

Village of Pawling Planning Board Minutes

Date: June 14th, 2022

Present: Robert Pfister Jr., Chairman
Mike Mersand, Member
Lou Musella, Member

Absent: Adam Muroski, Member
Peter Pennelle, Member

Also Present: Caren LoBrutto, LaBella Associates (LaBella Associates)
Ed Hauser (Pawling Free Library)
Brian Avery (Pawling Free Library)
Sean Hilderbrand (Five Oak Street & 21 West Main Street)
Curt Johnson (Architect for 5 Oak Street Renovations, 21 West Main Street)

On, ***Tuesday, June 14th, 2022 at 7:00 PM***, the Planning Board met at the Village Hall. The Meeting was called to order by Robert Pfister, Chairman and began with roll call as indicated above and The Pledge of Allegiance.

Approval of Minutes

Member Mike Mersand made a Motion to approve minutes of the May 10th, 2022 Planning Board meeting. The Motion was seconded by Member Lou Musella. All present members were in favor and the Motion carried.

**Pawling Free Library
6957-20-994041
11 Broad Street**

Ms. LoBrutto commented that the Planning Board has everything it needs to make a determination on Site Plan approval.

After discussion amongst the Board, it was confirmed that there are not conditions to apply to the approval of this Site Plan and there aren't any area variances required for this project. Mr. Avery confirmed that County Referral 239 response determined it is a Matter of Local Concern.

Member Musella made a Motion to approve the site plan for the Pawling Free Library. Member Mersand seconded the Motion. All present members were in favor. The Motion carried.

**Applicant: Sean Hilderbrand
6956-08-981982
21 West Main Street Renovation
Site Plan Application**

Mr. Johnson presented the Board with an updated rendering and explained based on discussions at the previous meeting, the owner is proposing to add a third dormer to balance. The gable structure on the front will be removed leaving the skirt around the front of the building. Eight parking spaces will be provided.

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Ms. LoBrutto asked Mr. Johnson to confirm that there will be no ground disturbance; they will be restriping the driveway and a new sidewalk will be constructed.

Mr. Johnson confirmed, yes and explained there's an existing sidewalk that comes into the front entry so that will extend across front between the parking in the front of the building.

Member Musella asked Mr. Johnson what's going to happen to the storage area that is there right now.

Mr. Johnson replied that it will be cleaned out. The garbage cans will go inside and it will remain fenced.

Mr. Musella asked if there will be garbage cans or some a dumpster and are they going to be enclosed.

Mr. Johnson said the whole area is enclosed by fencing now. There's no easy way to get a truck in there to access a dumpster.

Mr. Musella agreed and asked to if there's going to be two offices on the first floor?

Mr. Johnson replied it's being called retail for now because that's the more stringent of parking requirements. What the potential owner is going to be doing is using that for his own business and keeping the option to separating into two offices. It might be just one user but we're proposing two.

Ms. LoBrutto asked if they are keeping the refuse in that enclosed area right now.

Mr. Johnson replied that he doesn't know where they are keeping it.

Ms. LoBrutto asked if the enclosure is functioning properly and in good shape.

Mr. Johnson replied, yes.

Chairman Pfister commented that there is one issue that came up regarding the stone wall with the fence on top of it on the western side of the property. The Building Department called and said there was a discrepancy on where the stone wall is located.

Mr. Johnson said the survey shows that it's on the subject parcel.

The Chair confirmed the survey is dated 2008.

Mr. Johnson replied I think the stone wall was there at that time. I think it's a newer stone wall.

Chairman Pfister commented that he knows Mr. Hilderbrand said he would fix up the fencing around the rear of the building and asserted if there's something on that side; he's going to clean that up.

Mr. Johnson replied if he's in the business of doing construction, it behooves him to show his best work on the site.

Member Mersand added that it's not just the issue of the fence. The Board approved the 2008 survey and we received a copy of a later survey dated 2009 that disputes the boundary.

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Member Musella added approximately .6 feet is over the boundary.

Chairman Pfister commented if that's the case, how this affects the project. Isn't it more of a Building Department Issue?

Planner LoBrutto replied it's really a land use lot issue then explained, if there's a perceived encroachment, then generally the surveyors kind of go at it and one person wins. I don't know who determines who wins or why but in the packet that we received, there's a letter written by the commenter's attorney saying there's an encroachment. The Commenter isn't asking to take down the wall, they are asking the owner to acknowledge the encroachment by signing and returning the letter to the Commenter. It was signed by Kelly Liffland who is the property owner today. What I don't know is what the implication was by the commenter including this documentation and what she's wanting from the Applicant. It has no sway on the environmental review. In terms of approving a Site Plan you would want the survey circumstances to be on the up and up. So if there is an issue here, that needs to be resolved. Although it's not being impacted by this exact Site Plan project, you want to have everyone's best interest but it's not really our problem. It's a land use lot problem between the two property owners. I don't even know that the Building Inspector can do anything about it. I think we should see what the commenter says during the Public Hearing so we can better understand what exactly she is trying to accomplish.

Member Musella made a Motion to open the Public Hearing. Member Mersand seconded the Motion. All present Members were in favor.

Pawling Resident, Judy Pisano explained "There's nothing that has to be done except I think the letter from the attorney, he put it very well. All we wanted to do was to let the owner recognize that there was an encroachment. We're consenting to let it stand, we don't want to take down the stone wall which, by the way, was not originally there. That was built when this property was developed for the Lifflands. I don't know if the survey was done before the wall was built or not. However, what we were trying to do was enlighten the project about this because even though I have a letter signed by Kelly Liffland, it seems like the new owner would have to get a similar letter so that he would know and the whole purpose of that in the event that I wanted to sell the property it avoids a problem with the title or the survey because it's a known issue. We are accepting that and that's what it's about. It's something I felt should be known now. What brought it to my attention was that I read the minutes from the last meeting and the Board accepted the survey from 2008. If you were to resurvey it, I think they may find the discrepancy. My survey was done in 2009 so that would be up to the Board what you would require if it's necessary."

Mr. Johnson commented from what it sounds like, it's just a matter of record just showing that there is an encroachment and being fair to the new owner. It would probably come up in the title search anyway when the property transfers. I think its good due diligence that the new owner is aware that there is a potential encroachment. It's good that you brought it to the attention the new owner.

Mrs. Pisano said it's all in good faith that this is being brought out.

Mr. Johnson said I appreciate that on behalf of the owner.

Mrs. Pisano commented that she may be selling the house maybe within a year or so and doesn't want herself or her family to have an issue. If the sale goes through then Mr. Hilderbrand would have to get a letter stated

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exactly the same way as the current letter. If there was no awareness, this letter would stop any kind of adverse possession in the future.

Planner LoBrutto asserted that Mrs. Pisano's building the record to maintain title of this area makes perfectly good sense.

Chairman Pfister said, yes, it's good to build a record.

Planner LoBrutto asserted that it is not necessary to require a new survey, especially since Mr. Hilderbrand is Contract Vendee.

Mr. Johnson replied that it might show that there are two surveys on record and one shows an encroachment and one doesn't. It builds the record that the two owners are aware of it and agree to leave it as is.

Member Musella commented that it's very generous of Mrs. Pisano not to require the wall to come down. The Board agreed.

Mr. Johnson commented that it's all on the up and up. There's some sort of potential issue that everyone is aware of. There is no intention of changing anything with that fence line at this point.

Mrs. Pisano commented, "The stone wall is a beautiful; however, the vinyl fence is another story. Another point I wanted to bring up and it's just a request because I looked at the Site Plan and I noticed where the trash cans were situated, there's six of them. They look like they're freestanding and it just happens that they're right against the stone wall where one of my tenants park. In my mind I'm thinking six garbage cans right there is not going to be a pretty odor. My question is, are these trash cans going to be secured in an enclosure and also, is it possible to just move it on the other side against the building wall?"

Mr. Johnson replied that it could be moved to the other side against the building. It is an enclosed outdoor storage area right now.

Mrs. Pisano said it looks like it's on the outside of the enclosure, in front of the gate.

Mr. Johnson said know we're showing them behind the gate. Discussion ensued regarding the location of the garbage cans and the location of the gate. Mr. Johnson agreed to place the garbage cans against the building wall enclosed on the inside of the gate.

Member Musella asked if the west wall has a vinyl fence on top of it. Mr. Johnson and Mrs. Pisano replied, yes. Mrs. Pisano added that it falls down every now and then.

Member Musella replied that could be addressed to make sure that it's maintained and it will be repaired.

Mrs. Pisano commented, "In speaking of the vinyl fence, there's always a question of who's responsible for the repairs because it falls down continuously and it turns out that the stone wall in the rear of the building against the church is on church property. That was built on the church property and the vinyl is on top of it and it goes across around the back of my property and then there's a common wall between Lifflands property and my property. That one is on his property except for the 6 inches on my property. There's been a discrepancy, all along since it was built, who is responsible for it because I've mended it a couple of times when it falls in on my

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side. From what I understand, it's not on Liffland's property and he wants the church to fix it. That's what's happening now. Will that be the case, will a new one be put up or will it ever be taken down because that would be a problem if it's removed."

Mr. Johnson replied the Contract Vendee is here but I would think if there's any problems with the fence, he would be responsible for maintaining it.

Mrs. Pisano replied, even though it's not on his property?

Mr. Johnson asked if she's referring to the face of the stone wall or the fence itself, because the fence sits on the stone wall.

Mr. Hilderbrand asked for clarification if we're talking about the fence between the property and the church or the property and the neighboring owner which is on the Liffland property site except for six inches.

Mrs. Pisano replied the fence in the rear of the building where the church and asked who would be responsible for that because the church really doesn't have resources to fix it.

Mr. Hilderbrand asked if the fence currently in need of repair is on the church side.

Mrs. Pisano said, "Yes, there is a panel that's down and then there's one panel that's damaged facing me but it's still on the church property so in order for me to fix it, I have to go and buy a six foot panel and I was willing to do that because it looks so bad. I'm indecisive of what I should do to fix it."

Mr. Hilderbrand replied that he fully intends on making drastic improvements to the way the building looks aesthetically and the overall appearance from the outside from the street. He assured, "If it is damaged, we fully intend on fixing it. I have no problem with that because I don't want to be a property owner that things are disheveled whether it lands six inches on my side or six inches on your side, I'd rather it look right so it doesn't become an eyesore and we don't have issues with neighbors or things like that."

Mr. Pisano commented that Mr. Hilderbrand is welcome to go on her property and he will see all of the repairs that were done and stated that quality of the vinyl is very poor because it keeps breaking.

Mr. Hilderbrand said under no circumstances will they leave anything as an eyesore.

Mrs. Pisano replied, "Sean you understand as it exists, it's on the church property and Fountain Plumbing doesn't feel obligated to fix it."

Mr. Hilderbrand said he can't speak for Fountain Plumbing.

Mrs. Pisano replied, that's fair enough.

Mr. Johnson added as we get further in the process that could be a condition of potential Site Plan approval that the fence be repaired.

Chairman Pfister asserted that it would be difficult put that condition on property that is currently owned by some else.

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Mr. Hilderbrand asserted from a legal stand point, if the fence lands on the church property, it is the churches obligation but reiterated he doesn't have a problem coming out of pocket for the expense to fix it. "I'd be happy to make it right."

With no further comments, Member Musella made a Motion to close the Public Comment. Member Mersand seconded the Motion. All present members were in favor.

Ms. LoBrutto recommended the Board issue a Negative Declaration, a determination of non-significance. Stating, it's essentially an internal renovation; it's currently commercial and will become commercial and residential; there's no ground disturbance and they're fixing the one dormer on the front. It's going to improve the aesthetics of the property.

Member Musella made a Motion that the Board issue the Negative Declaration. Member Mersand seconded the Motion. All present member were in favor.

Ms. LoBrutto commented that the Planning Board has everything in place to approve the Site Plan. She pointed out the Board could consider making conditions relative to where the refuse is kept or relative to repairing a fence on someone else's property but it seems like there's been a good conversation here, we're all here to witness it. You don't have to make site plan approval tonight but you certainly have everything in your power to do so. Everything else is checked off the list.

Member Musella recommended the Board approve the Site Plan. Based on the conversation, I'm sure that Mr. Hilderbrand is going to be a good neighbor and if there's anything that the neighbor's would like addressed, I'm sure that he will go out of his way to make those corrections. I don't see anything detrimental here as far as trash cans go. I'm sure he will accommodate Mrs. Pisano as far as the trash cans are concerned. I'm confident that he will take care of the fence as well. I'm confident that once we approved the Site Plan that that corner is going to be a vast improvement than what it is right now so I say we move forward and approve the Site Plan.

Chairman Pfister agreed and asserted that the Board can't set a condition without knowing whether or not the rear fence is on this property.

Member Mersand made a Motion to approve the Site Plan for 21 West Main Street Renovations. Member Musella seconded the Motion. All present members were in favor, the Motion carried.

**Applicant: Sean Hilderbrand
6957-20-986028
5 Oak Street Renovation
Site Plan Application**

Mr. Johnson presented the Board with a recap of the project and explained there's a parking area existing on the site which is essentially along the Arch Street curb cut so we're proposing to provide five parking spaces on that for tenants only between 5:00 pm and 8:00 am and then it can be used for customers of the commercial space during the day between 8:00 am to 5:00 pm with off-site merchant parking for any employees or owners of the commercial business. The Applicant will go before the ZBA for various items within the Urban Regulations in an effort to bring the building more in compliance with Urban Regulations than it is currently.

Ms. LoBrutto reiterated that the signs are for "Resident Parking Only" between 5:00 PM and 8:00 AM.

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Mr. Johnson replied, correct and then during the day they can be for tenants or customers for the commercial space.

Member Musella stated that he went by Arch Street a couple of times today and there was only one car parked at the merchant parking all day, there's ample off street parking.

Ms. LoBrutto asserted that the Area Variances can't be granted until the SEQR determination is made and a Site Plan approval can't be granted until the Area Variances are granted.

Chairman Pfister asked Ms. LoBrutto if there were any issues found in SEQR.

Ms. LoBrutto replied, no, we considered at great length parking at the last meeting and we've identified where area variances are required. As far as consistency with community character, the project is proposed to be similar to what's there today. The use is proposed to be mixed commercial and residential which is consistent with what's permitted under zoning. It's up to the ZBA to determine whether or not the area variances should be granted or not but from a SEQR standpoint I don't see any environmental adverse impact from this project.

Chairman Pfister confirmed with Mr. Johnson that the turning radius analysis was completed and that it's sufficient for fire apparatus to make its way through the area.

Member Musella made a Motion to issue a Negative Declaration. Member Mersand seconded the Motion. All present members were in favor. The Motion carried.

Member Musella made a Motion to open the Public Hearing for Five Oak. Member Mersand seconded the Motion. All present members were in favor. The Motion carried.

With no public comment, Member Musella made a Motion to close the Public Hearing for Five Oak. Member Mersand seconded the Motion. All present members were in favor and the Motion carried.

Planner LoBrutto suggested making Escrow a line item on the Agenda to be discussed prior to adjournment. The Board agreed.

Adjournment

Member Musella made a Motion to adjourn until the next Planning Board Meeting scheduled for Tuesday, July 12th, 2022. Member Mersand seconded the Motion. All present members were in favor.

Submitted by:

Vivian Nikolatos
Planning Board Secretary