated Mr. Silva checks this every substantial rainfall. If the Board members require a record he would have Mr. Silva prepare it. Mr. Silva has tried to contact Metro North. Building Inspector Miller stated she had spoken to the adjacent property owner. She was aware the applicant spoke with a representative from Metro North and they did something to mitigate this.

Mr. Vanoli stated fill that was brought in presented a larger problem. Building Inspector Miller was at the site in summer 2008 to check this out and only saw a trickle of water; a puddle or two. To fully discuss it we need to know the severity of the flooding problem.

Acting Chairman Martinelli stated there are three property owners involved. This is a private issue between the three companies. Mr. Vanoli asked was it allowed for the neighboring property owner to bring in fill. Many things are done without the Village's awareness. Mr. Vanoli asked is there a requirement in the code that a plan to remove fill be submitted. If this is done without a permit is it a violation. Mr. Vanoli noted looking at the filed map from 1974 there is no question that the property was filled. Mr. Silva sent Polaroid pictures indicating this. Village Attorney Porteus asked will Mr. Silva work with the adjoining landowners.

Building Inspector Miller advised that the Village was without a building inspector for a long time. She became building inspector in March 2005. Mr. Carlelemi had been before the Planning Board for improvements to the site prior to that date. Building Inspector Miller noted it is hearsay that there was work done on WIC property to get rid of the owner's flooding problem. This is hearsay because she talked to surrounding people. Mr. Vanoli stated there are many culpable parties. Mr. Silva should not be solely responsible for correcting the problem.

Acting Chairman Martinelli asked if Mr. Silva met with Mr. Carlelemi. Mr. Vanoli advised that Mr. Carlelemi denies everything. Is Mr. Silva going to litigation? Mr. Vanoli stated it is unknown at this time. He believes there is a violation here and Mr. Silva is being held to a higher standard. Building Inspector Miller has to have direct evidence.

Don Zern saw everyone's point. Now we are discussing the state of the property from the time Barbara Miller became building inspector. Mr. Vanoli stated if the WIC

property is in violation the current property owner is culpable to correct it. Mr. Vanoli noted that Mr. Silva took a vacant building and made it viable. The Planning Board and the applicant cannot proceed if this issue is not resolved.

Acting Chairman Martinelli explained if you own property today and there is a problem it is your problem. The Village cannot get involved between two property owners. Litigation is the only way. Mr. Vanoli asked if they can't get site plan approval how would this affect the inside of the building.

Acting Chairman Martinelli noted we are addressing the site plan issue. Mr. Vanoli stated they cannot proceed with the interior of the building. Building Inspector Miller recommended that letters be written to Metro North and other property owners. Mr. Vanoli stated Mr. Carletemi has not been delayed with the development of his building; he is renting spaces. Mr. Vanoli would like to go forward with their site plan and they are prepared to address the interior of the building.

Acting Chairman Martinelli stated there are building code violations. Mr. Vanoli would like the violations to go away. Acting Chairman Martinelli indicated Mr. Silva is still carrying on with his business. This issue has been ongoing for some time and will only get worse until it is resolved.

Mr. Vanoli stated he will deliver the message to Mr. Silva. Building Inspector Miller required a floor plan in order to confirm parking requirements for the site.

REVIEW OF PROPERTY (SAV-A-TREE)

Ralph Robbins of Sav-A-Tree was before the Board to request that his bond of \$20,000 be returned. There were five issues that had to be addressed: office dumpster, roll off container, stop sign, hay bales, and erosion control.

Mr. Robbins stated there are two existing parking spaces that they would like to keep for two reasons. One reason is it eliminates a safety issue and the other is there is a magnificent red maple tree that they don't want to remove. He asked if he could keep the two existing parking spaces. They have spent \$65,000 on landscaping and they don't want to spend any more money.

Village Engineer Cronin noted that during the original site plan approval process the Board requested that the two spaces be removed. Mr. Robbins did not want to rip up the landscaping to remove the parking spaces. It was his opinion that the spaces are not needed. They also don't want to change the storm drains. Mr. Robbins would like to leave the red maple tree and plant grass. Mr. Robbins believed he would damage tree roots by removing the blacktop. He stated there is a huge deer problem and he would plant what the deer would not eat.

An alternative would be to have large permanent planters in that space. Carole Chapyak thought permanent planters would be a good idea. A size of 48" was suggested. Mr. Robbins could construct any planter the Board wants. Village Engineer Cronin noted the size of the area is 18 x 25 feet. The planters should block 25 feet. Village Engineer Cronin suggested three or four planters to prevent parking in the spaces. He asked Mr. Robbins to provide him with the locations of all the planters and he would discuss it with the Board. Mr. Robbins will send this information to Village Engineer Cronin's office in the next few days.

Regarding the return of the bond, Mr. Robbins was advised to present the plan to Village Engineer Cronin and if Chairman Moraitis and Village Engineer Cronin agree the money would be returned. A copy of the plan would be sent to the Village Hall for the Planning Board file.

ADJOURNMENT:

Don Zern, seconded by Carole Chapyak, with all present in favor, adjourned the meeting at 8:30 p.m. on a motion. The next meeting will be December 17, 2009.

Respectfully submitted,

Rosemary Martin, Secretary